

HOUSE BILL No. 2216

By Committee on General Government Budget

2-5

1 AN ACT concerning joint committees; repealing certain joint committees;
2 relating to membership on the joint committee on special claims against
3 the state; amending K.S.A. 12-2015, 19-4109, 38-2007, 46-912, 71-212
4 and 74-4907 and K.S.A. 2012 Supp. 39-7,162, 46-2801, 65-1,251, 72-
5 5395, 74-4908, 74-4909, 74-4920, 74-4921, 74-4921c, 74-4937, 74-
6 49,129, 74-5001a, 74-5002s, 74-5049, 74-5097, 74-50,123, 74-50,151,
7 74-50,216, 74-8004, 74-8135, 74-8136, 74-8204, 74-8310, 74-8317,
8 74-8405, 74-99c07, 75-7423, 75-7427 and 75-7435 and repealing the
9 existing sections; also repealing K.S.A. 46-1604 and 46-2201 and
10 K.S.A. 2012 Supp. 39-7,160, 39-7,161, 46-1801, 46-3001, 46-3501,
11 46-3701, 74-49,132, 74-49,133 and 75-7425.
12

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

14 Section 1. K.S.A. 12-2015 is hereby amended to read as follows: 12-
15 2015. Prior to July 1, 2002, all municipalities in the state of Kansas shall
16 refrain from enacting or enforcing any franchise or right-of-way
17 ordinances or agreements pursuant to chapters 12 and 17 of the Kansas
18 Statutes Annotated, *and amendments thereto*, home rule powers, or any
19 other authority, that substantially modify the relationship between
20 telecommunications providers and municipalities as those relationships
21 existed on January 1, 2001, except that municipalities may reach franchise
22 or right-of-way ordinances or agreements with new telecommunications
23 providers on terms and conditions consistent with the original provisions
24 of ordinances or agreements between municipalities and other
25 telecommunications providers in existence prior to December 31, 2000.
26 ~~Subsequent to the effective date of this act, representatives of~~
27 ~~municipalities and telecommunications providers shall confer and shall~~
28 ~~provide to the joint committee on economic development at least three~~
29 ~~progress reports of their discussions prior to December 31, 2001.~~

30 Sec. 2. K.S.A. 19-4109 is hereby amended to read as follows: 19-
31 4109. (a) The secretary shall transmit annually to the governor, the
32 standing committee on commerce of the senate, *and* the standing
33 committee on *commerce, labor and* economic development of the house of
34 representatives ~~and the joint committee on economic development~~, a
35 report, based upon information received from each qualified manufacturer
36 for which benefits have been issued during the preceding year, describing

1 the following: (1) The manner in which the purpose, as described in this
2 act, has been carried out;

3 (2) an estimate of jobs created and jobs preserved by cash
4 investments made in qualified manufacturers; and

5 (3) an estimate of the multiplier effect on the Kansas economy of the
6 cash investments made pursuant to this act.

7 (b) The secretary shall conduct an annual review of the activities
8 undertaken pursuant to this act to ensure that benefits issued pursuant to
9 this act are issued in compliance with the provisions of this act or rules and
10 regulations promulgated by the department with respect to this act.

11 (c) Any violation of the reporting requirements set forth in this
12 section shall be grounds for loss of designation as a qualified manufacturer
13 under this section.

14 (d) If the secretary determines that a qualified manufacturer is not in
15 substantial compliance with the requirements of this act, the secretary, by
16 written notice, shall inform the officers of the qualified manufacturer that
17 such qualified manufacturer will lose its designation as a qualified
18 manufacturer unless such qualified manufacturer corrects the deficiencies
19 and is once again in compliance with the requirements for designation.

20 Sec. 3. K.S.A. 38-2007 is hereby amended to read as follows: 38-
21 2007. For the purpose of financially empowering parents to choose a
22 health plan for a child, the secretary should review and report both
23 verbally and in writing to the ~~joint committee on children's issues~~ *standing*
24 *committee on public health and welfare of the senate and the standing*
25 *committee on children and seniors of the house of representatives* prior to
26 each legislative session with recommendations regarding the following
27 items:

28 (a) Direct transfer of the annual premium for a plan chosen by an
29 eligible low-income family to the insurer;

30 (b) The use of a refundable tax credit for an eligible low-income
31 family to apply toward the purchase of a child's health care coverage. Such
32 refundable tax credit would cover most or all of the cost of the insurance
33 with the parents paying any difference. Additionally, an eligible low-
34 income family would receive full benefit of the credit, regardless of how
35 small their income tax obligation was; and

36 (c) The status of the Kansas insurance coverage for children's
37 program including all performance measures relating to the Kansas
38 insurance coverage for children's program.

39 Sec. 4. K.S.A. 2012 Supp. 39-7,162 is hereby amended to read as
40 follows: 39-7,162. (a) (†) There is hereby established the home and
41 community based services savings fund in the state treasury which shall be
42 administered by the secretary ~~of aging~~ *for aging and disability services*.
43 All savings resulting from transferring individuals from the institutions to

1 home and community based services shall be deposited in this fund. All
2 expenditures from the home and community based services savings fund
3 shall be in accordance with the provisions of appropriation acts upon
4 vouchers approved by the secretary ~~of aging~~ *for aging and disability*
5 *services* or the secretary's designee.

6 (2) (b) Whenever an individual, who is residing in an institution,
7 transfers to home and community based services, the secretary ~~of aging~~ *for*
8 *aging and disability services* shall determine the savings attributable to
9 such transfer and shall certify the amount or amounts of such savings to
10 the director of accounts and reports. Upon receipt of each such
11 certification, the director of accounts and reports shall transfer the amount
12 or amounts specified in such certification from the funds and accounts
13 specified to the home and community based services savings fund of the
14 department ~~on aging~~ *for aging and disability services* in accordance with
15 such certification. The secretary ~~of aging~~ *for aging and disability services*
16 shall transmit a copy of each such certification to the director of the budget
17 and to the director of legislative research.

18 ~~(b) The secretary shall certify to the joint committee on home and~~
19 ~~community based services oversight at the beginning of each calendar~~
20 ~~quarter the amount of savings resulting from transferring individuals from~~
21 ~~institutions to home and community based services that have been~~
22 ~~transferred during the preceding calendar quarter to the home and~~
23 ~~community based services savings fund from each institution during the~~
24 ~~preceding quarter.~~

25 Sec. 5. K.S.A. 46-912 is hereby amended to read as follows: 46-912.
26 There is hereby established the joint committee on special claims against
27 the state which shall have ~~13~~ *seven* members consisting of ~~five~~ *three*
28 members of the senate and ~~eight~~ *four* members of the house of
29 representatives. The representative members shall be appointed by the
30 speaker, and the senator members shall be appointed by the senate
31 committee on organization, calendar and rules. *Of the members of the*
32 *house, three members shall be from the majority party with the remaining*
33 *member from the minority part. Of the members of the senate, two*
34 *members shall be from the majority party with the remaining member from*
35 *the minority party.* Not less than two representative members and two
36 senator members shall be attorneys licensed to practice law in the state of
37 Kansas. Not less than one representative member shall be a member of the
38 house committee on appropriations and not less than one senator member
39 shall be a member of the senate committee on ways and means. In the
40 biennium commencing with the convening of the regular session of the
41 legislature in 1979, and in the biennium commencing with the convening
42 of the regular session of the legislature each four years thereafter, the
43 chairperson of the joint committee shall be a representative member

1 designated by the speaker of the house of representatives. In the biennium
2 commencing with the convening of the regular session of the legislature in
3 1981, and in the biennium commencing with the regular session of the
4 legislature each four years thereafter, the senate committee on
5 organization, calendar and rules shall designate a senator member to be the
6 chairperson of the joint committee. If a chairperson shall die, resign or
7 otherwise be incapable of serving as chairperson for the full two-year
8 period, a successor shall be designated to fill the unexpired portion of such
9 period in the same manner as the original chairperson was selected. ~~The~~
10 ~~members appointed from each house shall include minority party~~
11 ~~representation thereon.~~ The joint committee shall meet in the interim
12 between legislative sessions on the call of the chairperson as authorized by
13 the legislative coordinating council. Any ~~seven~~ *four* members of the joint
14 committee shall constitute a quorum. Any action of such joint committee
15 may be taken by an affirmative vote of a majority of the members present,
16 if a quorum is present.

17 The provisions of article 12 of chapter 46 of the Kansas Statutes
18 Annotated, and amendments thereto, applicable to special committees
19 shall apply to the joint committee on special claims against the state to the
20 extent the same do not conflict with the specific provisions of this act
21 applicable to such committee.

22 Sec. 6. K.S.A. 2012 Supp. 46-2801 is hereby amended to read as
23 follows: 46-2801. (a) There is hereby created the joint committee on
24 corrections and juvenile justice oversight which shall be within the
25 legislative branch of state government and which shall be composed of no
26 more than seven members of the senate and seven members of the house
27 of representatives.

28 (b) The senate members shall be appointed by the president and the
29 minority leader. The two major political parties shall have proportional
30 representation on such committee. In the event application of the
31 preceding sentence results in a fraction, the party having a fraction
32 exceeding .5 shall receive representation as though such fraction were a
33 whole number.

34 (c) The seven representative members shall be appointed as follows:

35 (1) Two members shall be members of the majority party who are
36 members of the house committee on appropriations and shall be appointed
37 by the speaker;

38 (2) two members shall be members of the majority party who are
39 members of the house committee on judiciary and shall be appointed by
40 the speaker; and

41 (3) three members shall be members of the minority party who are
42 members of the house committee on appropriations or the house
43 committee on judiciary and shall be appointed by the minority leader.

1 (d) Any vacancy in the membership of the joint committee on
2 corrections and juvenile justice oversight shall be filled by appointment in
3 the manner prescribed by this section for the original appointment.

4 (e) All members of the joint committee on corrections and juvenile
5 justice oversight shall serve for terms ending on the first day of the regular
6 legislative session in odd-numbered years. The joint committee shall
7 organize annually and elect a chairperson and vice-chairperson in
8 accordance with this subsection. During odd-numbered years, the
9 chairperson shall be one of the representative members of the joint
10 committee elected by the members of the joint committee and the vice-
11 chairperson shall be one of the senate members elected by the members of
12 the joint committee. During even-numbered years, the chairperson shall be
13 one of the senate members of the joint committee elected by the members
14 of the joint committee and the vice-chairperson shall be one of the
15 representative members of the joint committee elected by the members of
16 the joint committee. The vice-chairperson shall exercise all of the powers
17 of the chairperson in the absence of the chairperson. If a vacancy occurs in
18 the office of chairperson or vice-chairperson, a member of the joint
19 committee, who is a member of the same house as the member who
20 vacated the office, shall be elected by the members of the joint committee
21 to fill such vacancy. Within 30 days after the effective date of this act, the
22 joint committee shall organize and elect a chairperson and a vice-
23 chairperson in accordance with the provisions of this act.

24 (f) A quorum of the joint committee on corrections and juvenile
25 justice oversight shall be eight. All actions of the joint committee shall be
26 by motion adopted by a majority of those present when there is a quorum.

27 (g) The joint committee on corrections and juvenile justice oversight
28 may meet at any time and at any place within the state on the call of the
29 chairperson, vice-chairperson and ranking minority member of the house
30 of representatives when the chairperson is a representative or of the senate
31 when the chairperson is a senator.

32 (h) The provisions of the acts contained in article 12 of chapter 46 of
33 the Kansas Statutes Annotated, and amendments thereto, applicable to
34 special committees shall apply to the joint committee on corrections and
35 juvenile justice oversight to the extent that the same do not conflict with
36 the specific provisions of this act applicable to the joint committee.

37 (i) In accordance with K.S.A. 46-1204, and amendments thereto, the
38 legislative coordinating council may provide for such professional services
39 as may be requested by the joint committee on corrections and juvenile
40 justice oversight.

41 (j) The joint committee on corrections and juvenile justice oversight
42 may introduce such legislation as it deems necessary in performing its
43 functions.

1 (k) In addition to other powers and duties authorized or prescribed by
2 law or by the legislative coordinating council, the joint committee on
3 corrections and juvenile justice oversight shall:

4 (1) Monitor the inmate population and review and study the
5 programs, activities and plans of the department of corrections regarding
6 the duties of the department of corrections that are prescribed by statute,
7 including the implementation of expansion projects, the operation of
8 correctional, food service and other programs for inmates, community
9 corrections, parole and the condition and operation of the correctional
10 institutions and other facilities under the control and supervision of the
11 department of corrections;

12 (2) monitor the establishment of the juvenile justice authority and
13 review and study the programs, activities and plans of the juvenile justice
14 authority regarding the duties of the juvenile justice authority that are
15 prescribed by statute, including the responsibility for the care, custody,
16 control and rehabilitation of juvenile offenders and the condition and
17 operation of the state juvenile correctional facilities under the control and
18 supervision of the juvenile justice authority;

19 (3) review and study the adult correctional programs and activities
20 and facilities of counties, cities and other local governmental entities,
21 including the programs and activities of private entities operating
22 community correctional programs and facilities and the condition and
23 operation of jails and other local governmental facilities for the
24 incarceration of adult offenders;

25 (4) review and study the juvenile offender programs and activities
26 and facilities of counties, cities, school districts and other local
27 governmental entities, including programs for the reduction and prevention
28 of juvenile crime and delinquency, the programs and activities of private
29 entities operating community juvenile programs and facilities and the
30 condition and operation of local governmental residential or custodial
31 facilities for the care, treatment or training of juvenile offenders;

32 (5) study the progress and results of the transition of powers, duties
33 and functions from the department of social and rehabilitation services,
34 office of judicial administration and department of corrections to the
35 juvenile justice authority; and

36 (6) make an annual report to the legislative coordinating council as
37 provided in K.S.A. 46-1207, and amendments thereto, and such special
38 reports to committees of the house of representatives and senate as are
39 deemed appropriate by the joint committee.

40 (l) *The provisions of this section shall expire on July 1, 2015.*

41 Sec. 7. K.S.A. 2012 Supp. 65-1,251 is hereby amended to read as
42 follows: 65-1,251. (a) The department of health and environment shall
43 work to increase influenza immunization awareness and participation

1 among parents of children aged six months to five years in child care
2 facilities. The official website of the department of health and environment
3 shall have information on the benefits of annual immunization against
4 influenza for children and its programs offered for the children. The
5 department of health and environment shall cooperate with the department
6 of social and rehabilitation for aging and disability services in order to
7 distribute the information to the parents and child care facilities effectively
8 in August or September in every year.

9 ~~(b) The department of health and environment shall conduct a study
10 of the feasibility of establishing a school-based influenza vaccination pilot
11 program. The study shall:~~

12 ~~(1) Examine the costs and benefits of establishing a school-based
13 influenza vaccination pilot program;~~

14 ~~(2) identify any barriers to implementing the school-based influenza
15 vaccination pilot program and recommend strategies for removing the
16 barriers; and~~

17 ~~(3) determine the fiscal impact to the state of the proposed pilot
18 program.~~

19 ~~(c) The department of health and environment shall submit a report
20 on its findings and recommendations resulting from such study to the joint
21 committee on health policy oversight before the 2009 legislature convenes.
22 The joint committee on health policy oversight may introduce bills or
23 request funding in order to provide for the program.~~

24 ~~(d) The department of health and environment may seek, receive, and
25 spend money received through an appropriation, grant, donation, or
26 reimbursement from any public or private source to implement the pilot
27 program.~~

28 Sec. 8. K.S.A. 71-212 is hereby amended to read as follows: 71-212.

29 (a) The board of trustees of any community college may establish an early
30 retirement incentive program for the benefit of the employees of the
31 community college for retirement of employees prior to the normal
32 retirement age of 65 years. As used in this act, an "early retirement
33 incentive program" is a program that provides cash payments, either in the
34 form of a lump-sum payment at the beginning of the fiscal year, or in
35 regular payments during the fiscal year. No payment pursuant to an early
36 retirement incentive program as provided in this section shall be made
37 prior to the retirement under the provisions of the Kansas public
38 employees retirement system of any such employee of the community
39 college.

40 (b) Commencing in the fiscal year that commenced in calendar year
41 2002 and every three years thereafter, each board that has established an
42 early retirement incentive program shall prepare and submit a report to the
43 state board of regents related to such early retirement incentive program.

1 Such report shall contain: (1) Three years of budget data of such program,
2 including actual costs, and a current year and future years' budget data for
3 three to five years; (2) current costs and benefits of such program and
4 projected costs and benefits of such program for three to five years; (3)
5 current and projected number of participants in such program; and (4) such
6 other information as required by the state board of regents. The state board
7 of regents shall design and distribute forms to carry out the provisions of
8 this act to the board of trustees of each community college that has
9 established an early retirement incentive program. The state board of
10 regents shall compile and prepare a summary report which shall be
11 submitted to the ~~joint committee on pensions, investments and benefits~~
12 *standing committee on pension and benefits of the house of representatives*
13 no later than January 1 of the year that follows the end of the fiscal year in
14 which the reporting is required as provided in this subsection.

15 Sec. 9. K.S.A. 2012 Supp. 72-5395 is hereby amended to read as
16 follows: 72-5395. (a) The board of education of any school district may
17 establish an early retirement incentive program for the benefit of the
18 employees of the district for retirement prior to the retirement age as
19 provided pursuant to 42 U.S.C. § 416(l)(1) of the social security act as in
20 effect on the effective date of this act. As used in this act, an "early
21 retirement incentive program" is a program that provides cash payments,
22 either in the form of a lump-sum payment at the beginning of the fiscal
23 year, or in regular payments during the fiscal year. No payment pursuant to
24 an early retirement incentive program as provided in this section shall be
25 made prior to the retirement under the provisions of the Kansas public
26 employees retirement system for any employee of the district.

27 (b) Commencing in the fiscal year that commenced in calendar year
28 2002 and every three years thereafter, each board that has established an
29 early retirement incentive program shall prepare and submit a report to the
30 state board of education related to such early retirement incentive program.
31 Such report shall contain: (1) Three years of budget data of such program,
32 including actual costs, and current year and future years' budget data for
33 three to five years; (2) current costs and benefits of such program and
34 projected costs and benefits of such program for three to five years; (3)
35 current and projected number of participants in such program; and (4) such
36 other information as required by the state board of education. The state
37 board of education shall design and distribute forms to carry out the
38 provisions of this act to the board of education of each school district that
39 has established an early retirement incentive program. The state board of
40 education shall compile and prepare a summary report which shall be
41 submitted to the ~~joint committee on pensions, investments and benefits~~
42 *standing committee on pensions and benefits of the house of*
43 *representatives* no later than January 1 of the year that follows the end of

1 the fiscal year in which the reporting is required as provided in this
2 subsection.

3 Sec. 10. K.S.A. 74-4907 is hereby amended to read as follows: 74-
4 4907. (1) The principal office of the system shall be in quarters at Topeka,
5 Kansas.

6 (2) The board shall keep a complete record of all proceedings which
7 shall be open at all reasonable hours to inspection. Any agreement in
8 settlement of litigation involving the system and the investment of moneys
9 of the fund shall be open for inspection by any person and suitable
10 facilities shall be made available by the system for this purpose as
11 provided by the provisions of K.S.A. 45-215 et seq., and amendments
12 thereto. A report covering the operation of the system for the past fiscal
13 year, including income and disbursements, and of the financial condition
14 of the system at the end of such fiscal year, showing the valuation of assets
15 and investments and liabilities of the system, shall be delivered after the
16 end of each fiscal year and prior to January 1 of the next fiscal year to the
17 governor and to the chairperson of the legislative coordinating council, to
18 the secretary of the senate and to the chief clerk of the house of
19 representatives and shall be made readily available to the members and
20 participating employers of the system. Such report shall include the
21 financial statements of the system and supporting schedules, presented in
22 accordance with generally accepted accounting principles. Such
23 supporting schedules presented in the annual report shall include a listing
24 which reports the cost and the fiscal year end lower amount of cost or
25 market value for each individual alternative investment of the system
26 which was initiated on or after July 1, 1991, and reports, in aggregate, the
27 cost and the fiscal year end lower amount of cost or market value for those
28 alternative investments of the system initiated prior to July 1, 1991. The
29 retirement system shall maintain a listing which reports the cost and the
30 fiscal year end lower amount of cost or market value for each individual
31 alternative investment of the system which was initiated prior to July 1,
32 1991, and such listing shall be available for review in camera by the ~~joint~~
33 ~~committee on pensions, investments and benefits~~ *standing committee on*
34 *pensions and benefits of the house of representatives* and as may be
35 required under the provisions of the legislative post audit act.

36 Sec. 11. K.S.A. 2012 Supp. 74-4908 is hereby amended to read as
37 follows: 74-4908. (1) The board shall appoint an executive director and
38 shall establish the compensation therefor. Subject to the direction of the
39 board, the executive director shall be the managing officer of the system
40 and as such shall have charge of the office, records and supervision and
41 direction of the employees of the system. The executive director shall be in
42 the unclassified service under the Kansas civil service act.

43 (2) The executive director shall recommend to the board the

1 administrative organization, the number and qualifications of employees
2 necessary to carry out the intent of this act and the directions of the board.
3 Upon approval of the board, the executive director is authorized to employ
4 such persons in accordance with the Kansas civil service act.

5 (3) The board of trustees shall select and employ or retain a qualified
6 actuary who shall serve at its pleasure as its technical advisor on matters
7 regarding operation of the system. The actuary shall:

8 (a) Make an annual valuation of the liabilities and reserves of the
9 system, and a determination of the contributions required by the system to
10 discharge its liabilities and administrative costs under this act, and
11 recommend to the board rates of employer contributions required to
12 establish and maintain the system on an actuarial reserve basis. Such
13 recommended employer contributions shall not be based on any other
14 purpose outside of the needs of the system as prescribed by this
15 subsection.

16 (b) As soon after the effective date as practicable and once every
17 three years thereafter, make a general investigation of the actuarial
18 experience under the system including mortality, retirement, employment
19 turnover and interest, and recommend actuarial tables for use in valuations
20 and in calculating actuarial equivalent values based on such investigation.

21 (c) Cooperate with and provide any assistance to the actuary; ~~and the~~
22 ~~legislative coordinating council and the joint committee on pensions,~~
23 ~~investments and benefits~~ related to the independent actuarial audit and
24 evaluation as provided in K.S.A. 74-4908a, and amendments thereto.

25 (d) Perform such other duties as may be assigned by the board.

26 (4) The attorney general of the state shall furnish such legal services
27 as may be necessary upon receipt of a request from the board, except that
28 legal services may be furnished by other counsel as the board in its
29 discretion deems necessary and prudent.

30 (5) The board shall employ or retain qualified investment counsel or
31 counselors or may negotiate with a trust company to assist and advise in
32 the judicious investment of funds as herein provided.

33 (6) Subject to limitations imposed pursuant to this subsection and
34 otherwise provided by law, the board may appoint such officers and
35 employees necessary to advise and assist the board in the performance of
36 powers, duties and functions relating to the management and investment of
37 the fund and in such other matters as may be directed by the board. Such
38 appointed officers and employees shall be in the unclassified service under
39 the Kansas civil service act. Not more than 25% of the total number of
40 officers and employees appointed or employed by the system shall be in
41 the unclassified service. The provisions of this subsection shall not affect
42 the classified status of any employee in the classified service under the
43 Kansas civil service act who is employed on the date immediately

1 preceding the effective date of this act. The board is authorized to assign
2 any new or vacant position created by the system on or after the effective
3 date of this act to the classified or unclassified service under the Kansas
4 civil service act. The compensation of such appointed officers and
5 employees in the unclassified service under the Kansas civil service act
6 shall be established by the board.

7 (7) The board may establish a program for the paying of bonus
8 awards to unclassified officers and employees pursuant to procedures
9 established by the board.

10 Sec. 12. K.S.A. 2012 Supp. 74-4909 is hereby amended to read as
11 follows: 74-4909. (1) The board of trustees shall be responsible for the
12 general administration of the system, subject to the provisions of this act.

13 (2) The board shall establish rules and regulations for the
14 administration of the system and for the transaction of business consistent
15 with law, which rules and regulations shall be filed in the office of the
16 secretary of state.

17 (3) The board shall be responsible for the installation of a complete
18 and adequate system of accounts and records. The board shall contract
19 with the department of administration to provide such accounting services
20 as are necessary to avoid duplication of efforts and promote efficiency.
21 The board shall pay the department of administration an amount not
22 exceeding the actual cost incurred in providing this service, which
23 payments shall be deposited in the state treasury and then credited to the
24 state general fund.

25 (4) All meetings of the board shall be open to the public. The board
26 shall keep a record of all proceedings.

27 (5) The board may prescribe rules and regulations for the
28 determination of the value of maintenance, board, lodging, laundry and
29 other allowances to employees in lieu of money.

30 (6) The board may adopt all necessary actuarial tables to be used in
31 the operation of the system as recommended by the actuary, and may
32 compile such additional data as may be necessary for required actuarial
33 valuations and calculations. Whenever the amount of any benefit is to be
34 determined on the basis of actuarial assumptions, the assumptions
35 specified by the board in a way that precludes employer discretion.

36 (7) Subject to the provisions of K.S.A. 74-49,123, and amendments
37 thereto, the board or the investment committee may invest all cash not
38 required for current payments in securities eligible for investment under
39 this act. All actions of the investment committee shall be reported to the
40 board at the first meeting of the board following the action of the
41 investment committee.

42 (8) The board, as soon after the close of the fiscal year as practical,
43 shall publish for distribution among members a financial statement

1 showing the financial status of the system.

2 (9) All decisions of the board as to questions of fact shall be final and
3 conclusive on all persons except for the right of review as provided by law
4 and except for fraud or such gross mistake of fact as to have an effect
5 equivalent to fraud.

6 (10) Each member's account and records shall be administered in a
7 confidential manner and specific data regarding the member shall not be
8 released unless authorized in writing by the member; however, the board
9 may release information to the employer or to other state and federal
10 agencies as the board deems necessary.

11 (11) The board shall develop and adopt a specific plan which outlines
12 strategies, goals, procedures and related costs, including additional
13 employees necessary to carry out the provisions of this subsection, to
14 provide for the system's internal management of the investment and
15 reinvestment of moneys of the fund as provided in K.S.A. 74-4921, and
16 amendments thereto. Such internal management would replace the
17 management of all or part of the fund by persons the board has contracted
18 with as provided in subsection (7) of K.S.A. 74-4921, and amendments
19 thereto. The board shall report such plan developed pursuant to this
20 subsection to the legislature and the governor on or before January 1,
21 1993.

22 (12) The board shall adopt rules and regulations providing the
23 requirements and procedures for the election of members of the board by
24 members and retirants of the system as provided in subsection (a)(2) of
25 K.S.A. 74-4905, and amendments thereto and for the filling of any
26 vacancy involving such elected member of the board.

27 (13) The board shall cooperate with and provide any assistance to the
28 actuary; ~~and the legislative coordinating council and the joint committee~~
29 ~~on pensions, investments and benefits~~ related to the independent actuarial
30 audit and evaluation as provided in K.S.A. 74-4908a, and amendments
31 thereto.

32 (14) The board shall be responsible for the administration of the
33 Kansas public employees deferred compensation plan and all related
34 functions as prescribed in K.S.A. 74-4911f, K.S.A. 2012 Supp. 74-49b01
35 through 74-49b06, *and amendments thereto*, and the Kansas public
36 employees deferred compensation act.

37 Sec. 13. K.S.A. 2012 Supp. 74-4920 is hereby amended to read as
38 follows: 74-4920. (1) (a) Upon the basis of each annual actuarial valuation
39 and appraisal as provided for in subsection (3)(a) of K.S.A. 74-4908, and
40 amendments thereto, the board shall certify, on or before July 15 of each
41 year, to the division of the budget in the case of the state and to the agent
42 for each other participating employer an actuarially determined estimate of
43 the rate of contribution which will be required, together with all

1 accumulated contributions and other assets of the system, to be paid by
2 each such participating employer to pay all liabilities which shall exist or
3 accrue under the system, including amortization of the actuarial accrued
4 liability as determined by the board. The board shall determine the
5 actuarial cost method to be used in annual actuarial valuations, to
6 determine the employer contribution rates that shall be certified by the
7 board. Such certified rate of contribution, amortization methods and
8 periods and actuarial cost method shall be based on the standards set forth
9 in subsection (3)(a) of K.S.A. 74-4908, and amendments thereto, and shall
10 not be based on any other purpose outside of the needs of the system.

11 (b) (i) For employers affiliating on and after January 1, 1999, upon
12 the basis of an annual actuarial valuation and appraisal of the system
13 conducted in the manner provided for in K.S.A. 74-4908, and amendments
14 thereto, the board shall certify, on or before July 15 of each year to each
15 such employer an actuarially determined estimate of the rate of
16 contribution which shall be required to be paid by each such employer to
17 pay all of the liabilities which shall accrue under the system from and after
18 the entry date as determined by the board, upon recommendation of the
19 actuary. Such rate shall be termed the employer's participating service
20 contribution and shall be uniform for all participating employers. Such
21 additional liability shall be amortized as determined by the board. For all
22 participating employers described in this section, the board shall determine
23 the actuarial cost method to be used in annual actuarial valuations to
24 determine the employer contribution rates that shall be certified by the
25 board.

26 (ii) The board shall determine for each such employer separately an
27 amount sufficient to amortize all liabilities for prior service costs which
28 shall have accrued at the time of entry into the system. On the basis of
29 such determination the board shall annually certify to each such employer
30 separately an actuarially determined estimate of the rate of contribution
31 which shall be required to be paid by that employer to pay all of the
32 liabilities for such prior service costs. Such rate shall be termed the
33 employer's prior service contribution.

34 (2) The division of the budget and the governor shall include in the
35 budget and in the budget request for appropriations for personal services
36 the sum required to satisfy the state's obligation under this act as certified
37 by the board and shall present the same to the legislature for allowance and
38 appropriation.

39 (3) Each other participating employer shall appropriate and pay to the
40 system a sum sufficient to satisfy the obligation under this act as certified
41 by the board.

42 (4) Each participating employer is hereby authorized to pay the
43 employer's contribution from the same fund that the compensation for

1 which such contribution is made is paid from or from any other funds
2 available to it for such purpose. Each political subdivision, other than an
3 instrumentality of the state, which is by law authorized to levy taxes for
4 other purposes, may levy annually at the time of its levy of taxes, a tax
5 which may be in addition to all other taxes authorized by law for the
6 purpose of making its contributions under this act and, in the case of cities
7 and counties, to pay a portion of the principal and interest on bonds issued
8 under the authority of K.S.A. 12-1774, and amendments thereto, by cities
9 located in the county, which tax, together with any other fund available,
10 shall be sufficient to enable it to make such contribution. In lieu of levying
11 the tax authorized in this subsection, any taxing subdivision may pay such
12 costs from any employee benefits contribution fund established pursuant to
13 K.S.A. 12-16,102, and amendments thereto. Each participating employer
14 which is not by law authorized to levy taxes as described above, but which
15 prepares a budget for its expenses for the ensuing year and presents the
16 same to a governing body which is authorized by law to levy taxes as
17 described above, may include in its budget an amount sufficient to make
18 its contributions under this act which may be in addition to all other taxes
19 authorized by law. Such governing body to which the budget is submitted
20 for approval, may levy a tax sufficient to allow the participating employer
21 to make its contributions under this act, which tax, together with any other
22 fund available, shall be sufficient to enable the participating employer to
23 make the contributions required by this act.

24 (5) (a) The rate of contribution certified to a participating employer as
25 provided in this section shall apply during the fiscal year of the
26 participating employer which begins in the second calendar year following
27 the year of the actuarial valuation.

28 (b) (i) Except as specifically provided in this section, for fiscal years
29 commencing in calendar year 1996 and in each subsequent calendar year,
30 the rate of contribution certified to the state of Kansas shall in no event
31 exceed the state's contribution rate for the immediately preceding fiscal
32 year by more than 0.2% of the amount of compensation upon which
33 members contribute during the period.

34 (ii) Except as specifically provided in this subsection, for the fiscal
35 years commencing in the following calendar years, the rate of contribution
36 certified to the state of Kansas and to the participating employers under
37 K.S.A. 74-4931, and amendments thereto, shall in no event exceed the
38 state's contribution rate for the immediately preceding fiscal year by more
39 than the following amounts expressed as a percentage of compensation
40 upon which members contribute during the period: (A) For the fiscal year
41 commencing in calendar years 2010 through 2012, an amount not to
42 exceed more than 0.6% of the amount of the immediately preceding fiscal
43 year; (B) for the fiscal year commencing in calendar year 2013, an amount

1 not to exceed more than 0.9% of the amount of the immediately preceding
2 fiscal year; (C) for the fiscal year commencing in calendar year 2014, an
3 amount not to exceed more than 1% of the amount of the immediately
4 preceding fiscal year; (D) for the fiscal year commencing in calendar year
5 2015, an amount not to exceed more than 1.1% of the amount of the
6 immediately preceding fiscal year; and (E) for the fiscal year commencing
7 in calendar year 2016, and in each subsequent calendar year, an amount
8 not to exceed more than 1.2% of the amount of the immediately preceding
9 fiscal year.

10 (iii) Except as specifically provided in this section, for fiscal years
11 commencing in calendar year 1997 and in each subsequent calendar year,
12 the rate of contribution certified to participating employers other than the
13 state of Kansas shall in no event exceed such participating employer's
14 contribution rate for the immediately preceding fiscal year by more than
15 0.15% of the amount of compensation upon which members contribute
16 during the period.

17 (iv) Except as specifically provided in this subsection, for the fiscal
18 years commencing in the following calendar years, the rate of contribution
19 certified to participating employers other than the state of Kansas shall in
20 no event exceed the contribution rate for such employers for the
21 immediately preceding fiscal year by more than the following amounts
22 expressed as a percentage of compensation upon which members
23 contribute during the period: (A) For the fiscal year commencing in
24 calendar years 2010 through 2013, an amount not to exceed more than
25 0.6% of the amount of the immediately preceding fiscal year; (B) for the
26 fiscal year commencing in calendar year 2014, an amount not to exceed
27 more than 0.9% of the amount of the immediately preceding fiscal year;
28 (C) for the fiscal year commencing in calendar year 2015, an amount not
29 to exceed more than 1% of the amount of the immediately preceding fiscal
30 year; (D) for the fiscal year commencing in calendar year 2016, an amount
31 not to exceed more than 1.1% of the amount of the immediately preceding
32 fiscal year; and (E) for the fiscal year commencing in calendar year 2017,
33 and in each subsequent calendar year, an amount not to exceed more than
34 1.2% of the amount of the immediately preceding fiscal year.

35 (v) As part of the annual actuarial valuation, there shall be a separate
36 employer rate of contribution calculated for the state of Kansas, a separate
37 employer rate of contribution calculated for participating employers under
38 K.S.A. 74-4931, and amendments thereto, a combined employer rate of
39 contribution calculated for the state of Kansas and participating employers
40 under K.S.A. 74-4931, and amendments thereto, and a separate employer
41 rate of contribution calculated for all other participating employers.

42 (vi) There shall be a combined employer rate of contribution certified
43 to the state of Kansas and participating employers under K.S.A. 74-4931,

1 and amendments thereto. There shall be a separate employer rate of
2 contribution certified to all other participating employers.

3 (vii) If the combined employer rate of contribution calculated for the
4 state of Kansas and participating employers under K.S.A. 74-4931, and
5 amendments thereto, is greater than the separate employer rate of
6 contribution for the state of Kansas, the difference in the two rates applied
7 to the actual payroll of the state of Kansas for the applicable fiscal year
8 shall be calculated. This amount shall be certified by the board for deposit
9 as additional employer contributions to the retirement benefit
10 accumulation reserve for the participating employers under K.S.A. 74-
11 4931, and amendments thereto.

12 (6) The actuarial cost of any legislation enacted in the 1994 session of
13 the Kansas legislature will be included in the June 30, 1994, actuarial
14 valuation in determining contribution rates for participating employers.

15 (7) The actuarial cost of the provisions of K.S.A. 74-4950i, and
16 amendments thereto, will be included in the June 30, 1998, actuarial
17 valuation in determining contribution rates for participating employers.
18 The actuarial accrued liability incurred for the provisions of K.S.A. 74-
19 4950i, and amendments thereto, shall be amortized over 15 years.

20 (8) Except as otherwise provided by law, the actuarial cost of any
21 legislation enacted by the Kansas legislature, except the actuarial cost of
22 K.S.A. 74-49,114a, and amendments thereto, shall be in addition to the
23 employer contribution rates certified for the employer contribution rate in
24 the fiscal year immediately following such enactment. Such actuarial cost
25 shall be determined by the qualified actuary employed or retained by the
26 system pursuant to K.S.A. 74-4908, and amendments thereto, and reported
27 to the system ~~and the joint committee on pensions, investments and~~
28 ~~benefits.~~

29 (9) Notwithstanding the provisions of subsection (8), the actuarial
30 cost of the provisions of K.S.A. 74-49,109 et seq., and amendments
31 thereto, shall be first reflected in employer contribution rates effective with
32 the first day of the first payroll period for the fiscal year 2005. The
33 actuarial accrued liability incurred for the provisions of K.S.A. 74-49,109
34 et seq., and amendments thereto, shall be amortized over 10 years.

35 (10) The cost of the postretirement benefit payment provided
36 pursuant to the provisions of K.S.A. 2012 Supp. 74-49,114b, and
37 amendments thereto, for retirants other than local retirants as described in
38 subsection (11) or insured disability benefit recipients shall be paid in the
39 fiscal year commencing on July 1, 2007.

40 (11) The actuarial accrued liability incurred for the provisions of
41 K.S.A. 2012 Supp. 74-49,114b, and amendments thereto, for the KPERS
42 local group and retirants who were employees of local employers which
43 affiliated with the Kansas police and firemen's retirement system shall be

1 amortized over 10 years.

2 (12) The cost of the postretirement benefit payment provided
3 pursuant to the provisions of K.S.A. 2012 Supp. 74-49,114c, and
4 amendments thereto, for retirants other than local retirants as described in
5 subsection (13) or insured disability benefit recipients shall be paid in the
6 fiscal year commencing on July 1, 2008.

7 (13) The actuarial accrued liability incurred for the provisions of
8 K.S.A. 2012 Supp. 74-49,114c, and amendments thereto, for the KPERS
9 local group and retirants who were employees of local employers which
10 affiliated with the Kansas police and firemen's retirement system shall be
11 amortized over 10 years.

12 (14) The board with the advice of the actuary may fix the contribution
13 rates for participating employers joining the system after one year from the
14 first entry date or for employers who exercise the option contained in
15 K.S.A. 74-4912, and amendments thereto, at rates different from the rate
16 fixed for employers joining within one year of the first entry date.

17 (15) Employer contributions shall in no way be limited by any other
18 act which now or in the future establishes or limits the compensation of
19 any member.

20 (16) Notwithstanding any provision of law to the contrary, each
21 participating employer shall remit quarterly, or as the board may otherwise
22 provide, all employee deductions and required employer contributions to
23 the executive director for credit to the Kansas public employees retirement
24 fund within three days after the end of the period covered by the
25 remittance by electronic funds transfer. Remittances of such deductions
26 and contributions received after such date are delinquent. Delinquent
27 payments due under this subsection shall be subject to interest at the rate
28 established for interest on judgments under subsection (a) of K.S.A. 16-
29 204, and amendments thereto. At the request of the board, delinquent
30 payments which are due or interest owed on such payments, or both, may
31 be deducted from any other moneys payable to such employer by any
32 department or agency of the state.

33 Sec. 14. K.S.A. 2012 Supp. 74-4921 is hereby amended to read as
34 follows: 74-4921. (1) There is hereby created in the state treasury the
35 Kansas public employees retirement fund. All employee and employer
36 contributions shall be deposited in the state treasury to be credited to the
37 Kansas public employees retirement fund. The fund is a trust fund and
38 shall be used solely for the exclusive purpose of providing benefits to
39 members and member beneficiaries and defraying reasonable expenses of
40 administering the fund. Investment income of the fund shall be added or
41 credited to the fund as provided by law. All benefits payable under the
42 system, refund of contributions and overpayments, purchases or
43 investments under the law and expenses in connection with the system

1 unless otherwise provided by law shall be paid from the fund. The director
2 of accounts and reports is authorized to draw warrants on the state
3 treasurer and against such fund upon the filing in the director's office of
4 proper vouchers executed by the chairperson or the executive director of
5 the board. As an alternative, payments from the fund may be made by
6 credits to the accounts of recipients of payments in banks, savings and loan
7 associations and credit unions. A payment shall be so made only upon the
8 written authorization and direction of the recipient of payment and upon
9 receipt of such authorization such payments shall be made in accordance
10 therewith. Orders for payment of such claims may be contained on (a) a
11 letter, memorandum, telegram, computer printout or similar writing, or (b)
12 any form of communication, other than voice, which is registered upon
13 magnetic tape, disc or any other medium designed to capture and contain
14 in durable form conventional signals used for the electronic
15 communication of messages.

16 (2) The board shall have the responsibility for the management of the
17 fund and shall discharge the board's duties with respect to the fund solely
18 in the interests of the members and beneficiaries of the system for the
19 exclusive purpose of providing benefits to members and such member's
20 beneficiaries and defraying reasonable expenses of administering the fund
21 and shall invest and reinvest moneys in the fund and acquire, retain,
22 manage, including the exercise of any voting rights and disposal of
23 investments of the fund within the limitations and according to the powers,
24 duties and purposes as prescribed by this section.

25 (3) Moneys in the fund shall be invested and reinvested to achieve the
26 investment objective which is preservation of the fund to provide benefits
27 to members and member beneficiaries, as provided by law and accordingly
28 providing that the moneys are as productive as possible, subject to the
29 standards set forth in this act. No moneys in the fund shall be invested or
30 reinvested if the sole or primary investment objective is for economic
31 development or social purposes or objectives.

32 (4) In investing and reinvesting moneys in the fund and in acquiring,
33 retaining, managing and disposing of investments of the fund, the board
34 shall exercise the judgment, care, skill, prudence and diligence under the
35 circumstances then prevailing, which persons of prudence, discretion and
36 intelligence acting in a like capacity and familiar with such matters would
37 use in the conduct of an enterprise of like character and with like aims by
38 diversifying the investments of the fund so as to minimize the risk of large
39 losses, unless under the circumstances it is clearly prudent not to do so,
40 and not in regard to speculation but in regard to the permanent disposition
41 of similar funds, considering the probable income as well as the probable
42 safety of their capital.

43 (5) Notwithstanding subsection (4): (a) Total investments in common

1 stock may be made in the amount of up to 60% of the total book value of
2 the fund;

3 (b) the board may invest or reinvest moneys of the fund in alternative
4 investments if the following conditions are satisfied:

5 (i) The total of the annual net commitment to alternative investments
6 does not exceed 5% of the total market value of investment assets of the
7 fund as measured from the end of the preceding calendar year;

8 (ii) if in addition to the system, there are at least two other qualified
9 institutional buyers, as defined by section (a)(1)(i) of rule 144A, securities
10 act of 1933;

11 (iii) the system's share in any individual alternative investment is
12 limited to an investment representing not more than 20% of any such
13 individual alternative investment;

14 (iv) the system has received a favorable and appropriate
15 recommendation from a qualified, independent expert in investment
16 management or analysis in that particular type of alternative investment;

17 (v) the alternative investment is consistent with the system's
18 investment policies and objectives as provided in subsection (6);

19 (vi) the individual alternative investment does not exceed more than
20 2.5% of the total alternative investments made under this subsection. If the
21 alternative investment is made pursuant to participation by the system in a
22 multi-investor pool, the 2.5% limitation contained in this subsection is
23 applied to the underlying individual assets of such pool and not to
24 investment in the pool itself. The total of such alternative investments
25 made pursuant to participation by the system in any one individual multi-
26 investor pool shall not exceed more than 20% of the total of alternative
27 investments made by the system pursuant to this subsection. Nothing in
28 this subsection requires the board to liquidate or sell the system's holdings
29 in any alternative investments made pursuant to participation by the
30 system in any one individual multi-investor pool held by the system on the
31 effective date of this act, unless such liquidation or sale would be in the
32 best interest of the members and beneficiaries of the system and be
33 prudent under the standards contained in this section. The 20% limitation
34 contained in this subsection shall not have been violated if the total of such
35 investment in any one individual multi-investor pool exceeds 20% of the
36 total alternative investments of the fund as a result of market forces acting
37 to increase the value of such a multi-investor pool relative to the rest of the
38 system's alternative investments; however, the board shall not invest or
39 reinvest any moneys of the fund in any such individual multi-investor pool
40 until the value of such individual multi-investor pool is less than 20% of
41 the total alternative investments of the fund;

42 (vii) the board has received and considered the investment manager's
43 due diligence findings submitted to the board as required by subsection (6)

1 (c);

2 (viii) prior to the time the alternative investment is made, the system
3 has in place procedures and systems to ensure that the investment is
4 properly monitored and investment performance is accurately measured;
5 and

6 (ix) the total of alternative investments does not exceed 15% of the
7 total investment assets of the fund. The 15% limitation contained in this
8 subsection shall not have been violated if the total of such alternative
9 investments exceeds 15% of the total investment assets of the fund, based
10 on the fund total market value, as a result of market forces acting to
11 increase the value of such alternative investments relative to the rest of the
12 system's investments. However, the board shall not invest or reinvest any
13 moneys of the fund in alternative investments until the total value of such
14 alternative investments is less than 15% of the total investment assets of
15 the fund based on the market value. If the total value of the alternative
16 investments exceeds 15% of the total investment assets of the fund, the
17 board shall not be required to liquidate or sell the system's holdings in any
18 alternative investment held by the system, unless such liquidation or sale
19 would be in the best interest of the members and beneficiaries of the
20 system and is prudent under the standards contained in this section.

21 For purposes of this act, "alternative investment" includes a broad
22 group of investments that are not one of the traditional asset types of
23 public equities, fixed income, cash or real estate. Alternative investments
24 are generally made through limited partnership or similar structures, are
25 not regularly traded on nationally recognized exchanges and thus are
26 relatively illiquid, and exhibit lower correlations with more liquid asset
27 types such as stocks and bonds. Alternative investments generally include,
28 but are not limited to, private equity, private credit, hedge funds,
29 infrastructure, commodities and other investments which have the
30 characteristics described in this paragraph; and

31 (c) except as otherwise provided, the board may invest or reinvest
32 moneys of the fund in real estate investments if the following conditions
33 are satisfied:

34 (i) The system has received a favorable and appropriate
35 recommendation from a qualified, independent expert in investment
36 management or analysis in that particular type of real estate investment;

37 (ii) the real estate investment is consistent with the system's
38 investment policies and objectives as provided in subsection (6); and

39 (iii) the system has received and considered the investment manager's
40 due diligence findings.

41 (6) Subject to the objective set forth in subsection (3) and the
42 standards set forth in subsections (4) and (5) the board shall formulate
43 policies and objectives for the investment and reinvestment of moneys in

1 the fund and the acquisition, retention, management and disposition of
2 investments of the fund. Such policies and objectives shall include:

3 (a) Specific asset allocation standards and objectives;

4 (b) establishment of criteria for evaluating the risk versus the
5 potential return on a particular investment;

6 (c) a requirement that all investment managers submit such manager's
7 due diligence findings on each investment to the board or investment
8 advisory committee for approval or rejection prior to making any
9 alternative investment;

10 (d) a requirement that all investment managers shall immediately
11 report all instances of default on investments to the board and provide the
12 board with recommendations and options, including, but not limited to,
13 curing the default or withdrawal from the investment; and

14 (e) establishment of criteria that would be used as a guideline for
15 determining when no additional add-on investments or reinvestments
16 would be made and when the investment would be liquidated.

17 The board shall review such policies and objectives, make changes
18 considered necessary or desirable and readopt such policies and objectives
19 on an annual basis.

20 (7) The board may enter into contracts with one or more persons
21 whom the board determines to be qualified, whereby the persons undertake
22 to perform the functions specified in subsection (2) to the extent provided
23 in the contract. Performance of functions under contract so entered into
24 shall be paid pursuant to rates fixed by the board subject to provisions of
25 appropriation acts and shall be based on specific contractual fee
26 arrangements. The system shall not pay or reimburse any expenses of
27 persons contracted with pursuant to this subsection, except that after
28 approval of the board, the system may pay approved investment related
29 expenses subject to provisions of appropriation acts. The board shall
30 require that a person contracted with to obtain commercial insurance
31 which provides for errors and omissions coverage for such person in an
32 amount to be specified by the board, provided that such coverage shall be
33 at least the greater of \$500,000 or 1% of the funds entrusted to such person
34 up to a maximum of \$10,000,000. The board shall require a person
35 contracted with to give a fidelity bond in a penal sum as may be fixed by
36 law or, if not so fixed, as may be fixed by the board, with corporate surety
37 authorized to do business in this state. Such persons contracted with the
38 board pursuant to this subsection and any persons contracted with such
39 persons to perform the functions specified in subsection (2) shall be
40 deemed to be agents of the board and the system in the performance of
41 contractual obligations.

42 (8) (a) In the acquisition or disposition of securities, the board may
43 rely on the written legal opinion of a reputable bond attorney or attorneys,

1 the written opinion of the attorney of the investment counselor or
2 managers, or the written opinion of the attorney general certifying the
3 legality of the securities.

4 (b) The board shall employ or retain qualified investment counsel or
5 counselors or may negotiate with a trust company to assist and advise in
6 the judicious investment of funds as herein provided.

7 (9) (a) Except as provided in subsection (7) and this subsection, the
8 custody of money and securities of the fund shall remain in the custody of
9 the state treasurer, except that the board may arrange for the custody of
10 such money and securities as it considers advisable with one or more
11 member banks or trust companies of the federal reserve system or with one
12 or more banks in the state of Kansas, or both, to be held in safekeeping by
13 the banks or trust companies for the collection of the principal and interest
14 or other income or of the proceeds of sale. The services provided by the
15 banks or trust companies shall be paid pursuant to rates fixed by the board
16 subject to provisions of appropriation acts.

17 (b) The state treasurer and the board shall collect the principal and
18 interest or other income of investments or the proceeds of sale of securities
19 in the custody of the state treasurer and pay same when so collected into
20 the fund.

21 (c) The principal and interest or other income or the proceeds of sale
22 of securities as provided in clause (a) of this subsection (9) shall be
23 reported to the state treasurer and the board and credited to the fund.

24 (10) The board shall with the advice of the director of accounts and
25 reports establish the requirements and procedure for reporting any and all
26 activity relating to investment functions provided for in this act in order to
27 prepare a record monthly of the investment income and changes made
28 during the preceding month. The record will reflect a detailed summary of
29 investment, reinvestment, purchase, sale and exchange transactions and
30 such other information as the board may consider advisable to reflect a
31 true accounting of the investment activity of the fund.

32 (11) The board shall provide for an examination of the investment
33 program annually. The examination shall include an evaluation of current
34 investment policies and practices and of specific investments of the fund in
35 relation to the objective set forth in subsection (3), the standard set forth in
36 subsection (4) and other criteria as may be appropriate, and
37 recommendations relating to the fund investment policies and practices
38 and to specific investments of the fund as are considered necessary or
39 desirable. The board shall include in its annual report to the governor as
40 provided in K.S.A. 74-4907, and amendments thereto, a report or a
41 summary thereof covering the investments of the fund.

42 (12) (a) An annual financial-compliance audit of the system,
43 including any performance audit subjects which are directed to be included

1 in such annual audit by the legislative post audit committee, performance
2 audits of the system as prescribed under the Kansas governmental
3 operations law, and such other audits as are directed by the legislative post
4 audit committee under the Kansas legislative post audit act shall be
5 conducted. The annual financial-compliance audit shall include, but not be
6 limited to, a review of alternative investments of the system with any
7 estimates of permanent impairments to the value of such alternative
8 investments reported by the system pursuant to K.S.A. 74-4907, and
9 amendments thereto.

10 (b) In accordance with this subsection (12), the annual financial-
11 compliance audit may include one or more performance audit subjects as
12 directed by the legislative post audit committee. In considering
13 performance audit subjects to be included in any financial-compliance
14 audit conducted pursuant to this subsection (12), the legislative post audit
15 committee shall consider recommendations and requests for performance
16 audits, relating to the system or the management thereof, ~~by the joint~~
17 ~~committee on pensions, investments and benefits or by any other~~
18 ~~committee or individual member of the legislature.~~ Commencing with the
19 financial-compliance audit for the fiscal year ending June 30, 1998, the
20 legislative post audit committee shall specify if one or more performance
21 audit subjects shall be included in the financial-compliance audit
22 conducted pursuant to this subsection (12), in addition to such other
23 subjects as may be directed to be included in the financial-compliance
24 audit by the legislative post audit committee. Except as otherwise
25 determined by the legislative post audit committee pursuant to this
26 subsection (12), commencing with the financial-compliance audit for the
27 fiscal year ending June 30, 1998, one or more performance audit subjects
28 specified by the legislative post audit committee shall be included at least
29 once every two fiscal years in a financial-compliance audit conducted
30 pursuant to this subsection (12). The legislative post audit committee may
31 direct that one or more performance audit subjects are to be included in a
32 financial-compliance audit conducted pursuant to this subsection (12) not
33 more than once during a specific period of three fiscal years, in lieu of
34 once every two fiscal years.

35 (c) The auditor to conduct the financial-compliance audit required
36 pursuant to this subsection (12) shall be specified in accordance with
37 K.S.A. 46-1122, and amendments thereto. If the legislative post audit
38 committee specifies under such statute that a firm, as defined by K.S.A.
39 46-1112, and amendments thereto, is to perform all or part of the audit
40 work of such audit, such firm shall be selected and shall perform such
41 audit work as provided in K.S.A. 46-1123, and amendments thereto, and
42 K.S.A. 46-1125 through 46-1127, and amendments thereto. The audits
43 required pursuant to this subsection (12) shall be conducted in accordance

1 with generally accepted governmental auditing standards. The financial-
2 compliance audit required pursuant to this subsection (12) shall be
3 conducted as soon after the close of the fiscal year as practicable, but shall
4 be completed no later than six months after the close of the fiscal year. The
5 post auditor shall annually compute the reasonably anticipated cost of
6 providing the financial-compliance audit pursuant to this subsection (12),
7 subject to review and approval by the contract audit committee established
8 by K.S.A. 46-1120, and amendments thereto. Upon such approval, the
9 system shall reimburse the division of post audit for the amount approved
10 by the contract audit committee. The furnishing of the financial-
11 compliance audit pursuant to this subsection (12) shall be a transaction
12 between the legislative post auditor and the system and shall be settled in
13 accordance with the provisions of K.S.A. 75-5516, and amendments
14 thereto.

15 (d) Any internal assessment or examination of alternative investments
16 of the system performed by any person or entity employed or retained by
17 the board which evaluates or monitors the performance of alternative
18 investments shall be reported to the legislative post auditor so that such
19 report may be reviewed in accordance with the annual financial-
20 compliance audits conducted pursuant to this subsection (12).

21 (e) The board shall prepare and submit an alternative investment
22 report to the ~~joint committee on pensions, investments and benefits-~~
23 *standing committee on pensions and benefits of the house of*
24 *representatives* prior to January 1, 2016. Such report shall include a review
25 of alternative investments of the system with an emphasis on the effects of
26 changes in law pursuant to this act and includes specific investment cost
27 and market value information of each individual alternative investment.

28 Sec. 15. K.S.A. 2012 Supp. 74-4921c is hereby amended to read as
29 follows: 74-4921c.-(a) As used in K.S.A. 2012 Supp. 74-4921c and 74-
30 4921d, and amendments thereto:

31 (1) "Active business operations" means a company engaged in
32 business operations that provide revenue to the government of Sudan or a
33 company engaged in oil-related activities;

34 (2) "board" means the board of trustees of the Kansas public
35 employees retirement system;

36 (3) "business operations" means maintaining, selling or leasing
37 equipment, facilities, personnel, or any other apparatus of business or
38 commerce in Sudan, including the ownership or possession of real or
39 personal property located in Sudan;

40 (4) "company" means a sole proprietorship, organization, association,
41 corporation, partnership, venture or other entity, its subsidiary or affiliate
42 that exists for profitmaking purposes or to otherwise secure economic
43 advantage. "Company" also means a company owned or controlled, either

1 directly or indirectly, by the government of Sudan, that is established or
2 organized under the laws of or has its principal place of business in the
3 republic of the Sudan;

4 (5) "complicity" means the taking of actions which have directly
5 supported or promoted the genocidal campaign in Darfur;

6 (6) "energy or power-related operations" means any business
7 operation that involves a project commissioned by the national electricity
8 corporation of Sudan or similar Sudanese entity whose purpose is to
9 facilitate energy or power generation and delivery;

10 (7) "government of Sudan" means the government of Sudan or its
11 instrumentalities;

12 (8) "invest" or "investment" means the purchase, ownership or
13 control of stock of a company, association or corporation, the capital stock
14 of a mutual water company or corporation, bonds issued by the
15 government or a political subdivision of Sudan, corporate bonds or other
16 debt instruments issued by a company, or the commitment of funds or
17 other assets to a company, including a loan or extension of credit to that
18 company;

19 (9) "KPERS fund" means the Kansas public employees retirement
20 fund created pursuant to the provisions of K.S.A. 74-4921, and
21 amendments thereto;

22 (10) "military equipment" means weapons, arms or military defense
23 supplies;

24 (11) "mineral extraction activities" includes, but is not limited to, the
25 exploring, extracting, processing, transporting or wholesale selling or
26 trading of elemental minerals or associated metal alloys or oxides or ore;

27 (12) "oil-related activities" means, but is not limited to, the export of
28 oil, extracting or producing oil, exploration for oil, or the construction or
29 maintenance of a pipeline, refinery, or other oil field infrastructure;

30 (13) "research firm" means a reputable, neutral third-party research
31 firm;

32 (14) "substantial action" means a boycott of the government of
33 Sudan, curtailing business in Sudan until that time described in subsection
34 (m), selling company assets, equipment or real and personal property
35 located in Sudan, or undertaking significant humanitarian efforts in the
36 eastern, southern, or western regions of Sudan; and

37 (15) "Sudan" means the republic of the Sudan, a territory under the
38 administration or control of the Sudan, including, but not limited to, the
39 Darfur region, or an individual, company, or public agency located in
40 Khartoum, northern Sudan, or the Nile River Valley that supports the
41 republic of the Sudan.

42 (b) The board shall not invest KPERS funds in a company with
43 business operations in Sudan that meets all of the following criteria:

1 (1) The company is engaged in active business operations in Sudan.
2 If that company is not engaged in oil-related activities, that company also
3 lacks significant business operations in the eastern, southern and western
4 regions of Sudan; and

5 (2) either of the following apply:

6 (A) The company is engaged in oil-related activities, mineral
7 extraction activities or energy or power-related operations, or contracts
8 with another company with business operations in the oil, mineral
9 extraction, energy and power sectors of Sudan, and the company failed to
10 take substantial action related to the government of Sudan because of the
11 Darfur genocide; or

12 (B) the company has demonstrated complicity in the Darfur genocide.

13 (c) Notwithstanding subsection (b), the board shall not invest KPERS
14 funds in a company that supplies military equipment within the borders of
15 Sudan. If a company provides equipment within the borders of Sudan that
16 may be readily used for military purposes, including, but not limited to,
17 radar systems and military-grade transport vehicles, there shall also be a
18 strong presumption against investing in that company unless that company
19 implements safeguards to prevent the use of that equipment for military
20 purposes.

21 (d) (1) The board may contract with a research firm or firms to
22 determine those companies that have business operations in Sudan. Such
23 research firm or firms may obtain aggregate data on a majority of
24 companies with business operations in Sudan. On or before September 30,
25 2007, such research firm or firms may report any findings to the board and
26 may submit further findings to the board if there is a change of
27 circumstances in Sudan.

28 (2) In addition to the reports described in subsection (d)(1), the board
29 shall take all of the following actions no later than September 30, 2007:

30 (A) Review publicly available information regarding companies with
31 business operations in Sudan;

32 (B) contact other institutional investors that invest in companies with
33 business operations in Sudan; and

34 (C) send written notice to a company with business operations in
35 Sudan that the company may be subject to this section.

36 (e) (1) The board shall determine, by the next applicable board
37 meeting and based on the information and reports described in subsection
38 (d), if a company meets the criteria described in subsection (b) or (c). If
39 the board plans to invest or has investments in a company that meets the
40 criteria described in subsection (b) or (c), that planned or existing
41 investments shall be subject to subsections (g) and (h).

42 (2) Investments of the board in a company that does not meet the
43 criteria described in subsection (b) or (c) or does not have active business

1 operations in Sudan are not subject to subsection (h), provided that the
2 company does not subsequently meet the criteria described in subsection
3 (b) or (c) or engage in active business operations. The board shall identify
4 the reasons why that company does not satisfy the criteria described in
5 subsection (b) or (c) or does not engage in active business operations in the
6 report to the ~~joint committee on pensions, investments and benefits~~
7 *standing committee on pensions and benefits of the house of*
8 *representatives* described in subsection (i).

9 (f) (1) The board shall not be required to divest passively managed
10 commingled funds when the estimated annual costs of divestment exceed
11 5% of the total value of scrutinized companies with active business
12 operations held in the fund and the ratio holds for at least six months time.
13 ~~Such an estimate should be submitted in a report to the joint committee on~~
14 ~~pensions, investments, and benefits before the exemption is exercised. The~~
15 ~~report should be updated semi-annually thereafter as applicable.~~

16 (2) Notwithstanding subsection (e), if the board's investment in a
17 company described in subsection (b) or (c) is limited to investment via an
18 externally and actively managed commingled fund, the board shall contact
19 that fund manager in writing and request that the fund manager remove
20 that company from the KPERS fund as described in subsection (h). If the
21 KPERS fund or account manager creates a fund or account devoid of
22 companies described in subsection (b) or (c), the transfer of board
23 investments from the prior fund or account to the fund or account devoid
24 of companies with business operations in Sudan shall be deemed to satisfy
25 subsection (h).

26 (3) If the board's investment in a company described in subsection (b)
27 or (c) is limited to an alternative fund or account, the alternative fund or
28 account manager creates an actively managed commingled fund that
29 excludes companies described in subsection (b) or (c), and the new fund or
30 account is deemed to be financially equivalent to the existing fund or
31 account, the transfer of board investments from the existing fund or
32 account to the new fund or account shall be deemed to satisfy subsection
33 (h). If the board determines that the new fund or account is not financially
34 equivalent to the existing fund, the board shall include the reasons for that
35 determination in the report described in subsection (i).

36 (4) The board shall make a good faith effort to identify any private
37 equity investments that involve companies described in subsection (b) or
38 (c) or are linked to the government of Sudan. If the board determines that a
39 private equity investment clearly involves a company described in
40 subsection (b) or (c) or is linked to the government of Sudan, the board
41 shall consider, at its discretion, if those private equity investments shall be
42 subject to subsection (h). If the board determines that a private equity
43 investment clearly involves a company described in subsection (b) or (c)

1 or is linked to the government of Sudan and the board does not take action
2 as described in subsection (h), the board shall include the reasons for its
3 decision in the report described in subsection (i).

4 (g) Except as described in subsection (f) or subsection (e)(2), the
5 board, in the board's capacity of shareholder or investor, shall notify any
6 company described in subsection (e)(1) that the company is subject to
7 subsection (h) and permit that company to respond to the information and
8 reports described in subsection (d). The board shall request that the
9 company take substantial action no later than 90 days from the date the
10 board notified the company under this subsection. If the board determines
11 that a company has taken substantial action or has made sufficient progress
12 towards substantial action before the expiration of that 90-day period, that
13 company shall not be subject to subsection (h). The board shall, at
14 intervals not to exceed 90 days, continue to monitor and review the
15 progress of the company until that company has taken substantial action in
16 Sudan. A company that fails to complete substantial action or continue to
17 make sufficient progress towards substantial action by the next time
18 interval shall be subject to subsection (h).

19 (h) If a company described in subsection (e)(1) fails to complete
20 substantial action by the time described in subsection (g), the board shall
21 take the following actions:

22 (1) The board shall not make additional or new investments or renew
23 existing investments in that company.

24 (2) The board shall liquidate the investments of the board in that
25 company no later than 18 months after this subsection applies to that
26 company. The board shall liquidate those investments in a manner to
27 address the need for companies to take substantial action in Sudan and
28 consistent with the board's fiduciary responsibilities as provided in K.S.A.
29 74-4921, and amendments thereto.

30 (i) On or before June 30, 2008, and every year thereafter, the board
31 shall file a report with the ~~joint committee on pensions, investments and~~
32 ~~benefits~~ *standing committee on pensions and benefits of the house of*
33 *representatives*. The report shall describe the following:

34 (1) A list of investments the board has in companies with business
35 operations in Sudan, including, but not limited to, the issuer, by name, of
36 the stock, bonds, securities and other evidence of indebtedness;

37 (2) a detailed summary of the business operations a company
38 described in subsection (i)(1) has in Sudan and whether that company
39 satisfies all of the criteria in subsection (b) or (c);

40 (3) whether the board has reduced KPERS fund investments in a
41 company that satisfies the criteria in subsection (b) or (c);

42 (4) if the board has not completely reduced KPERS fund investments
43 in a company that satisfies the criteria in subsection (b) or (c), when the

1 board anticipates that the board will reduce all investments in that
2 company or the reasons why a sale or transfer of investments is
3 inconsistent with the fiduciary responsibilities of the board as provided in
4 K.S.A. 74-4921, and amendments thereto;

5 (5) any information described in subsection (e); and

6 (6) a detailed summary of investments that were transferred to funds
7 or accounts devoid of companies with business operations in Sudan as
8 described in subsection (f).

9 (j) If the board voluntarily sells or transfers all KPERS fund
10 investments in a company with business operations in Sudan, this section
11 shall not apply except that the board shall file a report with the legislature
12 related to that company as described in subsection (i).

13 (k) Nothing in this section shall require the board to take action as
14 described in this section unless the board determines, in good faith, that
15 the action described in this section is consistent with the fiduciary
16 responsibilities of the board as provided in K.S.A. 74-4921, and
17 amendments thereto.

18 (l) Subsection (h) shall not apply to any of the following:

19 (1) Investments in a company that is primarily engaged in supplying
20 goods or services intended to relieve human suffering in Sudan, and the
21 supplying of such goods and services is done in conjunction with an
22 international organization, the government of Sudan, the regional
23 government of Southern Sudan or a non-profit entity, and is evaluated and
24 certified by an independent third party to be substantial in relationship to
25 the business operations of the company in Sudan and of benefit to one or
26 more marginalized populations of Sudan;

27 (2) investments in a company that promotes health, education,
28 journalistic or religious activities in or welfare in the western, eastern or
29 southern regions of Sudan; and

30 (3) investments in a United States company that is authorized by the
31 federal government to have business operations in Sudan.

32 (m) This section shall remain in effect only until one of the following
33 occurs, and as of the date of that action, is repealed:

34 (1) The government of Sudan halts the genocide in Darfur for 12
35 months as determined by both the department of state and the congress of
36 the United States; or

37 (2) the United States revokes its current sanctions against Sudan.

38 Sec. 16. K.S.A. 2012 Supp. 74-4937 is hereby amended to read as
39 follows: 74-4937. (1) The normal retirement date of a member of the
40 system who is in school employment and who is subject to K.S.A. 74-
41 4940, and amendments thereto, shall be the first day of the month
42 coinciding with or following termination of employment not followed by
43 employment with any participating employer within 60 days and the

1 attainment of age 65 or, commencing July 1, 1986, age 65 or age 60 with
2 the completion of 35 years of credited service or at any age with the
3 completion of 40 years of credited service, or commencing July 1, 1993,
4 any alternative normal retirement date already prescribed by law or age 62
5 with the completion of 10 years of credited service or the first day of the
6 month coinciding with or following the date that the total of the number of
7 years of credited service and the number of years of attained age of the
8 member is equal to or more than 85. Each member upon giving prior
9 notice to the appointing authority and the retirement system may retire on
10 the normal retirement date or the first day of any month thereafter.

11 (2) Any member who is in school employment and who is subject to
12 K.S.A. 74-4940, and amendments thereto, may retire before such
13 member's normal retirement date on the first day of the month coinciding
14 with or following termination of employment not followed by employment
15 with any participating employer within 60 days and the attainment of age
16 55 with the completion of 10 years of credited service, upon the filing with
17 the office of the retirement system of an application for retirement in such
18 form and manner as the board shall prescribe.

19 (3) Commencing July 1, 2009, the provisions of subsection (5) of
20 K.S.A. 74-4914, and amendments thereto, which relate to an earnings
21 limitation which when met or exceeded requires that the retirant not
22 receive a retirement benefit for any month for which such retirant serves in
23 a position as described herein shall not apply to retirants who either retired
24 under the provisions of subsection (l) of K.S.A. 74-4914, and amendments
25 thereto, related to normal retirement, or, if they retired under the
26 provisions of subsection (4) of K.S.A. 74-4914, and amendments thereto,
27 related to early retirement, were retired more than 60 days prior to the
28 effective date of this act, and are subsequently hired in a position that
29 requires a license under K.S.A. 72-1388, and amendments thereto, or other
30 provision of law. The provisions of this subsection do not apply to retirants
31 who retired under subsection (4) of K.S.A. 74-4914, and amendments
32 thereto, which relates to early retirement prior to age 62. Except as
33 otherwise provided, when a retirant is employed by the same school
34 district or a different school district with which such retirant was employed
35 during the final two years of such retirant's participation or employed by a
36 third-party entity who contracts services with a school district to fill a
37 position as described in this subsection, the participating employer of such
38 retirant shall pay to the system the actuarially determined employer
39 contribution based on the retirant's compensation during any such period
40 of employment plus 8%. The provisions of this subsection shall not apply
41 to retirants employed as substitute teachers. The provisions of subsection
42 (5) of K.S.A. 74-4914, and amendments thereto, shall be applicable to
43 retirants employed as described in this subsection, except as specifically

1 provided in this subsection. Nothing in this subsection shall be construed
2 to create any right, or to authorize the creation of any right, which is not
3 subject to amendment or nullification by act of the legislature. The
4 provisions of this subsection shall expire on July 1, 2015. After such date
5 the Kansas public employees retirement system and its actuary shall report
6 the experience to the ~~joint committee on pensions, investments and~~
7 ~~benefits~~ *standing committee on pensions and benefits of the house of*
8 *representatives.*

9 Sec. 17. K.S.A. 2012 Supp. 74-49,129 is hereby amended to read as
10 follows: 74-49,129. (a) For the purpose of financing a portion of the
11 unfunded actuarial pension liability of the Kansas public employees
12 retirement system, the Kansas development finance authority is hereby
13 authorized to issue one or more series of revenue bonds under the Kansas
14 development finance authority act in an amount necessary to provide a
15 deposit or deposits in a total amount not to exceed \$500,000,000 to the
16 Kansas public employees retirement system and to pay the costs of
17 issuance of the bonds, including any credit enhancement, and provide any
18 required reserves for the bonds. The principal amount, interest rates and
19 final maturity of such revenue bonds and any bonds issued to refund such
20 bonds or parameters for such principal amount, interest rates and final
21 maturity shall be approved by a resolution of the state finance council. The
22 state finance council shall review and determine the lowest cost method
23 for financing such bonds, including, but not limited to, issues related to the
24 tax status of the bonds. The bonds, and interest thereon, issued pursuant to
25 this section shall be payable from moneys appropriated by the state for
26 such purpose. The bonds and interest thereon, issued pursuant to this
27 section shall be obligations only of the authority and in no event shall such
28 bonds constitute an indebtedness or obligation of the Kansas public
29 employees retirement system or an indebtedness or obligation for which
30 the faith and credit or any assets of the system are pledged.

31 (b) As used in this section, "unfunded actuarial pension liability"
32 means the unfunded actuarially accrued liability of the state for the state of
33 Kansas and participating employers under K.S.A. 74-4931, and
34 amendments thereto, portion of such liability of the Kansas public
35 employees retirement system, determined as of the later of December 31,
36 2001, or the end of the most recent calendar year for which an actuarial
37 valuation report is available and certified to the Kansas development
38 finance authority by the executive secretary of the Kansas public
39 employees retirement system.

40 (c) (1) The authority may pledge the contract or contracts authorized
41 in subsection (d), or any part thereof, for the payment or redemption of the
42 bonds, and covenant as to the use and disposition of money available to
43 the authority for payments of the bonds. The authority is authorized to

1 enter into any agreements necessary or desirable to effectuate the purposes
2 of this section.

3 (2) The proceeds from the sale of the bonds, other than refunding
4 bonds, issued pursuant to this section, after payment of any costs related to
5 the issuance of such bonds, shall be paid by the authority to the Kansas
6 public employees retirement system to be applied to the payment, in full or
7 in part, of the unfunded accrued pension liability as directed by the Kansas
8 public employees retirement system.

9 (3) The state hereby pledges and covenants with the holders of any
10 bonds issued pursuant to the provisions of this section, that it will not limit
11 or alter the rights or powers vested in the authority by this section, nor
12 limit or alter the rights or powers of the authority, the department of
13 administration or the Kansas public employees retirement system, in any
14 manner which would jeopardize the interest of the holders or any trustee of
15 such holders or inhibit or prevent performance or fulfillment by the
16 authority, the department of administration or the Kansas public employees
17 retirement system with respect to the terms of any agreement made with
18 the holders of the bonds or agreements made pursuant to this section,
19 except that the failure of the legislature to appropriate moneys for any
20 purpose shall not be deemed a violation of this pledge and covenant. The
21 department of administration is hereby specifically authorized to include
22 this pledge and covenant in any agreement with the authority. The
23 authority is hereby specifically authorized to include this pledge and
24 covenant in any bond resolution, trust indenture or agreement for the
25 benefit of holders of the bonds.

26 (4) Revenue bonds may be issued pursuant to this section without
27 obtaining the consent of any department, division, commission, board or
28 agency of the state, other than the approvals of the state finance council
29 required by this section, and without any other proceedings or the
30 occurrence of any other conditions or other things other than those
31 proceedings, conditions or things which are specifically required by the
32 Kansas development finance authority act.

33 (d) The department of administration and the authority are authorized
34 to enter into one or more contracts to implement the payment arrangement
35 that is provided for in this section. The contract or contracts shall provide
36 for payment of the amounts required to be paid pursuant to this section and
37 shall set forth the procedure for the transfer of moneys for the purpose of
38 paying such moneys. The contract or contracts shall contain such terms
39 and conditions including principal amount, interest rates and final maturity
40 as shall be approved by resolution of the state finance council and shall
41 include, but not be limited to, terms and conditions necessary or desirable
42 to provide for repayment of and to secure any bonds of the authority issued
43 pursuant to this section.

1 (e) The approvals by the state finance council required by subsection
2 (a) and (d) are hereby characterized as matters of legislative delegation and
3 subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c,
4 and amendments thereto. Such approvals may be given by the state finance
5 council when the legislature is in session.

6 (f) No bonds shall be issued pursuant to this section prior to the
7 review of and recommendation to the state finance council of such
8 issuance by the ~~joint committee on pensions, investments and benefits~~
9 *standing committee on pensions and benefits of the house of*
10 *representatives.*

11 Sec. 18. K.S.A. 2012 Supp. 74-5001a is hereby amended to read as
12 follows: 74-5001a. The purpose of the department of commerce shall be to
13 develop and implement strategies to:

14 (a) Facilitate the growth, diversification and expansion of existing
15 enterprises and the creation by Kansans of new wealth-generating
16 enterprises;

17 (b) promote economic diversification and innovation within the basic
18 industries and sectors of the state;

19 (c) promote increased productivity and value added products,
20 processes and services among wealth-generating enterprises and the export
21 of those goods and services created by small and large Kansas enterprises
22 to the nation and world;

23 (d) maintain and revitalize economically depressed rural areas and
24 urban neighborhoods by annually targeting scarce resources by size, sector
25 and location to communities and enterprises of particular need and
26 opportunity and by working in close collaboration with local communities;

27 (e) protect and enhance the environmental quality of the state in ways
28 consistent with dynamic economic growth; and

29 (f) forge a supportive partnership with the standing committee on
30 commerce of the senate, the standing committee on *commerce, labor and*
31 *economic development of the house of representatives* ~~and the joint~~
32 ~~committee on economic development~~, Kansas venture capital, inc., Kansas
33 certified development companies, Kansas small business development
34 centers, Kansas public and private educational institutions, and other
35 appropriate private and public sector organizations in achieving the
36 economic goals of the state.

37 Sec. 19. K.S.A. 2012 Supp. 74-5002s is hereby amended to read as
38 follows: 74-5002s. (a) There is hereby established, within the Kansas
39 department of commerce, a division of workforce development. The head
40 of the division shall be the director of workforce development, who shall
41 be appointed by and serve at the pleasure of the secretary of the
42 department of commerce. The director shall be in the unclassified service
43 under the Kansas civil service act and shall receive an annual salary fixed

1 by the secretary of commerce, with the approval of the governor. Under
2 the supervision of the secretary of commerce, the director of workforce
3 development shall administer the division of workforce development.

4 (b) The monitoring unit of the division of workforce development
5 shall report annually, on or before January 15, to the senate committee on
6 commerce, the house committee on *commerce, labor and economic*
7 ~~development and tourism and the joint committee on economic~~
8 ~~development~~, and any successor committees thereto, on the monitoring
9 activities of the division during the preceding calendar year, any problems
10 within workforce development activities, compliance with federal and
11 state requirements and such other matters concerning workforce
12 development which the monitoring unit deems appropriate.

13 Sec. 20. K.S.A. 2012 Supp. 74-5049 is hereby amended to read as
14 follows: 74-5049. (a) In order to insure that the department of commerce is
15 effectively administering this act, the department shall cooperate with the
16 standing committee on commerce of the senate, *and the standing*
17 ~~committee on new economy~~ *commerce, labor and economic development*
18 ~~of the house of representatives and the joint committee on economic~~
19 ~~development~~ in the performance of an independent performance review of
20 the activities of the department and the departmental divisions. The review
21 shall include, but not be limited to: (1) An assessment of the impacts of the
22 department's programs corresponding to the strategic plans of the
23 department and the departmental divisions; (2) a comparative assessment
24 of the relative impact of the department's programs with similar programs
25 in other states; and (3) a comparative assessment of the targeting of the
26 department's programs by size and sector of economic activity, and by
27 location in different areas of the state. The review shall be completed or
28 updated at least once every three years.

29 (b) On or before October 1, the department shall prepare and publish
30 an annual report, which shall be made widely available, of its activities
31 and expenditures for the information of the governor, the standing
32 committee on commerce of the senate, the standing committee on ~~new~~
33 ~~economy~~ *commerce, labor and economic development* of the house of
34 representatives, ~~the joint committee on economic development~~, and the
35 public, and shall, from time to time, submit recommendations to the
36 governor concerning legislation found to be necessary or desirable in
37 effecting the purposes of this act. The annual report shall include any
38 information which the department is required to report by law. The annual
39 report shall specifically account for the ways in which the purposes of the
40 department and its divisions as described in this act have been achieved,
41 and the recommendations shall specifically note what changes in the
42 activities of the department and its divisions, and of state government are
43 necessary to better address the purposes described in this act. The annual

1 report to the standing committee on commerce of the senate; *and* the
2 standing committee on ~~new economy~~ *commerce, labor and economic*
3 *development* of the house of representatives ~~and the joint committee on~~
4 ~~economic development~~ shall be made by the department either: (1) By
5 publishing such report on the internet and by notifying each member of the
6 committees that the report is available and providing, as part of such
7 notice, the uniform resource locator (URL) at which such report is
8 available; or (2) by submitting copies of such report on CD-ROM or other
9 electronically readable media to such committees.

10 Sec. 21. K.S.A. 2012 Supp. 74-5097 is hereby amended to read as
11 follows: 74-5097. (a) Subject to the provisions of appropriations acts and
12 in accordance with the provisions of this act, the department of commerce
13 may provide planning grants and action grants to city-county economic
14 development organizations located in nonmetropolitan counties, for the
15 development and implementation of countywide economic development
16 strategy plans or to neighborhood revitalization organizations, in
17 metropolitan counties, for the planning and implementation of urban
18 economic development plans.

19 (b) The committee shall establish grant eligibility criteria for
20 applicants in both metropolitan and nonmetropolitan counties, and shall
21 administer the competitive selection process for the awarding of planning
22 grants and action grants. The committee shall submit its recommendations
23 for grant awards to the secretary of commerce for final determination and
24 award.

25 (1) Grant applicants from nonmetropolitan counties shall be subject
26 to the following conditions. Planning grants shall be for the development
27 of countywide economic development strategy plans. No planning grant
28 shall exceed \$15,000 for any single county economic development plan.
29 An additional award for an amount not to exceed \$5,000 may be granted
30 for each additional county participating in the development of a joint
31 multi-county strategic economic development plan, except that under no
32 circumstances shall the total planning grant exceed \$35,000. Any city-
33 county economic development organization receiving a planning grant
34 shall be required to provide additional funds equaling 25% of the amount
35 of the planning grant. Action grants shall be for the implementation of
36 countywide economic development strategy plans. Total action grants shall
37 not exceed \$25,000 for any single county action grant application. An
38 additional award for an amount not to exceed \$10,000 may be granted for
39 each additional county participating in a joint multi-county action grant
40 implementation effort, except that under no circumstances shall the action
41 grant totals exceed \$65,000. Any city-county economic development
42 organization receiving a grant shall be required to provide additional funds
43 equaling 100% of the amount of the action grant. Not more than one

1 planning grant may be awarded to any one county or combination of
2 counties.

3 (2) Neighborhood revitalization organizations from metropolitan
4 counties shall be subject to the following conditions. Prior to applying to
5 the committee, the neighborhood revitalization organization must submit
6 its application to a local economic development organization designated
7 by the county commission of the county in which the organization is
8 located. The local economic development organization shall review the
9 application and determine whether the application should be funded on the
10 basis of local needs and priorities. If the application is approved by the
11 local economic development organization and endorsed by resolution by
12 the county commission and the governing body of the city in which the
13 blighted area is located, the application shall be forwarded to the
14 committee for further consideration. Planning grants shall be for the
15 development of urban economic development strategy plans. No planning
16 grant shall exceed \$15,000 for any single urban economic development
17 plan. Any neighborhood revitalization organization receiving a planning
18 grant shall be required to provide additional funds equaling 25% of the
19 amount of the planning grant. Action grants shall be for the
20 implementation of urban economic development strategy plans. Total
21 action grants shall not exceed \$25,000 for any single urban action grant
22 application. Any neighborhood revitalization organization receiving a
23 grant shall be required to provide additional funds equaling 100% of the
24 amount of the action grant. Not more than one planning grant may be
25 awarded to any one neighborhood revitalization organization.

26 (3) No funds shall be granted under this act to applicants from
27 metropolitan counties unless such funds are specifically appropriated for
28 that purpose.

29 (4) The secretary of commerce may authorize a recipient of a
30 planning grant, who has unexpended funds from such planning grant, to
31 apply such funds to the implementation of the recipient's approved
32 strategic economic development plan. Any unexpended planning grant
33 funds applied to the implementation of such strategic economic
34 development plan shall require the appropriate 100% match. Application
35 of the unexpended planning grant funds to the implementation of the
36 strategic economic development plan may result in the reduction of any
37 subsequent action grant awarded to the recipient.

38 (c) The secretary of commerce may enter into an agreement with
39 economic development service providers to provide reimbursement to
40 such providers for expenses incurred in strategic planning activities which
41 do not relate to the facilitation of a specific strategic plan. Such activities
42 may include, but are not limited to, preapplication consulting and
43 maintenance of economic development data bases. Such expenses shall be

1 paid on a per project basis and must be preapproved by the secretary.

2 (d) Each city-county economic development organization or
3 neighborhood revitalization organization which has received a planning
4 grant beginning on and after July 1, 1990, shall assess the effectiveness of
5 the strategic planning process under this program and the local
6 preparedness in engaging in such process. Such assessment shall be
7 submitted to the Kansas department of commerce within three months
8 after completion of a strategic plan. The status report developed pursuant
9 to subsection (f) shall include a summary of all strategic plan assessments
10 received for a twelve-month period prior to the submittal of the report to
11 ~~the joint committee on economic development~~ *standing committee on*
12 *commerce of the senate and the standing committee on commerce, labor*
13 *and economic development of the house of representatives.* However, the
14 summary may not include assessments submitted within 30 days of the
15 submittal of the department's report. Any such assessments shall be
16 included in a subsequent annual report.

17 (e) Each city-county economic development organization or
18 neighborhood revitalization organization which has received an action
19 grant beginning on and after July 1, 1990, shall assess the extent to which
20 goals identified in its action plan application have been met. Such
21 assessment shall rely on quantifiable criteria to the greatest possible
22 degree. Such assessment shall be submitted to the Kansas department of
23 commerce within three months after intended actions identified for
24 implementation in the action grant application have been undertaken. The
25 status report developed pursuant to subsection (f) shall include a summary
26 of all action plan assessments received for a twelve-month period prior to
27 the submittal of the report to ~~the joint committee on economic~~
28 ~~development~~ *standing committee on commerce of the senate and the*
29 *standing committee on commerce, labor and economic development of the*
30 *house of representatives.* However, the summary may not include
31 assessments submitted within 30 days of the submittal of the department's
32 report. Any such assessments shall be included in a subsequent annual
33 report.

34 (f) As a part of the annual report required pursuant to K.S.A. 74-
35 5049, and amendments thereto, the Kansas department of commerce shall
36 present a status report of activities including, but not limited to, specifics
37 of community strengths and weaknesses and planning issues and strategies
38 under the provisions of this act to ~~the joint committee on economic~~
39 ~~development~~ *standing committee on commerce of the senate and the*
40 *standing committee on commerce, labor and economic development of the*
41 *house of representatives.*

42 Sec. 22. K.S.A. 2012 Supp. 74-50,123 is hereby amended to read as
43 follows: 74-50,123. (a) The secretary shall transmit annually to the

1 governor, the standing committee on commerce of the senate; *and* the
2 standing committee on *commerce, labor and* economic development ~~and~~
3 ~~tourism~~ of the house of representatives ~~and the joint committee on~~
4 ~~economic development~~, or any successor committee, a report, based upon
5 information received from each qualified industrial manufacturer for
6 which benefits have been issued during the preceding year, describing the
7 following: (1) The manner in which the purpose, as described in this act,
8 has been carried out;

9 (2) an estimate of jobs created and jobs preserved by cash
10 investments made in qualified industrial manufacturers; and

11 (3) an estimate of the multiplier effect on the Kansas economy of the
12 cash investments made pursuant to this act.

13 (b) The secretary shall conduct an annual review of the activities
14 undertaken pursuant to this act to ensure that benefits issued pursuant to
15 this act are issued in compliance with the provisions of this act or rules and
16 regulations adopted by the department with respect to this act.

17 (c) Any violation of the reporting requirements set forth in the
18 agreement shall be grounds for loss of designation as a qualified industrial
19 manufacturer under this section.

20 (d) If the secretary determines that a qualified industrial manufacturer
21 is not in substantial compliance with the requirements of this act, the
22 secretary, by written notice, shall inform the officers of the qualified
23 industrial manufacturer that such qualified industrial manufacturer shall
24 lose its designation as a qualified industrial manufacturer unless such
25 qualified industrial manufacturer corrects the deficiencies and is once
26 again in compliance with the requirements for designation.

27 Sec. 23. K.S.A. 2012 Supp. 74-50,151 is hereby amended to read as
28 follows: 74-50,151. (a) There is hereby created in the state treasury the
29 Kansas economic opportunity initiatives fund. Subject to acts of the
30 legislature applicable thereto, the moneys in the Kansas economic
31 opportunity initiatives fund shall be used only for the purposes prescribed
32 by this section.

33 (b) All expenditures made pursuant to this act shall be made in
34 accordance with appropriations acts upon warrants of the director of
35 accounts and reports issued pursuant to vouchers approved by the
36 governor or the governor's designee. The governor may approve a warrant
37 upon certification, by the secretary of commerce, that an economic
38 emergency or unique opportunity exists which warrant funding for a
39 strategic economic intervention by such state agency or agencies to
40 address expenses involved in securing economic benefits or avoiding or
41 remedying economic losses related to:

42 (1) A major expansion of an existing Kansas commercial enterprise;

43 (2) the potential location in Kansas of the operations of a major

1 employer;

2 (3) the award of a significant federal or private sector grant which has
3 a financial matching requirement;

4 (4) the departure from Kansas or the substantial reduction of the
5 operations of a major employer; and

6 (5) the closure or the substantial reduction of a major federal or state
7 institution or facility.

8 (c) An intervention strategy may include financial assistance in the
9 form of grants, loans or both. The department of commerce shall adopt
10 written guidelines concerning the terms and conditions of any such loans.
11 However, all repaid funds shall be credited to the Kansas economic
12 opportunity initiatives fund. No intervention strategy approved pursuant to
13 this act shall facilitate the moving of an existing Kansas firm to another
14 location within the state unless such restriction is waived by the secretary
15 of commerce. Every intervention strategy approved pursuant to this act
16 shall identify the intended outcomes to be realized by the strategy for
17 which funding is sought.

18 (d) The department of commerce shall make findings concerning the
19 costs and benefits, on both a local and statewide basis, of projects
20 proposed pursuant to this act. Prior to allocation of any funds pursuant to
21 this act, the governor shall review the cost-benefit findings performed on
22 each project.

23 (e) The director of the budget and the director of the legislative
24 research department shall consult periodically and review the balance
25 credited to and the estimated receipts to be credited to the state economic
26 development initiatives fund during the fiscal year. During any period
27 when the legislature is not in session, upon a finding by the director of the
28 budget in consultation with the director of the legislative research
29 department that the total of the unencumbered balance and estimated
30 receipts to be credited to the state economic development initiatives fund
31 during a fiscal year are insufficient to fund the budgeted expenditures and
32 transfers from the state economic development initiatives fund for the
33 fiscal year in accordance with the provisions of appropriation acts, the
34 director of the budget shall make a certification of such finding to the
35 governor. Upon approval by the governor, the director of accounts and
36 reports shall transfer the amount of moneys from the Kansas economic
37 opportunity initiatives fund to the state economic development initiatives
38 fund that is required, in accordance with a certification by the director of
39 the budget under this subsection, to fund the budgeted expenditures and
40 transfers from the state economic development initiatives fund for the
41 fiscal year in accordance with the provisions of appropriation acts, as
42 specified by the director of the budget pursuant to such certification.

43 (f) On or before the 10th day of each month, the director of accounts

1 and reports shall transfer from the state general fund to the state economic
2 development initiatives fund interest earnings based on:

3 (1) The average daily balance of moneys in the Kansas economic
4 opportunity initiatives fund for the preceding month; and

5 (2) the net earnings rate for the pooled money investment portfolio
6 for the preceding month.

7 (g) The secretary of commerce shall review annually the propriety of
8 projects funded under this section and report the findings in writing to the
9 governor, the ~~new economy~~ *committee on commerce, labor and economic*
10 *development* of the house of representatives; *and* the senate commerce
11 committee ~~and the joint committee on economic development~~. The report
12 to the ~~new economy~~ *commerce, labor and economic development*
13 committee of the house of representatives; *and* the commerce committee
14 of the senate ~~and the joint committee on economic development~~ under this
15 subsection shall be made either: (1) By publishing such report on the
16 internet and by notifying each member of the committees that the report is
17 available and providing, as part of such notice, the uniform resource
18 locator (URL) at which such report is available; or (2) by submitting
19 copies of such report on CD-ROM or other electronically readable media
20 to such committees.

21 Sec. 24. K.S.A. 2012 Supp. 74-50,216 is hereby amended to read as
22 follows: 74-50,216. The secretary shall transmit annually to the governor,
23 the standing committees on taxation and assessment and commerce of the
24 senate, the standing committees on taxation and *commerce, labor and*
25 *economic development and tourism* of the house of representatives ~~and the~~
26 ~~joint committee on economic development~~, or any successor committee, a
27 report, based on information received from each qualified company
28 receiving benefits under this act, describing the following:

- 29 (a) The names of the qualified companies;
30 (b) the types of qualified companies utilizing the act;
31 (c) the location of such companies and the location of such
32 companies' business operations in Kansas;
33 (d) the number of new employees hired;
34 (e) the wages paid for such new employees;
35 (f) the annual amount of benefits provided under this act;
36 (g) the estimated net state fiscal impact, including the direct and
37 indirect new state taxes derived from the new employees hired; and
38 (h) an estimate of the multiplier effect on the Kansas economy of the
39 benefits received under this act.

40 Sec. 25. K.S.A. 2012 Supp. 74-8004 is hereby amended to read as
41 follows: 74-8004. (a) In order to achieve its purpose as provided in this
42 act, the secretary of commerce shall:

- 43 (1) Serve in an advisory capacity to the governor, the standing

1 committee on commerce of the senate; *and* the standing committee on
2 *commerce, labor and* economic development of the house of
3 representatives ~~and the joint committee on economic development.~~

4 (2) Assume central responsibility to develop, with the guidance of
5 both the private and public sectors, all facets of a comprehensive long term
6 economic development strategy.

7 (3) Coordinate the strategy development with all other state and local
8 agencies and offices and state educational institutions which do research
9 work, develop materials and programs, gather statistics, or which perform
10 functions related to economic development; and such state and local
11 agencies and offices and state educational institutions shall advise and
12 cooperate with the secretary of commerce in the planning and
13 accomplishment of the strategy.

14 (4) Evaluate and analyze the state's economy to guide the direction of
15 future public and private actions, and report and make recommendations to
16 the governor, the standing committee on commerce of the senate; *and*
17 the standing committee on *commerce, labor and* economic development of the
18 house of representatives ~~and the joint committee on economic~~
19 ~~development~~ with respect to the state's economy. The report to the
20 committee on commerce of the senate; *and* the committee on *commerce,*
21 *labor and* economic development of the house of representatives ~~and the~~
22 ~~joint committee on economic development~~ under this subsection shall be
23 made by the secretary of commerce, either: (A) By publishing such report
24 on the internet and by notifying each member of the committees that the
25 report is available and providing, as part of such notice, the uniform
26 resource locator (URL) at which such report is available; or (B) by
27 submitting copies of such report on CD-ROM or other electronically
28 readable media to such committees.

29 (5) Oversee and evaluate the state's economic development activities
30 on an ongoing basis through the establishment of goals, priorities *and*
31 performance standards and the periodic program audit of those goals,
32 priorities and performance standards.

33 (6) Oversee the implementation of the state's economic development
34 plan and monitor updates of that plan.

35 (7) Provide appropriate oversight to ensure the successful
36 implementation of Kansas Venture Capital, Inc.

37 (8) Oversee the targeting of scarce state resources by size and sector
38 of economic activity and by geographic location within the state in order
39 to enhance the state's potential comparative economic advantages.

40 (9) Review and evaluate the annual report of Kansas venture capital,
41 inc. The secretary of commerce shall transmit recommendations
42 concerning the Kansas venture capital, inc. activities to the governor and
43 the legislature no later than September 1 of each year.

1 (10) Evaluate and report on the effectiveness of the activities of the
2 Kansas bioscience authority as provided in K.S.A. 2012 Supp. 74-99b09,
3 *and amendments thereto.*

4 (b) The secretary of commerce shall seek advice from the general
5 public and from professional associations, academic groups and
6 institutions and individuals with knowledge of and interest in areas of
7 economic development and planning.

8 (c) All interested state agencies shall cooperate with the secretary of
9 commerce in providing information and other assistance as may be
10 requested for the performance of its duties with respect to the state's
11 economic development plan.

12 Sec. 26. K.S.A. 2012 Supp. 74-8135 is hereby amended to read as
13 follows: 74-8135. (a) The designation of a business as a qualified Kansas
14 business shall be made by the secretary, and such designation must be
15 renewed annually. A business shall be so designated if the secretary
16 determines, based upon the application submitted by the business and any
17 additional investigation the staff of the department shall make, that the
18 following criteria have been or shall be satisfied:

19 (1) The business has a reasonable chance of success;

20 (2) the business has the reasonable potential to create measurable
21 employment within the state;

22 (3) the business has an innovative and proprietary technology,
23 product and service;

24 (4) the existing owners of the business and other founders have made
25 or are committed to make a substantial financial and time commitment to
26 the business;

27 (5) the securities to be issued and purchased are qualified securities;
28 and

29 (6) binding commitments have been made by the business to the
30 department for adequate reporting of financial data, including a
31 requirement for an annual report, or, if required by the secretary, an annual
32 audit of the financial and operational records of the business, the right of
33 access to the financial records of the business and the right of the
34 department to record and publish normal and customary data and
35 information related to the issuance of tax credits that are not otherwise
36 determined to be trade or business secrets.

37 (b) In addition to reports by the businesses to the department, the
38 secretary will also provide an annual report, on or before February 1, to the
39 governor, to the senate committee on commerce; *and* the house committee
40 on *commerce, labor and economic development and tourism and the joint*
41 ~~committee on economic development~~ and any successor committees
42 thereto, on the marketing and use of the angel investor tax credits. This
43 report will include the following: The amount of tax credits used in the

1 previous fiscal year including what percentage was claimed by individuals
2 and what percentage was claimed by investment firms; the types of
3 businesses that benefited from the tax credits; and any aggregate job
4 creation or capital investment in Kansas that resulted from the use of the
5 tax credits for a period of five years beginning from the date on which the
6 tax credits were awarded. In addition, the annual report will provide
7 information regarding what businesses which derived benefit from the tax
8 credits remained in Kansas and what businesses ceased business, what
9 businesses were purchased and what businesses may have moved out-of-
10 state and why.

11 Sec. 27. K.S.A. 2012 Supp. 74-8136 is hereby amended to read as
12 follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a
13 limited resource of the state for which the secretary is designated as the
14 administrator. The purpose of such tax credits is to facilitate the
15 availability of equity investment in businesses in the early stages of
16 commercial development and to assist in the creation and expansion of
17 Kansas businesses which are job and wealth creating enterprises. To
18 achieve this purpose and to optimize the use of the limited resources of the
19 state, the secretary is authorized to issue tax credits to qualified investors
20 in qualified Kansas businesses. Such tax credits shall be awarded to those
21 qualified Kansas businesses which, as determined by the secretary, are
22 most likely to provide the greatest economic benefit to the state. The
23 secretary may issue whole or partial tax credits based on an assessment of
24 the qualified businesses. The secretary may consider numerous factors in
25 such assessment, including, but not limited to, the quality and experience
26 of the management team, the size of the estimated market opportunity, the
27 risk from current or future competition, the ability to defend intellectual
28 property, the quality and utility of the business model and the quality and
29 reasonableness of financial projections for the business.

30 (b) Each qualified Kansas business for which tax credits have been
31 issued pursuant to this act shall report to the department on an annual
32 basis, the following: (1) The name, address and taxpayer identification
33 number of each angel investor who has made cash investment in the
34 qualified securities of a qualified Kansas business and has received tax
35 credits for this investment during the preceding year and all other
36 preceding years; (2) the amounts of these cash investments by each angel
37 investor and a description of the qualified securities issued in
38 consideration of such cash investments; (3) the name, address and taxpayer
39 identification number of each investor to which tax credits issued pursuant
40 to this act have been transferred by the original angel investor; and (4) any
41 additional information as the secretary may require pursuant to this act.

42 (c) The secretary shall transmit annually to the governor, the standing
43 committee on commerce of the senate; *and* the standing committee on

1 *commerce, labor and* economic development of the house of
2 representatives ~~and the joint committee on economic development~~ a
3 report, based upon information received from each qualified Kansas
4 business for which tax credits have been issued during the preceding year,
5 describing the following: (1) The manner in which the purpose, as
6 described in this act, has been carried out; (2) the total cash investments
7 made for the purchase of qualified securities of qualified Kansas
8 businesses during the preceding year and cumulatively since the inception
9 of this act; (3) an estimate of jobs created and jobs preserved by cash
10 investments made in qualified securities of qualified Kansas businesses;
11 and (4) an estimate of the multiplier effect on the Kansas economy of the
12 cash investments made pursuant to this act.

13 (d) The secretary shall provide the information specified in
14 subsection (c) to the department of revenue on an annual basis. The
15 secretary shall conduct an annual review of the activities undertaken
16 pursuant to this act to ensure that tax credits issued pursuant to this act are
17 issued in compliance with the provisions of this act or rules and
18 regulations promulgated by the department with respect to this act.

19 (e) Any violation of the reporting requirements set forth in this
20 section shall be grounds for undesignation of a qualified Kansas business
21 under this section.

22 (f) If the secretary determines that a business is not in substantial
23 compliance with the requirements of this act to maintain its designation,
24 the secretary, by written notice, shall inform the officers of the qualified
25 Kansas business and the business that such business will lose designation
26 as a qualified Kansas business in 120 days from the date of mailing of the
27 notice unless such business corrects the deficiencies and is once again in
28 compliance with the requirements for designation.

29 (g) At the end of the 120-day period, if the qualified Kansas business
30 is still not in substantial compliance, the secretary shall send a notice of
31 loss of designation to the business, the secretary of the department of
32 revenue and to all known investors in the business. Loss of designation of
33 a qualified Kansas business shall preclude the issuance of any additional
34 tax credits with respect to this business and the secretary shall not approve
35 the application of such business as a qualified Kansas business. Upon loss
36 of the designation as a qualified Kansas business or if a business loses its
37 designation as a qualified Kansas business under this act by moving its
38 operations outside Kansas within 10 years after receiving financial
39 assistance under this act, such business shall repay such financial
40 assistance to the department, in an amount determined by the secretary.
41 Each qualified Kansas business that loses such designation shall enter into
42 a repayment agreement with the secretary specifying the terms of such
43 repayment obligation.

1 (h) Angel investors in a qualified Kansas business shall be entitled to
2 keep all of the tax credits claimed under this act.

3 (i) The secretary shall adopt rules and regulations in accordance with
4 the rules and regulations filing act necessary to implement the provisions
5 of K.S.A. 2012 Supp. 74-8131 through 74-8136, and amendments thereto.

6 Sec. 28. K.S.A. 2012 Supp. 74-8204 is hereby amended to read as
7 follows: 74-8204. (a) Kansas venture capital, inc., shall prepare and
8 publish an annual report of its activities for the information of the
9 governor, the standing committee on commerce of the senate, the standing
10 committee on ~~new economy~~ *commerce, labor and economic development*
11 of the house of representatives ~~and the joint committee on economic~~
12 ~~development~~, securities commissioner of Kansas, attorney general and the
13 public which shall be made widely available and shall specifically account
14 for:

15 (1) The manner in which the purpose as described in this act has been
16 carried out by Kansas venture capital, inc.;

17 (2) the total investments made annually by Kansas venture capital,
18 inc., in Kansas businesses;

19 (3) an estimate of jobs created and jobs preserved by investments by
20 Kansas venture capital, inc., in Kansas businesses;

21 (4) an estimate of the multiplier effect on the Kansas economy of
22 investments by Kansas venture capital, inc., in Kansas businesses; and

23 (5) an analysis of the targeting of scarce resources by Kansas venture
24 capital, inc., by size, sector and location to enterprises of particular need
25 and opportunity.

26 (b) The report to the standing committee on commerce of the senate,
27 ~~and the standing committee on new economy~~ *commerce, labor and*
28 *economic development* of the house of representatives ~~and the joint~~
29 ~~committee on economic development~~ under this section shall be made by
30 Kansas venture capital, inc., either: (1) By publishing such report on the
31 internet and by notifying each member of the committees that the report is
32 available and providing, as part of such notice, the uniform resource
33 locator (URL) at which such report is available; or (2) by submitting
34 copies of such report on CD-ROM or other electronically readable media.

35 Sec. 29. K.S.A. 2012 Supp. 74-8310 is hereby amended to read as
36 follows: 74-8310. (a) Pursuant to K.S.A. 74-5049, and amendments
37 thereto, the secretary shall report the following:

38 (1) The number of Kansas venture capital companies;

39 (2) the total tax credit generated;

40 (3) the total investments made in Kansas venture capital companies;

41 (4) the total investments in Kansas businesses by Kansas venture
42 capital companies;

43 (5) an estimate of jobs created or preserved under the program; and

1 (6) an estimate of the multiplier effect on the Kansas economy of the
2 program.

3 (b) Additionally, in the report the secretary shall evaluate the success
4 of the program in collaboration with the standing committee on commerce
5 of the senate; *and* the standing committee on *commerce, labor and*
6 *economic development* of the house of representatives ~~and the joint~~
7 ~~committee on economic development~~, and may include specific
8 recommendations for legislation.

9 Sec. 30. K.S.A. 2012 Supp. 74-8317 is hereby amended to read as
10 follows: 74-8317. The secretary shall transmit annually to the governor,
11 the standing committee on commerce of the senate; *and* the standing
12 committee on *commerce, labor and* economic development of the house of
13 representatives ~~and the joint committee on economic development~~:

14 (a) The annual statement of the fund; and

15 (b) a report, based upon information received by the fund manager,
16 which specifies the following:

17 (1) The manner in which the purpose as described in this act has been
18 carried out by the fund.

19 (2) The total investments made annually by the fund in Kansas
20 businesses.

21 (3) An estimate of jobs created and jobs preserved by investments by
22 the fund in Kansas businesses.

23 (4) An estimate of the multiplier effect on the Kansas economy of
24 investments by the fund in Kansas businesses.

25 (5) An analysis of the targeting of scarce resources by the fund by
26 size, sector and location to enterprises of particular need and opportunity.

27 Sec. 31. K.S.A. 2012 Supp. 74-8405 is hereby amended to read as
28 follows: 74-8405. (a) Pursuant to K.S.A. 74-5049, and amendments
29 thereto, the secretary of commerce shall report the following:

30 (1) The number of local seed capital pools;

31 (2) the total tax credit generated;

32 (3) the total investments made in Kansas venture capital companies;

33 (4) the total investments in Kansas businesses by local seed capital
34 pools;

35 (5) an estimate of jobs created or preserved under the program; and

36 (6) an estimate of the multiplier effect on the Kansas economy of the
37 program.

38 (b) Additionally, in the report the secretary shall evaluate the success
39 of the program in collaboration with the standing committee on commerce
40 of the senate; *and* the standing committee on *commerce, labor and*
41 *economic development* of the house of representatives ~~and the joint~~
42 ~~committee on economic development~~, and may include specific
43 recommendations for legislation.

1 Sec. 32. K.S.A. 2012 Supp. 74-99c07 is hereby amended to read as
2 follows: 74-99c07. (a) The Kansas center for entrepreneurship shall
3 transmit annually to the governor, the secretary, the standing committee on
4 commerce in the senate; *and the standing committee on commerce, labor*
5 *and economic development in the house of representatives* ~~and the joint~~
6 ~~committee on economic development~~ a report stating what tax credits have
7 been issued during the preceding year and based on information provided
8 by the regional or local community seed capital fund or economic
9 development agency, describing the following: (1) The manner in which
10 the purpose, as described in this act, has been carried out;; (2) the total
11 grants given to community seed capital funds or economic development
12 agencies during the preceding year and cumulatively since the inception of
13 this act;; (3) the number of companies and jobs created or preserved by the
14 grants given under this act and their location;; and (4) an estimate of the
15 multiplier effect on the Kansas economy of the grants made pursuant to
16 this act.

17 (b) The center shall be subject to an audit by the legislative division
18 of post audit.

19 Sec. 33. K.S.A. 2012 Supp. 75-7423 is hereby amended to read as
20 follows: 75-7423. The department of health and environment in
21 consultation with ~~the joint committee on health policy oversight~~ *standing*
22 *committee on public health and welfare of the senate and the standing*
23 *committee on health and human services of the house of representatives*
24 shall consider as part of the health reform in Kansas various medicaid
25 reform options including, but not limited to: The experience of other
26 states, long-term care, waste, fraud and abuse, health opportunity accounts,
27 tax credits, vouchers and premium assistance, and wellness as provided
28 through the federal deficit reduction act of 2005, public law 109-171. Such
29 medicaid reforms should result in improved health outcomes for medicaid
30 recipients, long-term cost controls and encourage primary and preventive
31 care which will result in cost savings for the state.

32 Sec. 34. K.S.A. 2012 Supp. 75-7427 is hereby amended to read as
33 follows: 75-7427. (a) As used in this section:

34 (1) "Attorney general" means the attorney general, employees of the
35 attorney general or authorized representatives of the attorney general.

36 (2) "Benefit" means the receipt of money, goods, items, facilities,
37 accommodations or anything of pecuniary value.

38 (3) "Claim" means an electronic, electronic impulse, facsimile,
39 magnetic, oral, telephonic or written communication that is utilized to
40 identify any goods, service, item, facility or accommodation as
41 reimbursable to the state medicaid program, or its fiscal agents, the state
42 mediKan program or the state children's health insurance program or
43 which states income or expense.

1 (4) "Client" means past or present beneficiaries or recipients of the
2 state medicaid program, the state mediKan program or the state children's
3 health insurance program.

4 (5) "Contractor" means any contractor, supplier, vendor or other
5 person who, through a contract or other arrangement, has received, is to
6 receive or is receiving public funds or in-kind contributions from the
7 contracting agency as part of the state medicaid program, the state
8 mediKan program or the state children's health insurance program, and
9 shall include any sub-contractor.

10 (6) "Contractor files" means those records of contractors which relate
11 to the state medicaid program, the state mediKan program or the state
12 children's health insurance program.

13 (7) "Fiscal agent" means any corporation, firm, individual,
14 organization, partnership, professional association or other legal entity
15 which, through a contractual relationship with the state of Kansas receives,
16 processes and pays claims under the state medicaid program, the state
17 mediKan program or the state children's health insurance program.

18 (8) "Health care provider" means a health care provider as defined
19 under K.S.A. 65-4921, and amendments thereto, who has applied to
20 participate in, who currently participates in, or who has previously
21 participated in the state medicaid program, the state mediKan program or
22 the state children's health insurance program.

23 (9) "Department" means the department of health and environment,
24 or its successor agency.

25 (10) "Managed care program" means a program which provides
26 coordination, direction and provision of health services to an identified
27 group of individuals by providers, agencies or organizations.

28 (11) "Medicaid program" means the Kansas program of medical
29 assistance for which federal or state moneys, or any combination thereof,
30 are expended, or any successor federal or state, or both, health insurance
31 program or waiver granted thereunder.

32 (12) "Person" means any agency, association, corporation, firm,
33 limited liability company, limited liability partnership, natural person,
34 organization, partnership or other legal entity, the agents, employees,
35 independent contractors, and subcontractors, thereof, and the legal
36 successors thereto.

37 (13) "Provider" means a person who has applied to participate in,
38 who currently participates in, who has previously participated in, who
39 attempts or has attempted to participate in the state medicaid program, the
40 state mediKan program or the state children's health insurance program, by
41 providing or claiming to have provided goods, services, items, facilities or
42 accommodations.

43 (14) "Recipient" means an individual, either real or fictitious, in

1 whose behalf any person claimed or received any payment or payments
2 from the state medicaid program, or its fiscal agent, the state mediKan
3 program or the state children's health insurance program, whether or not
4 any such individual was eligible for benefits under the state medicaid
5 program, the state mediKan program or the state children's health
6 insurance program.

7 (15) "Records" means all written documents and electronic or
8 magnetic data, including, but not limited to, medical records, x-rays,
9 professional, financial or business records relating to the treatment or care
10 of any recipient; goods, services, items, facilities or accommodations
11 provided to any such recipient; rates paid for such goods, services, items,
12 facilities or accommodations; and goods, services, items, facilities or
13 accommodations provided to nonmedicaid recipients to verify rates or
14 amounts of goods, services, items, facilities or accommodations provided
15 to medicaid recipients, as well as any records that the state medicaid
16 program, or its fiscal agents, the state mediKan program or the state
17 children's health insurance program require providers to maintain.
18 "Records" shall not include any report or record in any format which is
19 made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments
20 thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925,
21 and amendments thereto.

22 (16) "State children's health insurance program" means the state
23 children's health insurance program as provided in K.S.A. 38-2001 et seq.,
24 and amendments thereto.

25 (b) (1) There is hereby established within the department of health
26 and environment the office of inspector general. All budgeting, purchasing
27 and related management functions of the office of inspector general shall
28 be administered under the direction and supervision of the executive
29 director of the department of health and environment. The purpose of the
30 office of inspector general is to establish a full-time program of audit,
31 investigation and performance review to provide increased accountability,
32 integrity and oversight of the state medicaid program, the state mediKan
33 program and the state children's health insurance program within the
34 jurisdiction of the department of health and environment and to assist in
35 improving agency and program operations and in deterring and identifying
36 fraud, waste, abuse and illegal acts. The office of inspector general shall be
37 independent and free from political influence and in performing the duties
38 of the office under this section shall conduct investigations, audits,
39 evaluations, inspections and other reviews in accordance with professional
40 standards that relate to the fields of investigation and auditing in
41 government.

42 (2) (A) The inspector general shall be appointed by the department of
43 health and environment with the advice and consent of the senate and

1 subject to confirmation by the senate as provided in K.S.A. 75-4315b, and
2 amendments thereto. Except as provided in K.S.A. 46-2601, and
3 amendments thereto, no person appointed to the position of inspector
4 general shall exercise any power, duty or function of the inspector general
5 until confirmed by the senate. The inspector general shall be selected
6 without regard to political affiliation and on the basis of integrity and
7 capacity for effectively carrying out the duties of the office of inspector
8 general. The inspector general shall possess demonstrated knowledge,
9 skills, abilities and experience in conducting audits or investigations and
10 shall be familiar with the programs subject to oversight by the office of
11 inspector general.

12 (B) No former or current executive or manager of any program or
13 agency subject to oversight by the office of inspector general may be
14 appointed inspector general within two years of that individual's period of
15 service with such program or agency. The inspector general shall hold at
16 time of appointment, or shall obtain within one year after appointment,
17 certification as a certified inspector general from a national organization
18 that provides training to inspectors general.

19 (C) The term of the person first appointed to the position of inspector
20 general shall expire on January 15, 2009. Thereafter, a person appointed to
21 the position of inspector general shall serve for a term which shall expire
22 on January 15 of each year in which the whole senate is sworn in for a new
23 term.

24 (D) The inspector general shall be in the classified service and shall
25 receive such compensation as is determined by law, except that such
26 compensation may be increased but not diminished during the term of
27 office of the inspector general. The inspector general may be removed
28 from office prior to the expiration of the inspector general's term of office
29 in accordance with the Kansas civil service act. The inspector general shall
30 exercise independent judgment in carrying out the duties of the office of
31 inspector general under subsection (b). Appropriations for the office of
32 inspector general shall be made to the department of health and
33 environment by separate line item appropriations for the office of inspector
34 general. The inspector general shall report to the secretary of health and
35 environment.

36 (E) The inspector general shall have general managerial control over
37 the office of the inspector general and shall establish the organization
38 structure of the office as the inspector general deems appropriate to carry
39 out the responsibilities and functions of the office.

40 (3) Within the limits of appropriations therefor, the inspector general
41 may hire such employees in the unclassified service as are necessary to
42 administer the office of the inspector general. Such employees shall serve
43 at the pleasure of the inspector general. Subject to appropriations, the

1 inspector general may obtain the services of certified public accountants,
2 qualified management consultants, professional auditors, or other
3 professionals necessary to independently perform the functions of the
4 office.

5 (c) (1) In accordance with the provisions of this section, the duties of
6 the office of inspector general shall be to oversee, audit, investigate and
7 make performance reviews of the state medicaid program, the state
8 mediKan program and the state children's health insurance program, which
9 programs are within the jurisdiction of the department of health and
10 environment.

11 (2) In order to carry out the duties of the office, the inspector general
12 shall conduct independent and ongoing evaluation of the department of
13 health and environment and of such programs administered by the
14 department of health and environment, which oversight includes, but is not
15 limited to, the following:

16 (A) Investigation of fraud, waste, abuse and illegal acts by the
17 department of health and environment and its agents, employees, vendors,
18 contractors, consumers, clients and health care providers or other
19 providers.

20 (B) Audits of the department of health and environment, its
21 employees, contractors, vendors and health care providers related to
22 ensuring that appropriate payments are made for services rendered and to
23 the recovery of overpayments.

24 (C) Investigations of fraud, waste, abuse or illegal acts committed by
25 clients of the department of health and environment or by consumers of
26 services administered by the department of health and environment.

27 (D) Monitoring adherence to the terms of the contract between the
28 department of health and environment and an organization with which the
29 department has entered into a contract to make claims payments.

30 (3) Upon finding credible evidence of fraud, waste, abuse or illegal
31 acts, the inspector general shall report its findings to the department of
32 health and environment and refer the findings to the attorney general.

33 (d) The inspector general shall have access to all pertinent
34 information, confidential or otherwise, and to all personnel and facilities of
35 the department of health and environment, their employees, vendors,
36 contractors and health care providers and any federal, state or local
37 governmental agency that are necessary to perform the duties of the office
38 as directly related to such programs administered by the department.
39 Access to contractor or health care provider files shall be limited to those
40 files necessary to verify the accuracy of the contractor's or health care
41 provider's invoices or their compliance with the contract provisions or
42 program requirements. No health care provider shall be compelled under
43 the provisions of this section to provide individual medical records of

1 patients who are not clients of the state medicaid program, the state
2 mediKan program or the state children's health insurance program. State
3 and local governmental agencies are authorized and directed to provide to
4 the inspector general requested information, assistance or cooperation.

5 (e) Except as otherwise provided in this section, the inspector general
6 and all employees and former employees of the office of inspector general
7 shall be subject to the same duty of confidentiality imposed by law on any
8 such person or agency with regard to any such information, and shall be
9 subject to any civil or criminal penalties imposed by law for violations of
10 such duty of confidentiality. The duty of confidentiality imposed on the
11 inspector general and all employees and former employees of the office of
12 inspector general shall be subject to the provisions of subsection (f), and
13 the inspector general may furnish all such information to the attorney
14 general, Kansas bureau of investigation or office of the United States
15 attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the
16 attorney general, Kansas bureau of investigation or office of the United
17 States attorney in Kansas and all assistants and all other employees and
18 former employees of such offices shall be subject to the same duty of
19 confidentiality with the exceptions that any such information may be
20 disclosed in criminal or other proceedings which may be instituted and
21 prosecuted by the attorney general or the United States attorney in Kansas,
22 and any such information furnished to the attorney general, the Kansas
23 bureau of investigation or the United States attorney in Kansas under
24 subsection (f) may be entered into evidence in any such proceedings.

25 (f) All investigations conducted by the inspector general shall be
26 conducted in a manner that ensures the preservation of evidence for use in
27 criminal prosecutions or agency administrative actions. If the inspector
28 general determines that a possible criminal act relating to fraud in the
29 provision or administration of such programs administered by the
30 department of health and environment has been committed, the inspector
31 general shall immediately notify the office of the Kansas attorney general.
32 If the inspector general determines that a possible criminal act has been
33 committed within the jurisdiction of the office, the inspector general may
34 request the special expertise of the Kansas bureau of investigation. The
35 inspector general may present for prosecution the findings of any criminal
36 investigation to the office of the attorney general or the office of the
37 United States attorney in Kansas.

38 (g) To carry out the duties as described in this section, the inspector
39 general and the inspector general's designees shall have the power to
40 compel by subpoena the attendance and testimony of witnesses and the
41 production of books, electronic records and papers as directly related to
42 such programs administered by the department of health and environment.
43 Access to contractor files shall be limited to those files necessary to verify

1 the accuracy of the contractor's invoices or its compliance with the
2 contract provisions. No health care provider shall be compelled to provide
3 individual medical records of patients who are not clients of the
4 department.

5 (h) The inspector general shall report all convictions, terminations
6 and suspensions taken against vendors, contractors and health care
7 providers to the department of health and environment and to any agency
8 responsible for licensing or regulating those persons or entities. If the
9 inspector general determines reasonable suspicion exists that an act
10 relating to the violation of an agency licensure or regulatory standard has
11 been committed by a vendor, contractor or health care provider who is
12 licensed or regulated by an agency, the inspector general shall immediately
13 notify such agency of the possible violation.

14 (i) The inspector general shall make annual reports, findings and
15 recommendations regarding the office's investigations into reports of
16 fraud, waste, abuse and illegal acts relating to any such programs
17 administered by the director of health care finance to the secretary of
18 health and environment, the legislative post auditor, the committee on
19 ways and means of the senate, the committee on appropriations of the
20 house of representatives, ~~the joint committee on health policy oversight~~
21 and the governor. These reports shall include, but not be limited to, the
22 following information:

23 (1) Aggregate provider billing and payment information;

24 (2) the number of audits of such programs administered by the
25 department of health and environment and the dollar savings, if any,
26 resulting from those audits;

27 (3) health care provider sanctions, in the aggregate, including
28 terminations and suspensions; and

29 (4) a detailed summary of the investigations undertaken in the
30 previous fiscal year, which summaries shall comply with all laws and rules
31 and regulations regarding maintaining confidentiality in such programs
32 administered by the department of health and environment.

33 (j) Based upon the inspector general's findings under subsection (c),
34 the inspector general may make such recommendations to the department
35 of health and environment or the legislature for changes in law, rules and
36 regulations, policy or procedures as the inspector general deems
37 appropriate to carry out the provisions of law or to improve the efficiency
38 of such programs administered by the department of health and
39 environment. The inspector general shall not be required to obtain
40 permission or approval from any other official or department prior to
41 making any such recommendation.

42 (k) (1) The inspector general shall make provision to solicit and
43 receive reports of fraud, waste, abuse and illegal acts in such programs

1 administered by the department of health and environment from any
2 person or persons who shall possess such information. The inspector
3 general shall not disclose or make public the identity of any person or
4 persons who provide such reports pursuant to this subsection unless such
5 person or persons consent in writing to the disclosure of such person's
6 identity. Disclosure of the identity of any person who makes a report
7 pursuant to this subsection shall not be ordered as part of any
8 administrative or judicial proceeding. Any information received by the
9 inspector general from any person concerning fraud, waste, abuse or
10 illegal acts in such programs administered by the department of health and
11 environment shall be confidential and shall not be disclosed or made
12 public, upon subpoena or otherwise, except such information may be
13 disclosed if: (A) Release of the information would not result in the
14 identification of the person who provided the information;; (B) the person
15 or persons who provided the information to be disclosed consent in writing
16 prior to its disclosure;; (C) the disclosure is necessary to protect the public
17 health;; or (D) the information to be disclosed is required in an
18 administrative proceeding or court proceeding and appropriate provision
19 has been made to allow disclosure of the information without disclosing to
20 the public the identity of the person or persons who reported such
21 information to the inspector general.

22 (2) No person shall:

23 (A) Prohibit any agent, employee, contractor or subcontractor from
24 reporting any information under subsection (k)(1); or

25 (B) require any such agent, employee, contractor or subcontractor to
26 give notice to the person prior to making any such report.

27 (3) Subsection (k)(2) shall not be construed as:

28 (A) Prohibiting an employer from requiring that an employee inform
29 the employer as to legislative or auditing agency requests for information
30 or the substance of testimony made, or to be made, by the employee to
31 legislators or the auditing agency, as the case may be, on behalf of the
32 employer;

33 (B) permitting an employee to leave the employee's assigned work
34 areas during normal work hours without following applicable rules and
35 regulations and policies pertaining to leaves, unless the employee is
36 requested by a legislator or legislative committee to appear before a
37 legislative committee or by an auditing agency to appear at a meeting with
38 officials of the auditing agency;

39 (C) authorizing an employee to represent the employee's personal
40 opinions as the opinions of the employer; or

41 (D) prohibiting disciplinary action of an employee who discloses
42 information which: (i) The employee knows to be false or which the
43 employee discloses with reckless disregard for its truth or falsity;; (ii) the

1 employee knows to be exempt from required disclosure under the open
2 records act; or (iii) is confidential or privileged under statute or court rule.

3 (4) Any agent, employee, contractor or subcontractor who alleges that
4 disciplinary action has been taken against such agent, employee, contractor
5 or subcontractor in violation of this section may bring an action for any
6 damages caused by such violation in district court within 90 days after the
7 occurrence of the alleged violation.

8 (5) Any disciplinary action taken against an employee of a state
9 agency or firm as such terms are defined under subsection (b) of K.S.A.
10 75-2973, and amendments thereto, for making a report under subsection
11 (k)(1) shall be governed by the provisions of K.S.A. 75-2973, and
12 amendments thereto.

13 (l) The scope, timing and completion of any audit or investigation
14 conducted by the inspector general shall be within the discretion of the
15 inspector general. Any audit conducted by the inspector general's office
16 shall adhere and comply with all provisions of generally accepted
17 governmental auditing standards promulgated by the United States
18 government accountability office.

19 (m) Nothing in this section shall limit investigations by any state
20 department or agency that may otherwise be required by law or that may
21 be necessary in carrying out the duties and functions of such agency.

22 (n) No contractor who has been convicted of fraud, waste, abuse or
23 illegal acts or whose actions have caused the state of Kansas to pay fines
24 to or reimburse the federal government more than \$1,000,000 in the
25 medicaid program shall be eligible for any state medicaid contracts
26 subsequent to such conviction unless the department of health and
27 environment finds that the contractor is the sole source for such contracts,
28 is the least expensive source for the contract, has reimbursed the state of
29 Kansas for all losses caused by the contractor, or the removal of the
30 contractor would create a substantial loss of access for medicaid
31 beneficiaries, in which case the department after a specific finding to this
32 effect may waive the prohibition of this subsection. Nothing in this section
33 shall be construed to conflict with federal law, or to require or permit the
34 use of federal funds where prohibited.

35 (o) The department of health and environment, in accordance with
36 K.S.A. 75-4319, and amendments thereto, may recess for a closed,
37 executive meeting under the open meetings act, K.S.A. 75-4317 through
38 75-4320a, and amendments thereto, to discuss with the inspector general
39 any information, records or other matters that are involved in any
40 investigation or audit under this section. All information and records of the
41 inspector general that are obtained or received under any investigation or
42 audit under this section shall be confidential, except as required or
43 authorized pursuant to this section.

1 Sec. 35. K.S.A. 2012 Supp. 75-7435 is hereby amended to read as
2 follows: 75-7435. (a) As used in this section, and amendments thereto,
3 unless the context requires otherwise:

4 (1) Words and phrases have the meanings respectively ascribed
5 thereto by K.S.A. 39-923, and amendments thereto.

6 (2) "Skilled nursing care facility" means a licensed nursing facility,
7 nursing facility for mental health as defined in K.S.A. 39-923, and
8 amendments thereto, or a hospital long-term care unit licensed by the
9 department of health and environment, providing skilled nursing care, but
10 shall not include the Kansas soldiers' home or the Kansas veterans' home.

11 (3) "Licensed bed" means those beds within a skilled nursing care
12 facility which the facility is licensed to operate.

13 (4) "Agent" means the Kansas department ~~on aging~~ *for aging and*
14 *disability services*.

15 (5) "Continuing care retirement facility" means a facility holding a
16 certificate of registration issued by the commissioner of insurance pursuant
17 to K.S.A. 40-2235, and amendments thereto.

18 (b) (1) Except as otherwise provided in this section and in subsection
19 (f), there is hereby imposed and the secretary of health and environment
20 shall assess an annual assessment per licensed bed, hereinafter called a
21 quality care assessment, on each skilled nursing care facility. The
22 assessment on all facilities in the aggregate shall be an amount fixed by
23 rules and regulations of the secretary of health and environment, shall not
24 exceed \$1,950 annually per licensed bed, shall be imposed as an amount
25 per licensed bed and shall be imposed uniformly on all skilled nursing care
26 facilities except that the assessment rate for skilled nursing care facilities
27 that are part of a continuing care retirement facility, small skilled nursing
28 care facilities and high medicaid volume skilled nursing care facilities
29 shall not exceed $\frac{1}{6}$ of the actual amount assessed all other skilled nursing
30 care facilities. No rules and regulations of the secretary of health and
31 environment shall grant any exception to or exemption from the quality
32 care assessment. The assessment shall be paid quarterly, with one fourth of
33 the annual amount due by the 30th day after the end of the month of each
34 calendar quarter. The secretary of health and environment is authorized to
35 establish delayed payment schedules for skilled nursing care facilities
36 which are unable to make quarterly payments when due under this section
37 due to financial difficulties, as determined by the secretary of health and
38 environment. The assessment made for years subsequent to the third year
39 from the date the provisions of this section are implemented shall not
40 exceed 60% of the first assessment made under this section. As used in this
41 subsection (b)(1), the terms "small skilled nursing care facilities" and
42 "high medicaid volume skilled nursing care facilities" shall have the
43 meanings ascribed thereto by the secretary of health and environment by

1 rules and regulations, except that the definition of small skilled nursing
2 care facility shall not be lower than 40 beds.

3 (2) Beds licensed after July 1 each year shall pay a prorated amount
4 of the applicable annual assessment so that the assessment applies only for
5 the days such new beds are licensed. The proration shall be calculated by
6 multiplying the applicable assessment by the percentage of days the beds
7 are licensed during the year. Any change which reduces the number of
8 licensed beds in a facility shall not result in a refund being issued to the
9 skilled nursing care facility.

10 (3) If an entity conducts, operates or maintains more than one
11 licensed skilled nursing care facility, the entity shall pay the nursing
12 facility assessment for each facility separately. No skilled nursing care
13 facility shall create a separate line-item charge for the purpose of passing
14 through the quality care assessment to residents. No skilled nursing care
15 facility shall be guaranteed, expressly or otherwise, that any additional
16 moneys paid to the facility under this section will equal or exceed the
17 amount of its quality care assessment.

18 (4) The payment of the quality care assessment to the secretary of
19 health and environment shall be an allowable cost for medicaid
20 reimbursement purposes. A rate adjustment pursuant to paragraph (5) of
21 subsection (d) shall be made effective on the date of imposition of the
22 assessment, to reimburse the portion of this cost imposed on medicaid
23 days.

24 (5) The secretary of health and environment shall seek a waiver from
25 the United States department of health and human services to allow the
26 state to impose varying levels of assessments on skilled nursing care
27 facilities based on specified criteria. It is the intent of the legislature that
28 the waiver sought by the secretary of health and environment be structured
29 to minimize the negative fiscal impact on certain classes of skilled nursing
30 care facilities.

31 (c) Each skilled nursing care facility shall prepare and submit to the
32 secretary of health and environment any additional information required
33 and requested by the secretary of health and environment to implement or
34 administer the provisions of this section. Each skilled nursing care facility
35 shall prepare and submit quarterly to the secretary of ~~aging for aging and~~
36 *disability services* the rate the facility charges to private pay residents, and
37 the secretary shall cause this information to be posted on the web site of
38 the department ~~on aging for aging and disability services~~.

39 (d) (1) There is hereby created in the state treasury the quality care
40 fund, which shall be administered by the secretary of health and
41 environment. All moneys received for the assessments imposed pursuant
42 to subsection (b), including any penalty assessments imposed thereon
43 pursuant to subsection (e), shall be remitted to the state treasurer in

1 accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt
2 of each such remittance, the state treasurer shall deposit the entire amount
3 in the state treasury to the credit of the quality care fund. All expenditures
4 from the quality care fund shall be made in accordance with appropriation
5 acts upon warrants of the director of accounts and reports issued pursuant
6 to vouchers approved by the secretary of health and environment or the
7 secretary's agent.

8 (2) All moneys in the quality care fund shall be used to finance
9 initiatives to maintain or improve the quantity and quality of skilled
10 nursing care in skilled nursing care facilities in Kansas. No moneys
11 credited to the quality care fund shall be transferred to or otherwise revert
12 to the state general fund at any time. Notwithstanding the provisions of
13 any other law to the contrary, if any moneys credited to the quality care
14 fund are transferred or otherwise revert to the state general fund, 30 days
15 following the transfer or reversion the quality care assessment shall
16 terminate and the secretary of health and environment shall discontinue the
17 imposition, assessment and collection of the assessment. Upon termination
18 of the assessment, all collected assessment revenues, including the moneys
19 inappropriately transferred or reverting to the state general fund, less any
20 amounts expended by the secretary of health and environment, shall be
21 returned on a pro rata basis to skilled nursing care facilities that paid the
22 assessment.

23 (3) Any moneys received by the state of Kansas from the federal
24 government as a result of federal financial participation in the state
25 medicaid program that are derived from the quality care assessment shall
26 be deposited in the quality care fund and used to finance actions to
27 maintain or increase healthcare in skilled nursing care facilities.

28 (4) Moneys in the fund shall be used exclusively for the following
29 purposes:

30 (A) To pay administrative expenses incurred by the secretary of
31 health and environment or the agent in performing the activities authorized
32 by this section, except that such expenses shall not exceed a total of 1% of
33 the aggregate assessment funds collected pursuant to subsection (b) for the
34 prior fiscal year;

35 (B) to increase nursing facility payments to fund covered services to
36 medicaid beneficiaries within medicare upper payment limits, as may be
37 negotiated;

38 (C) to reimburse the medicaid share of the quality care assessment as
39 a pass-through medicaid allowable cost;

40 (D) to restore the medicaid rate reductions implemented January 1,
41 2010;

42 (E) to restore funding for fiscal year 2010, including rebasing and
43 inflation to be applied to rates in fiscal year 2011;

1 (F) the remaining amount, if any, shall be expended first to increase
2 the direct health care costs center limitation up to 150% of the case mix
3 adjusted median, and then, if there are remaining amounts, for other
4 quality care enhancement of skilled nursing care facilities as approved by
5 the quality care improvement panel but shall not be used directly or
6 indirectly to replace existing state expenditures for payments to skilled
7 nursing care facilities for providing services pursuant to the state medicaid
8 program.

9 (5) Any moneys received by a skilled nursing care facility from the
10 quality care fund shall not be expended by any skilled nursing care facility
11 to provide for bonuses or profit-sharing for any officer, employee or parent
12 corporation but may be used to pay to employees who are providing direct
13 care to a resident of such facility.

14 (6) Adjustment payments may be paid quarterly or within the daily
15 medicaid rate to reimburse covered medicaid expenditures in the aggregate
16 within the upper payment limits.

17 (7) On or before the 10th day of each month, the director of accounts
18 and reports shall transfer from the state general fund to the quality care
19 fund interest earnings based on:

20 (A) The average daily balance of moneys in the quality care fund for
21 the preceding month; and

22 (B) the net earnings rate of the pooled money investment portfolio for
23 the preceding month.

24 (e) If a skilled nursing care facility fails to pay the full amount of the
25 quality care assessment imposed pursuant to subsection (b), when due and
26 payable, including any extensions of time granted under that subsection,
27 the secretary of health and environment shall assess a penalty in the
28 amount of the lesser of \$500 per day or 2% of the quality care assessment
29 owed for each day the assessment is delinquent. The secretary of health
30 and environment is authorized to establish delayed payment schedules for
31 skilled nursing care facilities that are unable to make installment payments
32 when due under this section because of financial difficulties, as determined
33 by the secretary of health and environment.

34 (f) (1) The secretary of health and environment shall assess and
35 collect quality care assessments imposed pursuant to subsection (b),
36 including any penalty assessments imposed thereon pursuant to subsection
37 (e), from skilled nursing care facilities on and after July 1, 2010, except
38 that no assessments or penalties shall be assessed under subsections (a)
39 through (h) until:

40 (A) An amendment to the state plan for medicaid, which increases the
41 rates of payments made to skilled nursing care facilities for providing
42 services pursuant to the federal medicaid program and which is proposed
43 for approval for purposes of subsections (a) through (h) is approved by the

1 federal government in which case the initial assessment is due no earlier
2 than 60 days after state plan approval; and

3 (B) the skilled nursing care facilities have been compensated
4 retroactively within 60 days after state plan approval at the increased rate
5 for services provided pursuant to the federal medicaid program for the
6 period commencing on and after July 1, 2010.

7 (2) The secretary of health and environment shall implement and
8 administer the provisions of subsections (a) through (h) in a manner
9 consistent with applicable federal medicaid laws and regulations. The
10 secretary of health and environment shall seek any necessary approvals by
11 the federal government that are required for the implementation of
12 subsections (a) through (h).

13 (3) The provisions of subsections (a) through (h) shall be null and
14 void and shall have no force and effect if one of the following occur:

15 (A) The medicaid plan amendment, which increases the rates of
16 payments made to skilled nursing care facilities for providing services
17 pursuant to the federal medicaid program and which is proposed for
18 approval for purposes of subsections (a) through (h) is not approved by the
19 federal centers for medicare and medicaid services;

20 (B) the rates of payments made to skilled nursing care facilities for
21 providing services pursuant to the federal medicaid program are reduced
22 below the rates calculated on December 31, 2009, increased by revenues in
23 the quality care fund and matched by federal financial participation and
24 rebasing as provided for in K.S.A. 2012 Supp. 75-5958, and amendments
25 thereto;

26 (C) any funds are utilized to supplant funding for skilled nursing care
27 facilities as required by subsection (g);

28 (D) any funds are diverted from those purposes set forth in subsection
29 (d)(4); or

30 (E) upon the governor signing, or allowing to become law without
31 signature, legislation which by proviso or otherwise directs any funds from
32 those purposes set forth in subsection (d)(4) or which would propose to
33 suspend the operation of this section.

34 (g) On and after July 1, 2010, reimbursement rates for skilled nursing
35 care facilities shall be restored to those in effect during December 2009.
36 No funds generated by the assessments or federal funds generated
37 therefrom shall be utilized for such restoration, but such funds may be
38 used to restore the rate reduction in effect from January 1, 2010, to June
39 30, 2010.

40 (h) Rates of reimbursement shall not be limited by private pay
41 charges.

42 (i) If the provisions of subsections (a) through (h) are repealed, expire
43 or become null and void and have no further force and effect, all moneys

1 in the quality care fund which were paid under the provisions of
2 subsections (a) through (h) shall be returned to the skilled nursing care
3 facilities which paid such moneys on the basis on which such payments
4 were assessed and paid pursuant to subsections (a) through (h).

5 (j) The department of health and environment may adopt rules and
6 regulations necessary to implement the provisions of this section.

7 (k) For purposes of administering and selecting the reimbursements
8 of moneys in the quality care assessment fund, the quality care
9 improvement panel is hereby established. The panel shall consist of the
10 following members: Two persons appointed by Kansas homes and services
11 for the aging; two persons appointed by the Kansas health care association;
12 one person appointed by Kansas advocates for better care; one person
13 appointed by the Kansas hospital association; one person appointed by the
14 governor who is a member of the Kansas adult care executives association;
15 one person appointed by the governor who is a skilled nursing care facility
16 resident or the family member of such a resident; one person appointed by
17 the Kansas foundation for medical care; one person appointed by the
18 governor from the department ~~on aging~~ *for aging and disability services*;
19 and one person appointed by the governor from the department of health
20 and environment. The person appointed by the governor from the
21 department ~~on aging~~ *for aging and disability services* and the person
22 appointed by the governor from the department of health and environment
23 shall be nonvoting members of the panel. The panel shall meet as soon as
24 possible subsequent to the effective date of this act and shall elect a
25 chairperson from among the members appointed by the trade organizations
26 specified in this subsection. The members of the quality care improvement
27 panel shall serve without compensation or expenses. The quality care
28 improvement panel shall report annually on or before January 10 to ~~the~~
29 ~~joint committee on health policy oversight~~ and the legislature concerning
30 the activities of the panel during the preceding calendar year and any
31 recommendations which the panel may have concerning the administration
32 of and expenditures from the quality care assessment fund.

33 (l) The department of health and environment shall certify to the
34 director of the budget of the department of administration the date upon
35 which the provisions of this section are implemented. The provisions of
36 this section shall expire four years subsequent to the implementation of
37 this section.

38 Sec. 36. K.S.A. 12-2015, 19-4109, 38-2007, 46-912, 46-1604, 46-
39 2201, 71-212 and 74-4907 and K.S.A. 2012 Supp. 39-7,160, 39-7,161, 39-
40 7,162, 46-1801, 46-2801, 46-3001, 46-3501, 46-3701, 65-1,251, 72-5395,
41 74-4908, 74-4909, 74-4920, 74-4921, 74-4921c, 74-4937, 74-49,129, 74-
42 49,132, 74-49,133, 74-5001a, 74-5002s, 74-5049, 74-5097, 74-50,123, 74-
43 50,151, 74-50,216, 74-8004, 74-8135, 74-8136, 74-8204, 74-8310, 74-

1 8317, 74-8405, 74-99c07, 75-7423, 75-7425, 75-7427 and 75-7435 are
2 hereby repealed.

3 Sec. 37. This act shall take effect and be in force from and after its
4 publication in the Kansas register.