

SENATE BILL No. 246

By Committee on Ways and Means

5-8

1 AN ACT reconciling amendments to certain statutes; amending K.S.A.
2 2012 Supp. 8-1,161, 12-4106, as amended by section 1 of 2013 House
3 Bill No. 2041, 21-5109, 21-5302, as amended by section 6 of 2013
4 Senate Bill No. 16, 21-5808, 21-5904, 21-5924, 21-6302, as amended
5 by section 4 of 2013 Senate Substitute for House Bill No. 2052, 21-
6 6614, as amended by section 19 of 2013 Senate Substitute for House
7 Bill No. 2034, 22-2802, 22-2908, 22-3212, 22-3717, as amended by
8 section 27 of 2013 Senate Substitute for House Bill No. 2034, 32-1438,
9 39-709, as amended by section 1 of 2013 Senate Bill No. 149, 44-706,
10 as amended by section 5 of 2013 Substitute for House Bill No. 2105,
11 44-709, as amended by section 3 of 2013 Senate Bill No. 187, 45-221,
12 as amended by section 2 of 2013 Senate Bill No. 81, 45-229, as
13 amended by section 1 of 2013 House Bill No. 2012, 47-422, 47-1804,
14 60-3107, 60-4104, as amended by section 41 of 2013 Senate Substitute
15 for House Bill No. 2034, 65-4101, 72-978, 74-7901, 75-7c05, as
16 amended by section 7 of 2013 Senate Substitute for House Bill No.
17 2052, 75-3740, 75-37,121, 75-4362, as amended by section 5 of 2013
18 Senate Bill No. 149, 75-5133, 75-6102, 75-6609, 79-3234, 79-32,117,
19 as amended by section 3 of 2013 House Substitute for Senate Bill No.
20 83 and 79-32,160a and repealing the existing sections; also repealing
21 K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161a, 12-4106, as amended
22 by section 8 of 2013 Senate Substitute for House Bill No. 2034, 21-
23 5109a, 21-5302, as amended by section 12 of 2013 Senate Substitute
24 for House Bill No. 2034, 21-5808a, 21-5904a, 21-5924a, 21-6302, as
25 amended by section 3 of 2013 House Bill No. 2033, 21-6614, as
26 amended by section 3 of 2013 Senate Bill No. 21, 22-2802c, 22-2908a,
27 22-3212b, 22-3717, as amended by section 6 of 2013 House Bill No.
28 2170, 32-1438a, 39-709, as amended by section 23 of 2013 Substitute
29 for House Bill No. 2183, 39-923a, 44-706, as amended by section 4 of
30 2013 Senate Bill No. 149, 44-709, as amended by section 6 of 2013
31 Substitute for House Bill No. 2105, 45-221, as amended by section 6 of
32 2013 Senate Substitute for House Bill No. 2052, 45-221, as amended
33 by section 1 of 2013 House Bill No. 2128, 45-229, as amended by
34 section 1 of 2013 House Bill No. 2144, 47-422a, 47-1001g, 47-1008a,
35 47-1302a, 47-1701a, 47-1709a, 47-1725a, 47-1804a, 47-1809a, 60-
36 3107a, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16,

1 65-1685a, 65-4101b, 72-978a, 74-7901a, 75-7c05, as amended by
2 section 6 of 2013 Senate Bill No. 21, 75-3740d, 75-37,121a, 75-4362,
3 as amended by section 2 of 2013 House Bill No. 2302, 75-5133b, 75-
4 6102c, 75-6609a, 79-3234c, 79-32,117, as amended by section 17 of
5 2013 House Bill No. 2253, 79-32,160f, 82a-220a and 82a-903a.
6

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

8 Section 1. K.S.A. 2012 Supp. 8-1,161 is hereby amended to read as
9 follows: 8-1,161. (a) Any owner or lessee of one or more passenger
10 vehicles or trucks registered for a gross weight of not more than 20,000
11 pounds who is a resident of Kansas, upon compliance with the provisions
12 of this section, may be issued one support Kansas arts license plate for
13 each such passenger vehicle or truck. Such license plates shall be issued
14 for the same time as other license plates upon proper registration and
15 payment of the regular license fee as provided in K.S.A. 8-143, and
16 amendments thereto, and either the payment to the county treasurer of the
17 logo use royalty payment established by the commission or the
18 presentation of the annual logo use authorization statement provided for in
19 subsection (b).

20 (b) The Kansas *creative arts industries* commission, created under
21 K.S.A. ~~74-5202~~ 2012 Supp. 74-5207, and amendments thereto, may
22 authorize the use of their logo to be affixed on license plates as provided
23 by this section. Any royalty payment derived from this section shall be
24 credited to the Kansas *creative arts industries* commission special gifts
25 fund and; shall be used in accordance with the provisions of K.S.A. ~~74-~~
26 ~~5204~~ 2012 Supp. 74-5208, and amendments thereto. Any motor vehicle
27 owner or lessee may annually apply to the commission for the use of such
28 logo. Upon annual application and payment to either: (1) The commission
29 in an amount of not less than \$25 nor more than \$100 as a logo use royalty
30 payment for each license plate to be issued, the commission shall issue to
31 the motor vehicle owner or lessee, without further charge, a logo use
32 authorization statement, which shall be presented by the motor vehicle
33 owner or lessee at the time of registration; or (2) the county treasurer of
34 the logo use royalty payment for each license plate to be issued.

35 (c) Any applicant for a support Kansas arts license plate may make
36 application for such plates not less than 60 days prior to such person's
37 renewal of registration date, on a form prescribed and furnished by the
38 director of motor vehicles, and any applicant for the support Kansas arts
39 license plates shall either provide the annual logo use authorization
40 statement provided for in subsection (b) or pay to the county treasurer the
41 logo use royalty payment established by the commission. Application for
42 registration of a passenger vehicle or truck and issuance of the license
43 plate under this section shall be made by the owner or lessee in a manner

1 prescribed by the director of vehicles upon forms furnished by the director.

2 (d) No registration or support Kansas arts license plate issued under
3 this section shall be transferable to any other person.

4 (e) The director of vehicles may transfer support Kansas arts license
5 plates from a leased vehicle to a purchased vehicle.

6 (f) Renewals of registration under this section shall be made annually,
7 upon payment of the fee prescribed in subsection (a), in the manner
8 prescribed in subsection (b) of K.S.A. 8-132, and amendments thereto. No
9 renewal of registration shall be made to any applicant until such applicant
10 provides to the county treasurer either the annual logo use authorization
11 statement provided for in subsection (b) or the payment of the annual logo
12 use royalty payment established by the commission. If such logo use
13 authorization statement is not presented at the time of registration or faxed
14 by the commission, or the annual logo use royalty payment is not made to
15 the county treasurer, the applicant shall be required to comply with K.S.A.
16 8-143, and amendments thereto, and return the support Kansas arts license
17 plate to the county treasurer of such person's residence.

18 (g) The Kansas *creative arts industries* commission shall:

19 (1) Pay the initial cost of silk-screening for such support Kansas arts
20 license plates; and

21 (2) provide to all county treasurers a toll-free telephone number
22 where applicants can call the Kansas *creative arts industries* commission
23 for information concerning the application process or the status of their
24 license plate application.

25 (h) The Kansas *creative arts industries* commission, with the approval
26 of the director of vehicles and subject to the availability of materials and
27 equipment, shall design a plate to be issued under the provisions of this
28 section.

29 (i) As a condition of receiving the support Kansas arts license plate
30 and any subsequent registration renewal of such plate, the applicant must
31 provide consent to the division authorizing the division's release of motor
32 vehicle record information, including the applicant's name, address,
33 royalty payment amount, plate number and vehicle type to the Kansas
34 *creative arts industries* commission.

35 (j) Annual royalty payments collected by county treasurers under this
36 section shall be remitted to the state treasurer in accordance with the
37 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
38 each such remittance the state treasurer shall deposit the entire amount in
39 the state treasury to the credit of the Kansas *creative arts industries*
40 commission special gifts fund.

41 Sec. 2. K.S.A. 2012 Supp. 12-4106, as amended by section 1 of 2013
42 House Bill No. 2041, is hereby amended to read as follows: 12-4106. (a)
43 The municipal judge shall have the power to administer the oaths and

1 enforce all orders, rules and judgments made by such municipal judge, and
2 may fine or imprison for contempt in the same manner and to the same
3 extent as a judge of the district court.

4 (b) The municipal judge shall have the power to hear and determine
5 all cases properly brought before such municipal judge to: Grant
6 continuances; sentence those found guilty to a fine or confinement in jail,
7 or both; commit accused persons to jail in default of bond; determine
8 applications for parole; release on probation; grant time in which a fine
9 may be paid; correct a sentence; suspend imposition of a sentence; set
10 aside a judgment; permit time for post trial motions; and discharge accused
11 persons.

12 (c) The municipal judge shall maintain a docket in which every cause
13 commenced before such municipal judge shall be entered. Such docket
14 shall contain the names of the accused persons and complainant, the nature
15 or character of the offense, the date of trial, the names of all witnesses
16 sworn and examined, the finding of the court, the judgment and sentence,
17 the date of payment, the date of issuing commitment, if any, and every
18 other fact necessary to show the full proceedings in each case.

19 (d) The municipal judge shall promptly make such reports and
20 furnish the information requested by any departmental justice or the
21 judicial administrator, in the manner and form prescribed by the supreme
22 court.

23 (e) The municipal judge shall ensure that information concerning
24 dispositions of city ordinance violations that result in convictions
25 comparable to convictions for offenses under Kansas criminal statutes is
26 forwarded to the Kansas bureau of investigation central repository. This
27 information shall be transmitted, on a form or in a format approved by the
28 attorney general, within 30 days of final disposition.

29 (f) In all cases alleging a violation of a city ordinance prohibiting the
30 acts prohibited by K.S.A. 8-2,144, 8-1567 or 32-1131 or K.S.A. 2012
31 Supp. 8-1025, and amendments thereto, the municipal court judge shall
32 ensure that the municipal court reports the filing and disposition of such
33 case to the Kansas bureau of investigation central repository, and, on and
34 after July 1, 2014, reports the filing and disposition of such case
35 electronically to the Kansas bureau of investigation central repository.

36 (g) In all cases in which a fine is imposed for a violation of a city
37 ordinance prohibiting the acts prohibited by K.S.A. 8-2,144 or 8-1567 or
38 K.S.A. 2012 Supp. 8-1025 *or 21-6421*, and amendments thereto, the
39 municipal court judge shall ensure that the municipal court remits the
40 appropriate amount of such fine to the state treasurer as provided in K.S.A.
41 2012 Supp. 12-4120, and amendments thereto.

42 Sec. 3. K.S.A. 2012 Supp. 21-5109 is hereby amended to read as
43 follows: 21-5109. (a) When the same conduct of a defendant may establish

1 the commission of more than one crime under the laws of this state, the
2 defendant may be prosecuted for each of such crimes. Each of such crimes
3 may be alleged as a separate count in a single complaint, information or
4 indictment.

5 (b) Upon prosecution for a crime, the defendant may be convicted of
6 either the crime charged or a lesser included crime, but not both. A lesser
7 included crime is:

8 (1) A lesser degree of the same crime, except that there are no lesser
9 degrees of murder in the first degree under subsection (a)(2) of K.S.A.
10 2012 Supp. 21-5402, and amendments thereto;

11 (2) a crime where all elements of the lesser crime are identical to
12 some of the elements of the crime charged;

13 (3) an attempt to commit the crime charged; or

14 (4) an attempt to commit a crime defined under paragraph (1) or (2).

15 (c) Whenever charges are filed against a person, accusing the person
16 of a crime which includes another crime of which the person has been
17 convicted, the conviction of the lesser included crime shall not bar
18 prosecution or conviction of the crime charged if the crime charged was
19 not consummated at the time of conviction of the lesser included crime,
20 but the conviction of the lesser included crime shall be annulled upon the
21 filing of such charges. Evidence of the person's plea or any admission or
22 statement made by the person in connection therewith in any of the
23 proceedings which resulted in the person's conviction of the lesser
24 included crime shall not be admissible at the trial of the crime charged. If
25 the person is convicted of the crime charged, or of a lesser included crime,
26 the person so convicted shall receive credit against any prison sentence
27 imposed or fine to be paid for the period of confinement actually served or
28 the amount of any fine actually paid under the sentence imposed for the
29 annulled conviction.

30 (d) Unless otherwise provided by law, when crimes differ only in that
31 one is defined to prohibit a designated kind of conduct generally and the
32 other to prohibit a specific instance of such conduct, the defendant:

33 (1) May not be convicted of the two crimes based upon the same
34 conduct; and

35 (2) shall be sentenced according to the terms of the more specific
36 crime.

37 (e) A defendant may not be convicted of identical offenses based
38 upon the same conduct. The prosecution may choose which such offense
39 to charge and, upon conviction, the defendant shall be sentenced according
40 to the terms of that offense.

41 Sec. 4. K.S.A. 2012 Supp. 21-5302, as amended by section 6 of 2013
42 Senate Bill No. 16, is hereby amended to read as follows: 21-5302. (a) A
43 conspiracy is an agreement with another person to commit a crime or to

1 assist in committing a crime. No person may be convicted of a conspiracy
2 unless an overt act in furtherance of such conspiracy is alleged and proved
3 to have been committed by such person or by a co-conspirator.

4 (b) It is immaterial to the criminal liability of a person charged with
5 conspiracy that any other person with whom the defendant conspired
6 lacked the actual intent to commit the underlying crime provided that the
7 defendant believed the other person did have the actual intent to commit
8 the underlying crime.

9 (c) It shall be a defense to a charge of conspiracy that the accused
10 voluntarily and in good faith withdrew from the conspiracy, and
11 communicated the fact of such withdrawal to one or more of the accused
12 person's co-conspirators, before any overt act in furtherance of the
13 conspiracy was committed by the accused or by a co-conspirator.

14 (d) (1) Conspiracy to commit an off-grid felony shall be ranked at
15 nondrug severity level 2. Conspiracy to commit any other nondrug felony
16 shall be ranked on the nondrug scale at two severity levels below the
17 appropriate level for the underlying or completed crime. The lowest
18 severity level for conspiracy to commit a nondrug felony shall be a
19 severity level 10.

20 (2) The provisions of this subsection shall not apply to a violation of
21 conspiracy to commit the crime of:

22 (A) Aggravated human trafficking, as defined in subsection (b) of
23 K.S.A. 2012 Supp. 21-5426, and amendments thereto, if the offender is 18
24 years of age or older and the victim is less than 14 years of age;

25 (B) terrorism, as defined in K.S.A. 2012 Supp. 21-5421, and
26 amendments thereto;

27 (C) illegal use of weapons of mass destruction, as defined in K.S.A.
28 2012 Supp. 21-5422, and amendments thereto;

29 (D) rape, as defined in subsection (a)(3) of K.S.A. 2012 Supp. 21-
30 5503, and amendments thereto, if the offender is 18 years of age or older;

31 (E) aggravated indecent liberties with a child, as defined in
32 subsection (b)(3) of K.S.A. 2012 Supp. 21-5506, and amendments thereto,
33 if the offender is 18 years of age or older;

34 (F) aggravated criminal sodomy, as defined in subsection (b)(1) or (b)
35 (2) of K.S.A. 2012 Supp. 21-5504, and amendments thereto, if the
36 offender is 18 years of age or older;

37 ~~(G) promoting prostitution, as defined in K.S.A. 2012 Supp. 21-6420,~~
38 ~~and amendments thereto, if the offender is 18 years of age or older and the~~
39 ~~prostitute is less than 14 years of age~~ *commercial sexual exploitation of a*
40 *child, as defined in section 4 of 2013 Senate Substitute for House Bill No.*
41 *2034, and amendments thereto, if the offender is 18 years of age or older*
42 *and the victim is less than 14 years of age;*

43 (H) sexual exploitation of a child, as defined in subsection (a)(1) or

1 (a)(4) of K.S.A. 2012 Supp. 21-5510, and amendments thereto, if the
2 offender is 18 years of age or older and the child is less than 14 years of
3 age; or

4 (I) violations of the Kansas racketeer influenced and corrupt
5 organization act, as described in section 3 of 2013 Senate Bill No. 16, and
6 amendments thereto.

7 (e) Conspiracy to commit a felony which prescribes a sentence on the
8 drug grid shall reduce the prison term prescribed in the drug grid block for
9 an underlying or completed crime by six months.

10 (f) A conspiracy to commit a misdemeanor is a class C misdemeanor.

11 Sec. 5. K.S.A. 2012 Supp. 21-5808 is hereby amended to read as
12 follows: 21-5808. (a) Criminal trespass is entering or remaining upon or in
13 any:

14 (1) Land, nonnavigable body of water, structure, vehicle, aircraft or
15 watercraft by a person who knows such person is not authorized or
16 privileged to do so, and:

17 (A) Such person enters or remains therein in defiance of an order not
18 to enter or to leave such premises or property personally communicated to
19 such person by the owner thereof or other authorized person;

20 (B) such premises or property are posted ~~in a~~ as provided in K.S.A.
21 32-1013, and amendments thereto, or in any other manner reasonably
22 likely to come to the attention of intruders, or are locked or fenced or
23 otherwise enclosed, or shut or secured against passage or entry; or

24 (C) such person enters or remains therein in defiance of a restraining
25 order issued pursuant to K.S.A. 60-3105, 60-3106, 60-3107, 60-31a05 or
26 60-31a06 or K.S.A. 2012 Supp. 23-2707, 38-2243, 38-2244 or 38-2255,
27 and amendments thereto, and the restraining order has been personally
28 served upon the person so restrained; or

29 (2) public or private land or structure in a manner that interferes with
30 access to or from any health care facility by a person who knows such
31 person is not authorized or privileged to do so and such person enters or
32 remains thereon or therein in defiance of an order not to enter or to leave
33 such land or structure personally communicated to such person by the
34 owner of the health care facility or other authorized person.

35 (b) Criminal trespass is a class B nonperson misdemeanor. Upon a
36 conviction of a violation of subsection (a)(1)(C), a person shall be
37 sentenced to not less than 48 consecutive hours of imprisonment which
38 shall be served either before or as a condition of any grant of probation or
39 suspension, reduction of sentence or parole.

40 (c) As used in this section:

41 (1) "Health care facility" means any licensed medical care facility,
42 certificated health maintenance organization, licensed mental health center
43 or mental health clinic, licensed psychiatric hospital or other facility or

- 1 office where services of a health care provider are provided directly to
2 patients; and
- 3 (2) "health care provider" means any person:
- 4 (A) Licensed to practice a branch of the healing arts;
5 (B) licensed to practice psychology;
6 (C) licensed to practice professional or practical nursing;
7 (D) licensed to practice dentistry;
8 (E) licensed to practice optometry;
9 (F) licensed to practice pharmacy;
10 (G) registered to practice podiatry;
11 (H) licensed as a social worker; or
12 (I) registered to practice physical therapy.
- 13 (d) This section shall not apply to:
- 14 (1) A land surveyor, licensed pursuant to article 70 of chapter 74 of
15 the Kansas Statutes Annotated, and amendments thereto, and such
16 surveyor's authorized agents and employees who enter upon lands, waters
17 and other premises in the making of a survey; or
- 18 (2) railroad property as defined in K.S.A. 2012 Supp. 21-5809, and
19 amendments thereto, or nuclear generating facility as defined in K.S.A.
20 2012 Supp. 66-2302, and amendments thereto.
- 21 Sec. 6. K.S.A. 2012 Supp. 21-5904 is hereby amended to read as
22 follows: 21-5904. (a) Interference with law enforcement is:
- 23 (1) Falsely reporting to a law enforcement officer, *law enforcement*
24 *agency* or state investigative agency:
- 25 (A) That a particular person has committed a crime, knowing that
26 such information is false and intending that the officer or agency shall act
27 in reliance upon such information; ~~or~~
- 28 (B) any information, knowing that such information is false and
29 intending to influence, impede or obstruct such officer's or agency's duty;
- 30 (C) that a crime has been committed or any information concerning a
31 crime or suspected crime, knowing that such information is false and
32 intending that the officer or agency shall act in reliance upon such
33 information; or
- 34 (D) any information concerning the death, disappearance or potential
35 death or disappearance of a child under the age of 13, knowing that such
36 information is false and intending that the officer or agency shall act in
37 reliance upon such information;
- 38 (2) concealing, destroying or materially altering evidence with the
39 intent to prevent or hinder the apprehension or prosecution of any person;
40 or
- 41 (3) knowingly obstructing, resisting or opposing any person
42 authorized by law to serve process in the service or execution or in the
43 attempt to serve or execute any writ, warrant, process or order of a court,

1 or in the discharge of any official duty.

2 (b)(1) Interference with law enforcement as defined in:

3 (1) Subsection (a)(1)(A) is a:

4 (A) Class A nonperson misdemeanor in the case of a misdemeanor;
5 and

6 (B) severity level 8, nonperson felony in the case of a felony;

7 (2) subsection (a)(1)(B) is a:

8 (A) Class A nonperson misdemeanor in the case of a misdemeanor;
9 and

10 (B) severity level 9, nonperson felony in the case of a felony;

11 (3) *subsection (a)(1)(C) is a class A misdemeanor;* ~~or~~

12 (4) subsection (a)(1)(D) is a severity level 8, nonperson felony;

13 (5) *subsection (a)(2) is a:*

14 (A) Class A nonperson misdemeanor; ~~except as provided in~~
15 ~~subsection (b)(2); in the case of a misdemeanor; and~~

16 (B) severity level 8, nonperson felony in the case of a felony; and

17 (6) subsection (a)(3) is a:

18 (A) Severity level 9, nonperson felony in the case of a felony, or
19 resulting from parole or any authorized disposition for a felony; and

20 (B) class A nonperson misdemeanor in the case of a misdemeanor, or
21 resulting from any authorized disposition for a misdemeanor, or a civil
22 case.

23 ~~(2) Interference with law enforcement as defined in:~~

24 ~~(A) Subsection (a)(1)(A) or (a)(2) is a severity level 8, nonperson~~
25 ~~felony in the case of a felony; and~~

26 ~~(B) subsection (a)(1)(B) is a severity level 9, nonperson felony in the~~
27 ~~case of a felony.~~

28 ~~(3) Interference with law enforcement as defined in subsection (a)(3)~~
29 ~~is a:~~

30 ~~(A) Severity level 9, nonperson felony in the case of a felony, or~~
31 ~~resulting from parole or any authorized disposition for a felony; and~~

32 ~~(B) class A nonperson misdemeanor in the case of a misdemeanor, or~~
33 ~~resulting from any authorized disposition for a misdemeanor, or a civil~~
34 ~~case.~~

35 Sec. 7. K.S.A. 2012 Supp. 21-5924 is hereby amended to read as
36 follows: 21-5924. (a) Violation of a protective order is knowingly
37 violating:

38 (1) A protection from abuse order issued pursuant to K.S.A. 60-3105,
39 60-3106 ~~and or~~ 60-3107, and amendments thereto;

40 (2) a protective order issued by a court or tribunal of any state or
41 Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265, and
42 amendments thereto;

43 (3) a restraining order issued pursuant to K.S.A. 2012 Supp. 23-2707,

1 38-2243, 38-2244 ~~and or~~ 38-2255, and amendments thereto, ~~and or~~ K.S.A.
 2 60-1607, prior to its transfer;

3 (4) an order issued in this or any other state as a condition of pretrial
 4 release, diversion, probation, suspended sentence, postrelease supervision
 5 or at any other time during the criminal case that orders the person to
 6 refrain from having any direct or indirect contact with another person;

7 (5) an order issued in this or any other state as a condition of release
 8 after conviction or as a condition of a supersedeas bond pending
 9 disposition of an appeal, that orders the person to refrain from having any
 10 direct or indirect contact with another person; or

11 (6) a protection from stalking order issued pursuant to K.S.A. 60-
 12 31a05 or 60-31a06, and amendments thereto.

13 (b) (1) Violation of a protective order is a class A person
 14 misdemeanor, except as provided in subsection (b)(2).

15 (2) Violation of an extended protective order as described in
 16 subsection (e)(2) of K.S.A. 60-3107, and amendments thereto, and
 17 subsection (d) of K.S.A. 60-31a06, and amendments thereto, is a severity
 18 level 6, person felony.

19 (c) No protective order, as set forth in this section, shall be construed
 20 to prohibit an attorney, or any person acting on such attorney's behalf, who
 21 is representing the defendant in any civil or criminal proceeding, from
 22 contacting the protected party for a legitimate purpose within the scope of
 23 the civil or criminal proceeding. The attorney, or person acting on such
 24 attorney's behalf, shall be identified in any such contact.

25 (d) As used in this section, "order" includes any order issued by a
 26 municipal or district court.

27 Sec. 8. K.S.A. 2012 Supp. 21-6302, as amended by section 4 of 2013
 28 Senate Substitute for House Bill No. 2052, is hereby amended to read as
 29 follows: 21-6302. (a) Criminal carrying of a weapon is knowingly
 30 carrying:

31 (1) Any bludgeon, sandclub, metal knuckles or throwing star, ~~or any~~
 32 ~~knife, commonly referred to as a switch-blade, which has a blade that~~
 33 ~~opens automatically by hand pressure applied to a button, spring or other~~
 34 ~~device in the handle of the knife, or any knife having a blade that opens or~~
 35 ~~falls or is ejected into position by the force of gravity or by an outward,~~
 36 ~~downward or centrifugal thrust or movement;~~

37 (2) concealed on one's person, a ~~dagger, dirk, billy, blackjack,~~
 38 ~~slungshot, dangerous knife, straight-edged razor, stiletto or any other~~
 39 ~~dangerous or deadly weapon or instrument of like character, except that an~~
 40 ~~ordinary pocket knife with no blade more than four inches in length shall~~
 41 ~~not be construed to be a dangerous knife, or a dangerous or deadly weapon~~
 42 ~~or instrument;~~

43 (3) on one's person or in any land, water or air vehicle, with intent to

1 use the same unlawfully, a tear gas or smoke bomb or projector or any
2 object containing a noxious liquid, gas or substance;

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

6 (5) a shotgun with a barrel less than 18 inches in length or any other
7 firearm designed to discharge or capable of discharging automatically
8 more than once by a single function of the trigger whether the person
9 knows or has reason to know the length of the barrel or that the firearm is
10 designed or capable of discharging automatically.

11 (b) Criminal carrying of a weapon as defined in:

12 (1) Subsections (a)(1), (a)(2), (a)(3) or (a)(4) is a class A nonperson
13 misdemeanor; and

14 (2) subsection (a)(5) is a severity level 9, nonperson felony.

15 (c) Subsection (a) shall not apply to:

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

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

23 (3) members of the armed services or reserve forces of the United
24 States or the Kansas national guard while in the performance of their
25 official duty; or

26 (4) the manufacture of, transportation to, or sale of weapons to a
27 person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess
28 such weapons.

29 (d) Subsection (a)(4) shall not apply to:

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

32 (2) licensed hunters or fishermen, while engaged in hunting or
33 fishing;

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

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

40 (5) the state fire marshal, the state fire marshal's deputies or any
41 member of a fire department authorized to carry a firearm pursuant to
42 K.S.A. 31-157, and amendments thereto, while engaged in an investigation
43 in which such fire marshal, deputy or member is authorized to carry a

1 firearm pursuant to K.S.A. 31-157, and amendments thereto;

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

6 (7) the United States attorney for the district of Kansas, the attorney
7 general, any district attorney or county attorney, any assistant United
8 States attorney if authorized by the United States attorney for the district
9 of Kansas, any assistant attorney general if authorized by the attorney
10 general, or any assistant district attorney or assistant county attorney if
11 authorized by the district attorney or county attorney by whom such
12 assistant is employed. The provisions of this paragraph shall not apply to
13 any person not in compliance with K.S.A. 75-7c19, and amendments
14 thereto;

15 (8) law enforcement officers from another state or a retired law
16 enforcement officer meeting the requirements of the federal law
17 enforcement officers safety act, 18 U.S.C. §§ 926B and 926C; or

18 (9) any person carrying a concealed handgun as authorized by K.S.A.
19 2012 Supp. 75-7c01 through 75-7c17, and amendments thereto.

20 (e) Subsection (a)(5) shall not apply to:

21 (1) Any person who sells, purchases, possesses or carries a firearm,
22 device or attachment which has been rendered unserviceable by steel weld
23 in the chamber and marriage weld of the barrel to the receiver and which
24 has been registered in the national firearms registration and transfer record
25 in compliance with 26 U.S.C. § 5841 et seq. in the name of such person
26 and, if such person transfers such firearm, device or attachment to another
27 person, has been so registered in the transferee's name by the transferor;

28 (2) any person employed by a laboratory which is certified by the
29 United States department of justice, national institute of justice, while
30 actually engaged in the duties of their employment and on the premises of
31 such certified laboratory. Subsection (a)(5) shall not affect the manufacture
32 of, transportation to or sale of weapons to such certified laboratory; or

33 (3) any person or entity in compliance with the national firearms act,
34 26 U.S.C. § 5801 et seq.

35 ~~(f) Subsection (a)(1) shall not apply to any ordinary pocket knife
36 which has a spring, detent or other device which creates a bias towards
37 closure of the blade and which requires hand pressure applied to such
38 spring, detent or device through the blade of the knife to overcome the bias
39 towards closure to assist in the opening of the knife.~~

40 ~~(g)~~ It shall not be a violation of this section if a person violates the
41 provisions of K.S.A. 2012 Supp. 75-7c03, and amendments thereto, but
42 has an otherwise valid license to carry a concealed handgun which is
43 issued or recognized by this state.

1 (h) (g) As used in this section, "throwing star" means the same as
2 prescribed by K.S.A. 2012 Supp. 21-6301, and amendments thereto.

3 Sec. 9. K.S.A. 2012 Supp. 21-6614, as amended by section 19 of
4 2013 Senate Substitute for House Bill No. 2034, is hereby amended to
5 read as follows: 21-6614. (a) (1) Except as provided in subsections (b), (c),
6 (d), (e) and (f), any person convicted in this state of a traffic infraction,
7 cigarette or tobacco infraction, misdemeanor or a class D or E felony, or
8 for crimes committed on or after July 1, 1993, nondrug crimes ranked in
9 severity levels 6 through 10, or for crimes committed on or after July 1,
10 1993, but prior to July 1, 2012, any felony ranked in severity level 4 of the
11 drug grid, or for crimes committed on or after July 1, 2012, any felony
12 ranked in severity level 5 of the drug grid may petition the convicting
13 court for the expungement of such conviction or related arrest records if
14 three or more years have elapsed since the person: (A) Satisfied the
15 sentence imposed; or (B) was discharged from probation, a community
16 correctional services program, parole, postrelease supervision, conditional
17 release or a suspended sentence.

18 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any
19 person who has fulfilled the terms of a diversion agreement may petition
20 the district court for the expungement of such diversion agreement and
21 related arrest records if three or more years have elapsed since the terms of
22 the diversion agreement were fulfilled.

23 (b) Any person convicted of prostitution, as defined in K.S.A. 21-
24 3512, prior to its repeal, convicted of a violation of K.S.A. 2012 Supp. 21-
25 6419, and amendments thereto, or who entered into a diversion agreement
26 in lieu of further criminal proceedings for such violation, may petition the
27 convicting court for the expungement of such conviction or diversion
28 agreement and related arrest records if:

29 (1) One or more years have elapsed since the person satisfied the
30 sentence imposed or the terms of a diversion agreement or was discharged
31 from probation, a community correctional services program, parole,
32 postrelease supervision, conditional release or a suspended sentence; and

33 (2) such person can prove they were acting under coercion caused by
34 the act of another. For purposes of this subsection, "coercion" means:
35 Threats of harm or physical restraint against any person; a scheme, plan or
36 pattern intended to cause a person to believe that failure to perform an act
37 would result in bodily harm or physical restraint against any person; or the
38 abuse or threatened abuse of the legal process.

39 (c) Except as provided in subsections (e) and (f), no person may
40 petition for expungement until five or more years have elapsed since the
41 person satisfied the sentence imposed or the terms of a diversion
42 agreement or was discharged from probation, a community correctional
43 services program, parole, postrelease supervision, conditional release or a

1 suspended sentence, if such person was convicted of a class A, B or C
2 felony, or for crimes committed on or after July 1, 1993, if convicted of an
3 off-grid felony or any nondrug crime ranked in severity levels 1 through 5,
4 or for crimes committed on or after July 1, 1993, but prior to July 1, 2012,
5 any felony ranked in severity levels 1 through 3 of the drug grid, or for
6 crimes committed on or after July 1, 2012, any felony ranked in severity
7 levels 1 through 4 of the drug grid, or:

8 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its
9 repeal, or K.S.A. 2012 Supp. 21-5406, and amendments thereto, or as
10 prohibited by any law of another state which is in substantial conformity
11 with that statute;

12 (2) driving while the privilege to operate a motor vehicle on the
13 public highways of this state has been canceled, suspended or revoked, as
14 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by
15 any law of another state which is in substantial conformity with that
16 statute;

17 (3) perjury resulting from a violation of K.S.A. 8-261a, and
18 amendments thereto, or resulting from the violation of a law of another
19 state which is in substantial conformity with that statute;

20 (4) violating the provisions of the fifth clause of K.S.A. 8-142, and
21 amendments thereto, relating to fraudulent applications or violating the
22 provisions of a law of another state which is in substantial conformity with
23 that statute;

24 (5) any crime punishable as a felony wherein a motor vehicle was
25 used in the perpetration of such crime;

26 (6) failing to stop at the scene of an accident and perform the duties
27 required by K.S.A. 8-1602, 8-1603, prior to its repeal, or 8-1604, and
28 amendments thereto, or required by a law of another state which is in
29 substantial conformity with those statutes;

30 (7) violating the provisions of K.S.A. 40-3104, and amendments
31 thereto, relating to motor vehicle liability insurance coverage; or

32 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

33 (d) No person may petition for expungement until 10 or more years
34 have elapsed since the person satisfied the sentence imposed or the terms
35 of a diversion agreement or was discharged from probation, a community
36 correctional services program, parole, postrelease supervision, conditional
37 release or a suspended sentence, if such person was convicted of a
38 violation of K.S.A. 8-1567, and amendments thereto, including any
39 diversion for such violation.

40 (e) There shall be no expungement of convictions for the following
41 offenses or of convictions for an attempt to commit any of the following
42 offenses:

43 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.

- 1 2012 Supp. 21-5503, and amendments thereto;
- 2 (2) indecent liberties with a child or aggravated indecent liberties
- 3 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,
- 4 or K.S.A. 2012 Supp. 21-5506, and amendments thereto;
- 5 (3) criminal sodomy, as defined in subsection (a)(2) or (a)(3) of
- 6 K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A.
- 7 2012 Supp. 21-5504, and amendments thereto;
- 8 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior
- 9 to its repeal, or K.S.A. 2012 Supp. 21-5504, and amendments thereto;
- 10 (5) indecent solicitation of a child or aggravated indecent solicitation
- 11 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,
- 12 or K.S.A. 2012 Supp. 21-5508, and amendments thereto;
- 13 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior
- 14 to its repeal, or K.S.A. 2012 Supp. 21-5510, and amendments thereto;
- 15 (7) aggravated incest, as defined in K.S.A. 21-3603, prior to its
- 16 repeal, or K.S.A. 2012 Supp. 21-5604, and amendments thereto;
- 17 (8) endangering a child or aggravated endangering a child, as defined
- 18 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2012 Supp.
- 19 21-5601, and amendments thereto;
- 20 (9) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,
- 21 or K.S.A. 2012 Supp. 21-5602, and amendments thereto;
- 22 (10) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,
- 23 or K.S.A. 2012 Supp. 21-5401, and amendments thereto;
- 24 (11) murder in the first degree, as defined in K.S.A. 21-3401, prior to
- 25 its repeal, or K.S.A. 2012 Supp. 21-5402, and amendments thereto;
- 26 (12) murder in the second degree, as defined in K.S.A. 21-3402, prior
- 27 to its repeal, or K.S.A. 2012 Supp. 21-5403, and amendments thereto;
- 28 (13) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
- 29 its repeal, or K.S.A. 2012 Supp. 21-5404, and amendments thereto;
- 30 (14) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
- 31 its repeal, or K.S.A. 2012 Supp. 21-5405, and amendments thereto;
- 32 (15) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
- 33 or K.S.A. 2012 Supp. 21-5505, and amendments thereto, when the victim
- 34 was less than 18 years of age at the time the crime was committed;
- 35 (16) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 36 its repeal, or K.S.A. 2012 Supp. 21-5505, and amendments thereto;
- 37 (17) a violation of K.S.A. 8-2,144, and amendments thereto,
- 38 including any diversion for such violation; or
- 39 (18) any conviction for any offense in effect at any time prior to July
- 40 1, 2011, that is comparable to any offense as provided in this subsection.
- 41 (f) Notwithstanding any other law to the contrary, for any offender
- 42 who is required to register as provided in the Kansas offender registration
- 43 act, K.S.A. 22-4901 et seq., and amendments thereto, there shall be no

1 expungement of any conviction or any part of the offender's criminal
2 record while the offender is required to register as provided in the Kansas
3 offender registration act.

4 (g) (1) When a petition for expungement is filed, the court shall set a
5 date for a hearing of such petition and shall cause notice of such hearing to
6 be given to the prosecutor and the arresting law enforcement agency. The
7 petition shall state the:

8 (A) Defendant's full name;

9 (B) full name of the defendant at the time of arrest, conviction or
10 diversion, if different than the defendant's current name;

11 (C) defendant's sex, race and date of birth;

12 (D) crime for which the defendant was arrested, convicted or
13 diverted;

14 (E) date of the defendant's arrest, conviction or diversion; and

15 (F) identity of the convicting court, arresting law enforcement
16 authority or diverting authority.

17 (2) Except as otherwise provided by law, a petition for expungement
18 shall be accompanied by a docket fee in the amount of \$100. On and after
19 April 12, 2012, through June 30, 2013, the supreme court may impose a
20 charge, not to exceed \$19 per case, to fund the costs of non-judicial
21 personnel. The charge established in this section shall be the only fee
22 collected or moneys in the nature of a fee collected for the case. Such
23 charge shall only be established by an act of the legislature and no other
24 authority is established by law or otherwise to collect a fee.

25 (3) All petitions for expungement shall be docketed in the original
26 criminal action. Any person who may have relevant information about the
27 petitioner may testify at the hearing. The court may inquire into the
28 background of the petitioner and shall have access to any reports or
29 records relating to the petitioner that are on file with the secretary of
30 corrections or the prisoner review board.

31 (h) At the hearing on the petition, the court shall order the petitioner's
32 arrest record, conviction or diversion expunged if the court finds that:

33 (1) The petitioner has not been convicted of a felony in the past two
34 years and no proceeding involving any such crime is presently pending or
35 being instituted against the petitioner;

36 (2) the circumstances and behavior of the petitioner warrant the
37 expungement; and

38 (3) the expungement is consistent with the public welfare.

39 (i) When the court has ordered an arrest record, conviction or
40 diversion expunged, the order of expungement shall state the information
41 required to be contained in the petition. The clerk of the court shall send a
42 certified copy of the order of expungement to the Kansas bureau of
43 investigation which shall notify the federal bureau of investigation, the

1 secretary of corrections and any other criminal justice agency which may
2 have a record of the arrest, conviction or diversion. After the order of
3 expungement is entered, the petitioner shall be treated as not having been
4 arrested, convicted or diverted of the crime, except that:

5 (1) Upon conviction for any subsequent crime, the conviction that
6 was expunged may be considered as a prior conviction in determining the
7 sentence to be imposed;

8 (2) the petitioner shall disclose that the arrest, conviction or diversion
9 occurred if asked about previous arrests, convictions or diversions:

10 (A) In any application for licensure as a private detective, private
11 detective agency, certification as a firearms trainer pursuant to K.S.A.
12 2012 Supp. 75-7b21, and amendments thereto, or employment as a
13 detective with a private detective agency, as defined by K.S.A. 75-7b01,
14 and amendments thereto; as security personnel with a private patrol
15 operator, as defined by K.S.A. 75-7b01, and amendments thereto; or with
16 an institution, as defined in K.S.A. 76-12a01, and amendments thereto, of
17 the department for children and families;

18 (B) in any application for admission, or for an order of reinstatement,
19 to the practice of law in this state;

20 (C) to aid in determining the petitioner's qualifications for
21 employment with the Kansas lottery or for work in sensitive areas within
22 the Kansas lottery as deemed appropriate by the executive director of the
23 Kansas lottery;

24 (D) to aid in determining the petitioner's qualifications for executive
25 director of the Kansas racing and gaming commission, for employment
26 with the commission or for work in sensitive areas in parimutuel racing as
27 deemed appropriate by the executive director of the commission, or to aid
28 in determining qualifications for licensure or renewal of licensure by the
29 commission;

30 (E) to aid in determining the petitioner's qualifications for the
31 following under the Kansas expanded lottery act: (i) Lottery gaming
32 facility manager or prospective manager, racetrack gaming facility
33 manager or prospective manager, licensee or certificate holder; or (ii) an
34 officer, director, employee, owner, agent or contractor thereof;

35 (F) upon application for a commercial driver's license under K.S.A.
36 8-2,125 through 8-2,142, and amendments thereto;

37 (G) to aid in determining the petitioner's qualifications to be an
38 employee of the state gaming agency;

39 (H) to aid in determining the petitioner's qualifications to be an
40 employee of a tribal gaming commission or to hold a license issued
41 pursuant to a tribal-state gaming compact;

42 (I) in any application for registration as a broker-dealer, agent,
43 investment adviser or investment adviser representative all as defined in

1 K.S.A. 17-12a102, and amendments thereto;

2 (J) in any application for employment as a law enforcement officer as
3 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

4 (K) for applications received on and after July 1, 2006, to aid in
5 determining the petitioner's qualifications for a license to carry a concealed
6 weapon pursuant to the personal and family protection act, K.S.A. 2012
7 Supp. 75-7c01 et seq., and amendments thereto;

8 (3) the court, in the order of expungement, may specify other
9 circumstances under which the conviction is to be disclosed;

10 (4) the conviction may be disclosed in a subsequent prosecution for
11 an offense which requires as an element of such offense a prior conviction
12 of the type expunged; and

13 (5) upon commitment to the custody of the secretary of corrections,
14 any previously expunged record in the possession of the secretary of
15 corrections may be reinstated and the expungement disregarded, and the
16 record continued for the purpose of the new commitment.

17 (j) Whenever a person is convicted of a crime, pleads guilty and pays
18 a fine for a crime, is placed on parole, postrelease supervision or
19 probation, is assigned to a community correctional services program, is
20 granted a suspended sentence or is released on conditional release, the
21 person shall be informed of the ability to expunge the arrest records or
22 conviction. Whenever a person enters into a diversion agreement, the
23 person shall be informed of the ability to expunge the diversion.

24 (k) (1) Subject to the disclosures required pursuant to subsection (i),
25 in any application for employment, license or other civil right or privilege,
26 or any appearance as a witness, a person whose arrest records, conviction
27 or diversion of a crime has been expunged under this statute may state that
28 such person has never been arrested, convicted or diverted of such crime;
29 ~~but the expungement of a felony conviction does not relieve an individual~~
30 ~~of complying with any state or federal law relating to the use or possession~~
31 ~~of firearms by persons convicted of a felony.~~

32 (2) Notwithstanding the provisions of subsection (k)(1), and except as
33 provided in subsection (a)(3)(A) of K.S.A. 2012 Supp. 21-6304, and
34 amendments thereto, the expungement of a prior felony conviction does
35 not relieve the individual of complying with any state or federal law
36 relating to the use, shipment, transportation, receipt or possession of
37 firearms by persons previously convicted of a felony.

38 (l) Whenever the record of any arrest, conviction or diversion has
39 been expunged under the provisions of this section or under the provisions
40 of any other existing or former statute, the custodian of the records of
41 arrest, conviction, diversion and incarceration relating to that crime shall
42 not disclose the existence of such records, except when requested by:

43 (1) The person whose record was expunged;

1 (2) a private detective agency or a private patrol operator, and the
2 request is accompanied by a statement that the request is being made in
3 conjunction with an application for employment with such agency or
4 operator by the person whose record has been expunged;

5 (3) a court, upon a showing of a subsequent conviction of the person
6 whose record has been expunged;

7 (4) the secretary of the department for children and families, or a
8 designee of the secretary, for the purpose of obtaining information relating
9 to employment in an institution, as defined in K.S.A. 76-12a01, and
10 amendments thereto, of the department for children and families of any
11 person whose record has been expunged;

12 (5) a person entitled to such information pursuant to the terms of the
13 expungement order;

14 (6) a prosecutor, and such request is accompanied by a statement that
15 the request is being made in conjunction with a prosecution of an offense
16 that requires a prior conviction as one of the elements of such offense;

17 (7) the supreme court, the clerk or disciplinary administrator thereof,
18 the state board for admission of attorneys or the state board for discipline
19 of attorneys, and the request is accompanied by a statement that the
20 request is being made in conjunction with an application for admission, or
21 for an order of reinstatement, to the practice of law in this state by the
22 person whose record has been expunged;

23 (8) the Kansas lottery, and the request is accompanied by a statement
24 that the request is being made to aid in determining qualifications for
25 employment with the Kansas lottery or for work in sensitive areas within
26 the Kansas lottery as deemed appropriate by the executive director of the
27 Kansas lottery;

28 (9) the governor or the Kansas racing and gaming commission, or a
29 designee of the commission, and the request is accompanied by a
30 statement that the request is being made to aid in determining
31 qualifications for executive director of the commission, for employment
32 with the commission, for work in sensitive areas in parimutuel racing as
33 deemed appropriate by the executive director of the commission or for
34 licensure, renewal of licensure or continued licensure by the commission;

35 (10) the Kansas racing and gaming commission, or a designee of the
36 commission, and the request is accompanied by a statement that the
37 request is being made to aid in determining qualifications of the following
38 under the Kansas expanded lottery act: (A) Lottery gaming facility
39 managers and prospective managers, racetrack gaming facility managers
40 and prospective managers, licensees and certificate holders; and (B) their
41 officers, directors, employees, owners, agents and contractors;

42 (11) the Kansas sentencing commission;

43 (12) the state gaming agency, and the request is accompanied by a

1 statement that the request is being made to aid in determining
2 qualifications: (A) To be an employee of the state gaming agency; or (B)
3 to be an employee of a tribal gaming commission or to hold a license
4 issued pursuant to a tribal-gaming compact;

5 (13) the Kansas securities commissioner or a designee of the
6 commissioner, and the request is accompanied by a statement that the
7 request is being made in conjunction with an application for registration as
8 a broker-dealer, agent, investment adviser or investment adviser
9 representative by such agency and the application was submitted by the
10 person whose record has been expunged;

11 (14) the Kansas commission on peace officers' standards and training
12 and the request is accompanied by a statement that the request is being
13 made to aid in determining certification eligibility as a law enforcement
14 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

15 (15) a law enforcement agency and the request is accompanied by a
16 statement that the request is being made to aid in determining eligibility
17 for employment as a law enforcement officer as defined by K.S.A. 22-
18 2202, and amendments thereto;

19 (16) the attorney general and the request is accompanied by a
20 statement that the request is being made to aid in determining
21 qualifications for a license to carry a concealed weapon pursuant to the
22 personal and family protection act; or

23 (17) the Kansas bureau of investigation for the purposes of:

24 (A) Completing a person's criminal history record information within
25 the central repository, in accordance with K.S.A. 22-4701 et seq., and
26 amendments thereto; or

27 (B) providing information or documentation to the federal bureau of
28 investigation, in connection with the national instant criminal background
29 check system, to determine a person's qualification to possess a firearm.

30 (m) The provisions of subsection (l)(17) shall apply to records
31 created prior to, on and after July 1, 2011.

32 Sec. 10. K.S.A. 2012 Supp. 22-2802 is hereby amended to read as
33 follows: 22-2802. (1) Any person charged with a crime shall, at the
34 person's first appearance before a magistrate, be ordered released pending
35 preliminary examination or trial upon the execution of an appearance bond
36 in an amount specified by the magistrate and sufficient to assure the
37 appearance of such person before the magistrate when ordered and to
38 assure the public safety. If the person is being bound over for a felony, the
39 bond shall also be conditioned on the person's appearance in the district
40 court or by way of a two-way electronic audio-video communication as
41 provided in subsection (14) at the time required by the court to answer the
42 charge against such person and at any time thereafter that the court
43 requires. Unless the magistrate makes a specific finding otherwise, if the

1 person is being bonded out for a person felony or a person misdemeanor,
2 the bond shall be conditioned on the person being prohibited from having
3 any contact with the alleged victim of such offense for a period of at least
4 72 hours. The magistrate may impose such of the following additional
5 conditions of release as will reasonably assure the appearance of the
6 person for preliminary examination or trial:

7 (a) Place the person in the custody of a designated person or
8 organization agreeing to supervise such person;

9 (b) place restrictions on the travel, association or place of abode of
10 the person during the period of release;

11 (c) impose any other condition deemed reasonably necessary to
12 assure appearance as required, including a condition requiring that the
13 person return to custody during specified hours;

14 (d) place the person under a house arrest program pursuant to K.S.A.
15 2012 Supp. 21-6609, and amendments thereto; or

16 (e) place the person under the supervision of a court services officer
17 responsible for monitoring the person's compliance with any conditions of
18 release ordered by the magistrate. The magistrate may order the person to
19 pay for any costs associated with the supervision provided by the court
20 services department in an amount not to exceed \$15 per week of such
21 supervision. The magistrate may also order the person to pay for all other
22 costs associated with the supervision and conditions for compliance in
23 addition to the \$15 per week.

24 (2) In addition to any conditions of release provided in subsection (1),
25 for any person charged with a felony, the magistrate may order such
26 person to submit to a drug and alcohol abuse examination and evaluation
27 in a public or private treatment facility or state institution and, if
28 determined by the head of such facility or institution that such person is a
29 drug or alcohol abuser or is incapacitated by drugs or alcohol, to submit to
30 treatment for such drug or alcohol abuse, as a condition of release.

31 (3) The appearance bond shall be executed with sufficient solvent
32 sureties who are residents of the state of Kansas, unless the magistrate
33 determines, in the exercise of such magistrate's discretion, that requiring
34 sureties is not necessary to assure the appearance of the person at the time
35 ordered.

36 (4) A deposit of cash in the amount of the bond may be made in lieu
37 of the execution of the bond pursuant to subsection (3). Except as provided
38 in subsection (5), such deposit shall be in the full amount of the bond and
39 in no event shall a deposit of cash in less than the full amount of bond be
40 permitted. Any person charged with a crime who is released on a cash
41 bond shall be entitled to a refund of all moneys paid for the cash bond,
42 after deduction of any outstanding restitution, costs, fines and fees, after
43 the final disposition of the criminal case if the person complies with all

1 requirements to appear in court. The court may not exclude the option of
2 posting bond pursuant to subsection (3).

3 (5) Except as provided further, the amount of the appearance bond
4 shall be the same whether executed as described in subsection (3) or
5 posted with a deposit of cash as described in subsection (4). When the
6 appearance bond has been set at \$2,500 or less and the most serious charge
7 against the person is a misdemeanor, a severity level 8, 9 or 10 nonperson
8 felony, a drug severity level 4 felony committed prior to July 1, 2012, a
9 drug severity level 5 felony committed on or after July 1, 2012, or a
10 violation of K.S.A. 8-1567 or K.S.A. 2012 Supp. 8-1025, and amendments
11 thereto, the magistrate may allow the person to deposit cash with the clerk
12 in the amount of 10% of the bond, provided the person meets at least the
13 following qualifications:

14 (A) Is a resident of the state of Kansas;

15 (B) has a criminal history score category of G, H or I;

16 (C) has no prior history of failure to appear for any court
17 appearances;

18 (D) has no detainer or hold from any other jurisdiction;

19 (E) has not been extradited from, and is not awaiting extradition to,
20 another state; and

21 (F) has not been detained for an alleged violation of probation.

22 (6) In the discretion of the court, a person charged with a crime may
23 be released upon the person's own recognizance by guaranteeing payment
24 of the amount of the bond for the person's failure to comply with all
25 requirements to appear in court. The release of a person charged with a
26 crime upon the person's own recognizance shall not require the deposit of
27 any cash by the person.

28 (7) The court shall not impose any administrative fee.

29 (8) In determining which conditions of release will reasonably assure
30 appearance and the public safety, the magistrate shall, on the basis of
31 available information, take into account the nature and circumstances of
32 the crime charged; the weight of the evidence against the defendant;
33 whether the defendant is lawfully present in the United States; the
34 defendant's family ties, employment, financial resources, character, mental
35 condition, length of residence in the community, record of convictions,
36 record of appearance or failure to appear at court proceedings or of flight
37 to avoid prosecution; the likelihood or propensity of the defendant to
38 commit crimes while on release, including whether the defendant will be
39 likely to threaten, harass or cause injury to the victim of the crime or any
40 witnesses thereto; and whether the defendant is on probation or parole
41 from a previous offense at the time of the alleged commission of the
42 subsequent offense.

43 (9) The appearance bond shall set forth all of the conditions of

1 release.

2 (10) A person for whom conditions of release are imposed and who
3 continues to be detained as a result of the person's inability to meet the
4 conditions of release shall be entitled, upon application, to have the
5 conditions reviewed without unnecessary delay by the magistrate who
6 imposed them. If the magistrate who imposed conditions of release is not
7 available, any other magistrate in the county may review such conditions.

8 (11) A magistrate ordering the release of a person on any conditions
9 specified in this section may at any time amend the order to impose
10 additional or different conditions of release. If the imposition of additional
11 or different conditions results in the detention of the person, the provisions
12 of subsection (10) shall apply.

13 (12) Statements or information offered in determining the conditions
14 of release need not conform to the rules of evidence. No statement or
15 admission of the defendant made at such a proceeding shall be received as
16 evidence in any subsequent proceeding against the defendant.

17 (13) The appearance bond and any security required as a condition of
18 the defendant's release shall be deposited in the office of the magistrate or
19 the clerk of the court where the release is ordered. If the defendant is
20 bound to appear before a magistrate or court other than the one ordering
21 the release, the order of release, together with the bond and security shall
22 be transmitted to the magistrate or clerk of the court before whom the
23 defendant is bound to appear.

24 (14) Proceedings before a magistrate as provided in this section to
25 determine the release conditions of a person charged with a crime
26 including release upon execution of an appearance bond may be conducted
27 by two-way electronic audio-video communication between the defendant
28 and the judge in lieu of personal presence of the defendant or defendant's
29 counsel in the courtroom in the discretion of the court. The defendant may
30 be accompanied by the defendant's counsel. The defendant shall be
31 informed of the defendant's right to be personally present in the courtroom
32 during such proceeding if the defendant so requests. Exercising the right to
33 be present shall in no way prejudice the defendant.

34 (15) The magistrate may order the person to pay for any costs
35 associated with the supervision of the conditions of release of the
36 appearance bond in an amount not to exceed \$15 per week of such
37 supervision. As a condition of sentencing under K.S.A. 2012 Supp. 21-
38 6604, and amendments thereto, the court may impose the full amount of
39 any such costs in addition to the \$15 per week, including, but not limited to,
40 costs for treatment and evaluation under subsection (2).

41 Sec. 11. K.S.A. 2012 Supp. 22-2908 is hereby amended to read as
42 follows: 22-2908. (a) In determining whether diversion of a defendant is in
43 the interests of justice and of benefit to the defendant and the community,

1 the county or district attorney shall consider at least the following factors
2 among all factors considered:

3 (1) The nature of the crime charged and the circumstances
4 surrounding it;

5 (2) any special characteristics or circumstances of the defendant;

6 (3) whether the defendant is a first-time offender and if the defendant
7 has previously participated in diversion, according to the certification of
8 the Kansas bureau of investigation or the division of vehicles of the
9 department of revenue;

10 (4) whether there is a probability that the defendant will cooperate
11 with and benefit from diversion;

12 (5) whether the available diversion program is appropriate to the
13 needs of the defendant;

14 (6) the impact of the diversion of the defendant upon the community;

15 (7) recommendations, if any, of the involved law enforcement
16 agency;

17 (8) recommendations, if any, of the victim;

18 (9) provisions for restitution; and

19 (10) any mitigating circumstances.

20 (b) A county or district attorney shall not enter into a diversion
21 agreement in lieu of further criminal proceedings on a complaint if:

22 (1) The complaint alleges a violation of K.S.A. 8-1567 *or* K.S.A.
23 2012 Supp. 8-1025, and amendments thereto, and the defendant: (A) Has
24 previously participated in diversion upon a complaint alleging a violation
25 of that statute or an ordinance of a city in this state which prohibits the acts
26 prohibited by that statute; (B) has previously been convicted of or pleaded
27 nolo contendere to a violation of that statute or a violation of a law of
28 another state or of a political subdivision of this or any other state, which
29 law prohibits the acts prohibited by that statute; or (C) during the time of
30 the alleged violation was involved in a motor vehicle accident or collision
31 resulting in personal injury or death;

32 (2) the complaint alleges that the defendant committed a class A or B
33 felony or for crimes committed on or after July 1, 1993, an off-grid crime,
34 a severity level 1, 2 or 3 felony for nondrug crimes, a drug severity level 1
35 or 2 felony for drug crimes committed on or after July 1, 1993, but prior to
36 July 1, 2012, or a drug severity level 1, 2 or 3 felony committed on or after
37 July 1, 2012; or

38 (3) the complaint alleges a domestic violence offense, as defined in
39 K.S.A. 2012 Supp. 21-5111, and amendments thereto, and the defendant
40 has participated in two or more diversions in the previous five year period
41 upon complaints alleging a domestic violence offense.

42 (c) A county or district attorney may enter into a diversion agreement
43 in lieu of further criminal proceedings on a complaint for violations of

1 article 10 of chapter 32 of the Kansas Statutes Annotated, and amendments
2 thereto, if such diversion carries the same penalties as the conviction for
3 the corresponding violations. If the defendant has previously participated
4 in one or more diversions for violations of article 10 of chapter 32 of the
5 Kansas Statutes Annotated, and amendments thereto, then each subsequent
6 diversion shall carry the same penalties as the conviction for the
7 corresponding violations.

8 Sec. 12. K.S.A. 2012 Supp. 22-3212 is hereby amended to read as
9 follows: 22-3212. (a) Upon request, the prosecuting attorney shall permit
10 the defendant to inspect and copy or photograph the following, if relevant:
11 (1) Written or recorded statements or confessions made by the defendant,
12 or copies thereof, which are or have been in the possession, custody or
13 control of the prosecution, the existence of which is known, or by the
14 exercise of due diligence may become known, to the prosecuting attorney;
15 (2) results or reports of physical or mental examinations, and of scientific
16 tests or experiments made in connection with the particular case, or copies
17 thereof, the existence of which is known, or by the exercise of due
18 diligence may become known, to the prosecuting attorney; (3) recorded
19 testimony of the defendant before a grand jury or at an inquisition; and (4)
20 memoranda of any oral confession made by the defendant and a list of the
21 witnesses to such confession, the existence of which is known, or by the
22 exercise of due diligence may become known to the prosecuting attorney.

23 (b) (1) Except as provided in subsection~~-(f)~~ (l), upon request, the
24 prosecuting attorney shall permit the defendant to inspect and copy or
25 photograph books, papers, documents, tangible objects, buildings or
26 places, or copies, or portions thereof, which are or have been within the
27 possession, custody or control of the prosecution, and which are material
28 to the case and will not place an unreasonable burden upon the
29 prosecution.

30 (2) Except as provided in subsections (a)(2) and (a)(4), *and as*
31 *otherwise provided by law*, this section does not authorize the discovery or
32 inspection of reports, memoranda or other internal government documents
33 made by officers in connection with the investigation or prosecution of the
34 case, or of statements made by state witnesses or prospective state
35 witnesses, other than the defendant, ~~except as may be provided by law.~~

36 (3) Except as provided in subsection~~-(e)~~ (g), this section does not
37 require the prosecuting attorney to provide unredacted vehicle
38 identification numbers or personal identifiers of persons mentioned in such
39 books, papers or documents.

40 (4) As used in this subsection, personal identifiers include, but are not
41 limited to, birthdates, social security numbers, taxpayer identification
42 numbers, drivers license numbers, account numbers of active financial
43 accounts, home addresses and personal telephone numbers of any victims

1 or material witnesses.

2 (5) If the prosecuting attorney does provide the defendant's counsel
3 with unredacted vehicle identification numbers or personal identifiers, the
4 defendant's counsel shall not further disclose the unredacted numbers or
5 identifiers to the defendant or any other person, directly or indirectly,
6 except as authorized by order of the court.

7 (6) If the prosecuting attorney provides books, papers or documents
8 to the defendant's counsel with vehicle identification numbers or personal
9 identifiers redacted by the prosecuting attorney, the prosecuting attorney
10 shall provide notice to the defendant's counsel that such books, papers or
11 documents had such numbers or identifiers redacted by the prosecuting
12 attorney.

13 (7) Any redaction of vehicle identification numbers or personal
14 identifiers by the prosecuting attorney shall be by alteration or truncation
15 of such numbers or identifiers and shall not be by removal.

16 (c) If the defendant seeks discovery and inspection under subsection
17 (a)(2) or subsection (b), the defendant shall:

18 (1) Permit the attorney for the prosecution to inspect and copy or
19 photograph scientific or medical reports, books, papers, documents,
20 tangible objects, or copies or portions thereof, which the defendant intends
21 to produce at any hearing, ~~and which~~ are material to the case and will not
22 place an unreasonable burden on the defense; *and*

23 (2) *provide for the attorney for the prosecution, no less than 30 days*
24 *prior to trial, a summary or written report of what any expert witness*
25 *intends to testify, including the witness' qualifications, the witness'*
26 *opinions and the bases and reasons for such opinions.*

27 (d) Except as to scientific or medical reports, ~~this~~ subsection (c) does
28 not authorize the discovery or inspection of reports, memoranda or other
29 internal defense documents made by the defendant, or the defendant's
30 attorneys or agents in connection with the investigation or defense of the
31 case, or of statements made by the defendant, or by prosecution or defense
32 witnesses, or by prospective prosecution or defense witnesses, to the
33 defendant, the defendant's agents or attorneys.

34 (e) All disclosures shall be made at the times and in the sequence
35 directed by the court. In the absence of other directions from the court or
36 stipulation by the parties, such disclosures shall be made as provided in
37 this section.

38 ~~(d)~~ (f) The prosecuting attorney and the defendant shall cooperate in
39 discovery and reach agreement on the time, place and manner of making
40 the discovery and inspection permitted, so as to avoid the necessity for
41 court intervention.

42 ~~(e)~~ (g) Upon a sufficient showing the court may at any time order that
43 the discovery or inspection be denied, restricted, enlarged or deferred or

1 make such other order as is appropriate. Upon motion, the court may
2 permit either party to make such showing, in whole or in part, in the form
3 of a written statement to be inspected privately by the court. If the court
4 enters an order granting relief following such a private showing, the entire
5 text of the statement shall be sealed and preserved in the records of the
6 court to be made available to the appellate court in the event of an appeal.

7 ~~(g)~~ (h) Discovery under this section must be completed no later than
8 21 days after arraignment or at such reasonable later time as the court may
9 permit.

10 ~~(g)~~ (i) If, subsequent to compliance with an order issued pursuant to
11 this section, and prior to or during trial, a party discovers additional
12 material previously requested or ordered which is subject to discovery or
13 inspection under this section, the party shall promptly notify the other
14 party or the party's attorney or the court of the existence of the additional
15 material. If at any time during the course of the proceedings it is brought
16 to the attention of the court that a party has failed to comply with this section
17 or with an order issued pursuant to this section, the court may order such
18 party to permit the discovery or inspection of materials not previously
19 disclosed, grant a continuance, or prohibit the party from introducing in
20 evidence the material not disclosed, or it may enter such other order as it
21 deems just under the circumstances.

22 ~~(h)~~ (j) For crimes committed on or after July 1, 1993, the prosecuting
23 attorney shall provide all prior convictions of the defendant known to the
24 prosecuting attorney that would affect the determination of the defendant's
25 criminal history for purposes of sentencing under a presumptive
26 sentencing guidelines system as provided in K.S.A. 21-4701 et seq., prior
27 to their repeal, or the revised Kansas sentencing guidelines act, article 68
28 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

29 ~~(i)~~ (k) The prosecuting attorney and defendant shall be permitted to
30 inspect and copy any juvenile files and records of the defendant for the
31 purpose of discovering and verifying the criminal history of the defendant.

32 ~~(j)~~ (l) (1) In any criminal proceeding, any property or material that
33 constitutes a visual depiction, as defined in subsection (a)(2) of K.S.A.
34 2012 Supp. 21-5510, and amendments thereto, shall remain in the care,
35 custody and control of either the prosecution, law enforcement or the
36 court.

37 (2) Notwithstanding subsection (b), if the state makes property or
38 material described in this subsection reasonably available to the defendant,
39 the court shall deny any request by the defendant to copy, photograph,
40 duplicate or otherwise reproduce any such property or material submitted
41 as evidence.

42 (3) For the purpose of this subsection, property or material described
43 in this subsection shall be deemed to be reasonably available to the

1 defendant if the prosecution provides ample and liberal opportunity for
2 inspection, viewing and examination of such property or material at a
3 government facility, whether inside or outside the state of Kansas, by the
4 defendant, the defendant's attorney and any individual the defendant may
5 seek to qualify to furnish expert testimony at trial.

6 Sec. 13. K.S.A. 2012 Supp. 22-3717, as amended by section 27 of
7 2013 Senate Substitute for House Bill No. 2034, is hereby amended to
8 read as follows: 22-3717. (a) Except as otherwise provided by this section;
9 K.S.A. 1993 Supp. 21-4628, prior to its repeal; K.S.A. 21-4635 through
10 21-4638, prior to their repeal; K.S.A. 21-4624, prior to its repeal; K.S.A.
11 21-4642, prior to its repeal; K.S.A. 2012 Supp. 21-6617, 21-6620, 21-
12 6623, 21-6624, 21-6625 and 21-6626, and amendments thereto; and
13 K.S.A. 8-1567, and amendments thereto; an inmate, including an inmate
14 sentenced pursuant to K.S.A. 21-4618, prior to its repeal, or K.S.A. 2012
15 Supp. 21-6707, and amendments thereto, shall be eligible for parole after
16 serving the entire minimum sentence imposed by the court, less good time
17 credits.

18 (b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, prior
19 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
20 6625, and amendments thereto, an inmate sentenced to imprisonment for
21 the crime of capital murder, or an inmate sentenced for the crime of
22 murder in the first degree based upon a finding of premeditated murder,
23 committed on or after July 1, 1994, shall be eligible for parole after
24 serving 25 years of confinement, without deduction of any good time
25 credits.

26 (2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993
27 Supp. 21-4628, prior to its repeal, K.S.A. 21-4635 through 21-4638, prior
28 to their repeal, and K.S.A. 2012 Supp. 21-6620, 21-6623, 21-6624 and 21-
29 6625, and amendments thereto, an inmate sentenced to imprisonment for
30 an off-grid offense committed on or after July 1, 1993, but prior to July 1,
31 1999, shall be eligible for parole after serving 15 years of confinement,
32 without deduction of any good time credits and an inmate sentenced to
33 imprisonment for an off-grid offense committed on or after July 1, 1999,
34 shall be eligible for parole after serving 20 years of confinement without
35 deduction of any good time credits.

36 (3) Except as provided by K.S.A. 1993 Supp. 21-4628, prior to its
37 repeal, an inmate sentenced for a class A felony committed before July 1,
38 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, prior to
39 its repeal, or K.S.A. 2012 Supp. 21-6707, and amendments thereto, shall
40 be eligible for parole after serving 15 years of confinement, without
41 deduction of any good time credits.

42 (4) An inmate sentenced to imprisonment for a violation of
43 subsection (a) of K.S.A. 21-3402, prior to its repeal, committed on or after

1 July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after
2 serving 10 years of confinement without deduction of any good time
3 credits.

4 (5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
5 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
6 thereto, committed on or after July 1, 2006, shall be eligible for parole
7 after serving the mandatory term of imprisonment without deduction of
8 any good time credits.

9 (c) (1) Except as provided in subsection (e), if an inmate is sentenced
10 to imprisonment for more than one crime and the sentences run
11 consecutively, the inmate shall be eligible for parole after serving the total
12 of:

13 (A) The aggregate minimum sentences, as determined pursuant to
14 K.S.A. 21-4608, prior to its repeal, or K.S.A. 2012 Supp. 21-6606, and
15 amendments thereto, less good time credits for those crimes which are not
16 class A felonies; and

17 (B) an additional 15 years, without deduction of good time credits,
18 for each crime which is a class A felony.

19 (2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-
20 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
21 thereto, for crimes committed on or after July 1, 2006, the inmate shall be
22 eligible for parole after serving the mandatory term of imprisonment.

23 (d) (1) Persons sentenced for crimes, other than off-grid crimes,
24 committed on or after July 1, 1993, or persons subject to subparagraph
25 (G), will not be eligible for parole, but will be released to a mandatory
26 period of postrelease supervision upon completion of the prison portion of
27 their sentence as follows:

28 (A) Except as provided in subparagraphs (D) and (E), persons
29 sentenced for nondrug severity levels 1 through 4 crimes, drug severity
30 levels 1 and 2 crimes committed on or after July 1, 1993, but prior to July
31 1, 2012, and drug severity levels 1, 2 and 3 crimes committed on or after
32 July 1, 2012, must serve 36 months, ~~plus the amount of good time and
33 program credit earned and retained pursuant to K.S.A. 21-4722, prior to its
34 repeal, or K.S.A. 2012 Supp. 21-6821, and amendments thereto,~~ on
35 postrelease supervision.

36 (B) Except as provided in subparagraphs (D) and (E), persons
37 sentenced for nondrug severity levels 5 and 6 crimes, drug severity level 3
38 crimes committed on or after July 1, 1993, but prior to July 1, 2012, and
39 drug severity level 4 crimes committed on or after July 1, 2012, must serve
40 24 months, ~~plus the amount of good time and program credit earned and
41 retained pursuant to K.S.A. 21-4722, prior to its repeal, or K.S.A. 2012
42 Supp. 21-6821, and amendments thereto,~~ on postrelease supervision.

43 (C) Except as provided in subparagraphs (D) and (E), persons

1 sentenced for nondrug severity levels 7 through 10 crimes, drug severity
2 level 4 crimes committed on or after July 1, 1993, but prior to July 1,
3 2012, and drug severity level 5 crimes committed on or after July 1, 2012,
4 must serve 12 months, ~~plus the amount of good time and program credit~~
5 ~~earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or~~
6 ~~K.S.A. 2012 Supp. 21-6821, and amendments thereto,~~ on postrelease
7 supervision.

8 (D) *Persons sentenced to a term of imprisonment that includes a*
9 *sentence for a sexually violent crime as defined in K.S.A. 22-3717, and*
10 *amendments thereto, a sexually motivated crime in which the offender has*
11 *been ordered to register pursuant to subsection (d)(1)(D)(vii) of K.S.A. 22-*
12 *3717, and amendments thereto, electronic solicitation, K.S.A. 21-3523,*
13 *prior to its repeal, or K.S.A. 2012 Supp. 21-5509, and amendments*
14 *thereto, or unlawful sexual relations, K.S.A. 21-3520, prior to its repeal,*
15 *or K.S.A. 2012 Supp. 21-5512, and amendments thereto, shall serve the*
16 *period of postrelease supervision as provided in subsections (d)(1)(A), (d)*
17 *(1)(B) or (d)(1)(C) plus the amount of good time and program credit*
18 *earned and retained pursuant to K.S.A. 21-4722, prior to its repeal, or*
19 *K.S.A. 2012 Supp. 21-6821, and amendments thereto, on postrelease*
20 *supervision.*

21 ~~(D)—(i) If the sentencing judge shall impose the postrelease~~
22 ~~supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)~~
23 ~~(C), unless the judge finds substantial and compelling reasons to impose a~~
24 ~~departure based upon a finding that the current crime of conviction was~~
25 ~~sexually motivated. In that event, departure may be imposed to extend the~~
26 ~~postrelease supervision to a period of up to 60 months.~~

27 (ii) If the sentencing judge departs from the presumptive postrelease
28 supervision period, the judge shall state on the record at the time of
29 sentencing the substantial and compelling reasons for the departure.
30 Departures in this section are subject to appeal pursuant to K.S.A. 21-
31 4721, prior to its repeal, or K.S.A. 2012 Supp. 21-6820, and amendments
32 thereto.

33 (iii) In determining whether substantial and compelling reasons exist,
34 the court shall consider:

35 (a) Written briefs or oral arguments submitted by either the defendant
36 or the state;

37 (b) any evidence received during the proceeding;

38 (c) the presentence report, the victim's impact statement and any
39 psychological evaluation as ordered by the court pursuant to subsection (e)
40 of K.S.A. 21-4714, prior to its repeal, or subsection (e) of K.S.A. 2012
41 Supp. 21-6813, and amendments thereto; and

42 (d) any other evidence the court finds trustworthy and reliable.

43 (iv) The sentencing judge may order that a psychological evaluation

1 be prepared and the recommended programming be completed by the
2 offender. The department of corrections or the prisoner review board shall
3 ensure that court ordered sex offender treatment be carried out.

4 (v) In carrying out the provisions of ~~subparagraph~~ subsection (d)(1)
5 (D), the court shall refer to K.S.A. 21-4718, prior to its repeal, or K.S.A.
6 2012 Supp. 21-6817, and amendments thereto.

7 (vi) Upon petition *and payment of any restitution ordered pursuant to*
8 *K.S.A. 2012 Supp. 21-6604, and amendments thereto*, the prisoner review
9 board may provide for early discharge from the postrelease supervision
10 period *imposed pursuant to subsection (d)(1)(D)(i)* upon completion of
11 court ordered programs and completion of the presumptive postrelease
12 supervision period, as determined by the crime of conviction, pursuant to
13 ~~subparagraph~~ subsection (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge
14 from postrelease supervision is at the discretion of the board.

15 (vii) Persons convicted of crimes deemed sexually violent or sexually
16 motivated shall be registered according to the offender registration act,
17 K.S.A. 22-4901 through 22-4910, and amendments thereto.

18 (viii) Persons convicted of K.S.A. 21-3510 or 21-3511, prior to their
19 repeal, or K.S.A. 2012 Supp. 21-5508, and amendments thereto, shall be
20 required to participate in a treatment program for sex offenders during the
21 postrelease supervision period.

22 (E) The period of postrelease supervision provided in subparagraphs
23 (A) and (B) may be reduced by up to 12 months and the period of
24 postrelease supervision provided in subparagraph (C) may be reduced by
25 up to six months based on the offender's compliance with conditions of
26 supervision and overall performance while on postrelease supervision. The
27 reduction in the supervision period shall be on an earned basis pursuant to
28 rules and regulations adopted by the secretary of corrections.

29 (F) In cases where sentences for crimes from more than one severity
30 level have been imposed, the offender shall serve the longest period of
31 postrelease supervision as provided by this section available for any crime
32 upon which sentence was imposed irrespective of the severity level of the
33 crime. Supervision periods will not aggregate.

34 (G) Except as provided in subsection (u), persons convicted of a
35 sexually violent crime committed on or after July 1, 2006, and who are
36 released from prison, shall be released to a mandatory period of
37 postrelease supervision for the duration of the person's natural life.

38 (2) *Persons serving a period of postrelease supervision pursuant to*
39 *subsections (d)(1)(A), (d)(1)(B) or (d)(1)(C) may petition the prisoner*
40 *review board for early discharge. Upon payment of restitution, the*
41 *prisoner review board may provide for early discharge.*

42 (3) *Persons serving a period of incarceration for a supervision*
43 *violation shall not have the period of postrelease supervision modified*

1 *until such person is released and returned to postrelease supervision.*

2 *(4) Offenders whose crime of conviction was committed on or after*
3 *July 1, 2013, and whose probation, assignment to a community*
4 *correctional services program, suspension of sentence or nonprison*
5 *sanction is revoked pursuant to subsection (c) of K.S.A. 22-3716, and*
6 *amendments thereto, or whose underlying prison term expires while*
7 *-serving a sanction pursuant to subsection (c)(1)(C) or (c)(1)(D) of K.S.A.*
8 *22-3716, and amendments thereto, shall serve a period of postrelease*
9 *supervision upon the completion of the underlying prison term.*

10 ~~(2)~~ (5) As used in this subsection, "sexually violent crime" means:

11 (A) Rape, K.S.A. 21-3502, prior to its repeal, or K.S.A. 2012 Supp.
12 21-5503, and amendments thereto;

13 (B) indecent liberties with a child, K.S.A. 21-3503, prior to its repeal,
14 or subsection (a) of K.S.A. 2012 Supp. 21-5506, and amendments thereto;

15 (C) aggravated indecent liberties with a child, K.S.A. 21-3504, prior
16 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5506, and
17 amendments thereto;

18 (D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505,
19 prior to its repeal, or subsection (a)(3) and (a)(4) of K.S.A. 2012 Supp. 21-
20 5504, and amendments thereto;

21 (E) aggravated criminal sodomy, K.S.A. 21-3506, prior to its repeal,
22 or subsection (b) of K.S.A. 2012 Supp. 21-5504, and amendments thereto;

23 (F) indecent solicitation of a child, K.S.A. 21-3510, prior to its repeal,
24 or subsection (a) of K.S.A. 2012 Supp. 21-5508, and amendments thereto;

25 (G) aggravated indecent solicitation of a child, K.S.A. 21-3511, prior
26 to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5508, and
27 amendments thereto;

28 (H) sexual exploitation of a child, K.S.A. 21-3516, prior to its repeal,
29 or K.S.A. 2012 Supp. 21-5510, and amendments thereto;

30 (I) aggravated sexual battery, K.S.A. 21-3518, prior to its repeal, or
31 subsection (b) of K.S.A. 2012 Supp. 21-5505, and amendments thereto;

32 (J) aggravated incest, K.S.A. 21-3603, prior to its repeal, or
33 subsection (b) of K.S.A. 2012 Supp. 21-5604, and amendments thereto;

34 (K) aggravated human trafficking, as defined in K.S.A. 21-3447,
35 prior to its repeal, or subsection (b) of K.S.A. 2012 Supp. 21-5426, and
36 amendments thereto, if committed in whole or in part for the purpose of
37 the sexual gratification of the defendant or another;

38 (L) commercial sexual exploitation of a child, as defined in section 4
39 of 2013 Senate Substitute for House Bill No. 2034, and amendments
40 thereto; or

41 (M) an attempt, conspiracy or criminal solicitation, as defined in
42 K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2012
43 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of a

1 sexually violent crime as defined in this section.

2 ~~(3)~~ (6) As used in this subsection, "sexually motivated" means that
3 one of the purposes for which the defendant committed the crime was for
4 the purpose of the defendant's sexual gratification.

5 (e) If an inmate is sentenced to imprisonment for a crime committed
6 while on parole or conditional release, the inmate shall be eligible for
7 parole as provided by subsection (c), except that the prisoner review board
8 may postpone the inmate's parole eligibility date by assessing a penalty not
9 exceeding the period of time which could have been assessed if the
10 inmate's parole or conditional release had been violated for reasons other
11 than conviction of a crime.

12 (f) If a person is sentenced to prison for a crime committed on or after
13 July 1, 1993, while on probation, parole, conditional release or in a
14 community corrections program, for a crime committed prior to July 1,
15 1993, and the person is not eligible for retroactive application of the
16 sentencing guidelines and amendments thereto pursuant to K.S.A. 21-
17 4724, prior to its repeal, the new sentence shall not be aggregated with the
18 old sentence, but shall begin when the person is paroled or reaches the
19 conditional release date on the old sentence. If the offender was past the
20 offender's conditional release date at the time the new offense was
21 committed, the new sentence shall not be aggregated with the old sentence
22 but shall begin when the person is ordered released by the prisoner review
23 board or reaches the maximum sentence expiration date on the old
24 sentence, whichever is earlier. The new sentence shall then be served as
25 otherwise provided by law. The period of postrelease supervision shall be
26 based on the new sentence, except that those offenders whose old sentence
27 is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp.
28 21-4628, prior to its repeal, or an indeterminate sentence with a maximum
29 term of life imprisonment, for which there is no conditional release or
30 maximum sentence expiration date, shall remain on postrelease
31 supervision for life or until discharged from supervision by the prisoner
32 review board.

33 (g) Subject to the provisions of this section, the prisoner review board
34 may release on parole those persons confined in institutions who are
35 eligible for parole when: (1) The board believes that the inmate should be
36 released for hospitalization, deportation or to answer the warrant or other
37 process of a court and is of the opinion that there is reasonable probability
38 that the inmate can be released without detriment to the community or to
39 the inmate; or (2) the secretary of corrections has reported to the board in
40 writing that the inmate has satisfactorily completed the programs required
41 by any agreement entered under K.S.A. 75-5210a, and amendments
42 thereto, or any revision of such agreement, and the board believes that the
43 inmate is able and willing to fulfill the obligations of a law abiding citizen

1 and is of the opinion that there is reasonable probability that the inmate
2 can be released without detriment to the community or to the inmate.
3 Parole shall not be granted as an award of clemency and shall not be
4 considered a reduction of sentence or a pardon.

5 (h) The prisoner review board shall hold a parole hearing at least the
6 month prior to the month an inmate will be eligible for parole under
7 subsections (a), (b) and (c). At least one month preceding the parole
8 hearing, the county or district attorney of the county where the inmate was
9 convicted shall give written notice of the time and place of the public
10 comment sessions for the inmate to any victim of the inmate's crime who
11 is alive and whose address is known to the county or district attorney or, if
12 the victim is deceased, to the victim's family if the family's address is
13 known to the county or district attorney. Except as otherwise provided,
14 failure to notify pursuant to this section shall not be a reason to postpone a
15 parole hearing. In the case of any inmate convicted of an off-grid felony or
16 a class A felony, the secretary of corrections shall give written notice of the
17 time and place of the public comment session for such inmate at least one
18 month preceding the public comment session to any victim of such
19 inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and
20 amendments thereto. If notification is not given to such victim or such
21 victim's family in the case of any inmate convicted of an off-grid felony or
22 a class A felony, the board shall postpone a decision on parole of the
23 inmate to a time at least 30 days after notification is given as provided in
24 this section. Nothing in this section shall create a cause of action against
25 the state or an employee of the state acting within the scope of the
26 employee's employment as a result of the failure to notify pursuant to this
27 section. If granted parole, the inmate may be released on parole on the date
28 specified by the board, but not earlier than the date the inmate is eligible
29 for parole under subsections (a), (b) and (c). At each parole hearing and, if
30 parole is not granted, at such intervals thereafter as it determines
31 appropriate, the board shall consider: (1) Whether the inmate has
32 satisfactorily completed the programs required by any agreement entered
33 under K.S.A. 75-5210a, and amendments thereto, or any revision of such
34 agreement; and (2) all pertinent information regarding such inmate,
35 including, but not limited to, the circumstances of the offense of the
36 inmate; the presentence report; the previous social history and criminal
37 record of the inmate; the conduct, employment, and attitude of the inmate
38 in prison; the reports of such physical and mental examinations as have
39 been made, including, but not limited to, risk factors revealed by any risk
40 assessment of the inmate; comments of the victim and the victim's family
41 including in person comments, contemporaneous comments and
42 prerecorded comments made by any technological means; comments of
43 the public; official comments; any recommendation by the staff of the

1 facility where the inmate is incarcerated; proportionality of the time the
2 inmate has served to the sentence a person would receive under the Kansas
3 sentencing guidelines for the conduct that resulted in the inmate's
4 incarceration; and capacity of state correctional institutions.

5 (i) In those cases involving inmates sentenced for a crime committed
6 after July 1, 1993, the prisoner review board will review the inmate's
7 proposed release plan. The board may schedule a hearing if they desire.
8 The board may impose any condition they deem necessary to insure public
9 safety, aid in the reintegration of the inmate into the community, or items
10 not completed under the agreement entered into under K.S.A. 75-5210a,
11 and amendments thereto. The board may not advance or delay an inmate's
12 release date. Every inmate while on postrelease supervision shall remain in
13 the legal custody of the secretary of corrections and is subject to the orders
14 of the secretary.

15 (j) (1) Before ordering the parole of any inmate, the prisoner review
16 board shall have the inmate appear either in person or via a video
17 conferencing format and shall interview the inmate unless impractical
18 because of the inmate's physical or mental condition or absence from the
19 institution. Every inmate while on parole shall remain in the legal custody
20 of the secretary of corrections and is subject to the orders of the secretary.
21 Whenever the board formally considers placing an inmate on parole and no
22 agreement has been entered into with the inmate under K.S.A. 75-
23 5210a, and amendments thereto, the board shall notify the inmate in
24 writing of the reasons for not granting parole. If an agreement has been
25 entered under K.S.A. 75-5210a, and amendments thereto, and the inmate
26 has not satisfactorily completed the programs specified in the agreement,
27 or any revision of such agreement, the board shall notify the inmate in
28 writing of the specific programs the inmate must satisfactorily complete
29 before parole will be granted. If parole is not granted only because of a
30 failure to satisfactorily complete such programs, the board shall grant
31 parole upon the secretary's certification that the inmate has successfully
32 completed such programs. If an agreement has been entered under K.S.A.
33 75-5210a, and amendments thereto, and the secretary of corrections has
34 reported to the board in writing that the inmate has satisfactorily
35 completed the programs required by such agreement, or any revision
36 thereof, the board shall not require further program participation.
37 However, if the board determines that other pertinent information
38 regarding the inmate warrants the inmate's not being released on parole,
39 the board shall state in writing the reasons for not granting the parole. If
40 parole is denied for an inmate sentenced for a crime other than a class A or
41 class B felony or an off-grid felony, the board shall hold another parole
42 hearing for the inmate not later than one year after the denial unless the
43 board finds that it is not reasonable to expect that parole would be granted

1 at a hearing if held in the next three years or during the interim period of a
2 deferral. In such case, the board may defer subsequent parole hearings for
3 up to three years but any such deferral by the board shall require the board
4 to state the basis for its findings. If parole is denied for an inmate
5 sentenced for a class A or class B felony or an off-grid felony, the board
6 shall hold another parole hearing for the inmate not later than three years
7 after the denial unless the board finds that it is not reasonable to expect
8 that parole would be granted at a hearing if held in the next 10 years or
9 during the interim period of a deferral. In such case, the board may defer
10 subsequent parole hearings for up to 10 years, but any such deferral shall
11 require the board to state the basis for its findings.

12 (2) Inmates sentenced for a class A or class B felony who have not
13 had a board hearing in the five years prior to July 1, 2010, shall have such
14 inmates' cases reviewed by the board on or before July 1, 2012. Such
15 review shall begin with the inmates with the oldest deferral date and
16 progress to the most recent. Such review shall be done utilizing existing
17 resources unless the board determines that such resources are insufficient.
18 If the board determines that such resources are insufficient, then the
19 provisions of this paragraph are subject to appropriations therefor.

20 (k) (1) Parolees and persons on postrelease supervision shall be
21 assigned, upon release, to the appropriate level of supervision pursuant to
22 the criteria established by the secretary of corrections.

23 (2) Parolees and persons on postrelease supervision are, and shall
24 agree in writing to be, subject to search or seizure by a parole officer or a
25 department of corrections enforcement, apprehension and investigation
26 officer, at any time of the day or night, with or without a search warrant
27 and with or without cause. Nothing in this subsection shall be construed to
28 authorize such officers to conduct arbitrary or capricious searches or
29 searches for the sole purpose of harassment.

30 (3) Parolees and persons on postrelease supervision are, and shall
31 agree in writing to be, subject to search or seizure by any law enforcement
32 officer based on reasonable suspicion of the person violating conditions of
33 parole or postrelease supervision or reasonable suspicion of criminal
34 activity. Any law enforcement officer who conducts such a search shall
35 submit a written report to the appropriate parole officer no later than the
36 close of the next business day after such search. The written report shall
37 include the facts leading to such search, the scope of such search and any
38 findings resulting from such search.

39 (l) The prisoner review board shall promulgate rules and regulations
40 in accordance with K.S.A. 77-415 et seq., and amendments thereto, not
41 inconsistent with the law and as it may deem proper or necessary, with
42 respect to the conduct of parole hearings, postrelease supervision reviews,
43 revocation hearings, orders of restitution, reimbursement of expenditures

1 by the state board of indigents' defense services and other conditions to be
2 imposed upon parolees or releasees. Whenever an order for parole or
3 postrelease supervision is issued it shall recite the conditions thereof.

4 (m) Whenever the prisoner review board orders the parole of an
5 inmate or establishes conditions for an inmate placed on postrelease
6 supervision, the board:

7 (1) Unless it finds compelling circumstances which would render a
8 plan of payment unworkable, shall order as a condition of parole or
9 postrelease supervision that the parolee or the person on postrelease
10 supervision pay any transportation expenses resulting from returning the
11 parolee or the person on postrelease supervision to this state to answer
12 criminal charges or a warrant for a violation of a condition of probation,
13 assignment to a community correctional services program, parole,
14 conditional release or postrelease supervision;

15 (2) to the extent practicable, shall order as a condition of parole or
16 postrelease supervision that the parolee or the person on postrelease
17 supervision make progress towards or successfully complete the
18 equivalent of a secondary education if the inmate has not previously
19 completed such educational equivalent and is capable of doing so;

20 (3) may order that the parolee or person on postrelease supervision
21 perform community or public service work for local governmental
22 agencies, private corporations organized not-for-profit or charitable or
23 social service organizations performing services for the community;

24 (4) may order the parolee or person on postrelease supervision to pay
25 the administrative fee imposed pursuant to K.S.A. 22-4529, and
26 amendments thereto, unless the board finds compelling circumstances
27 which would render payment unworkable;

28 (5) unless it finds compelling circumstances which would render a
29 plan of payment unworkable, shall order that the parolee or person on
30 postrelease supervision reimburse the state for all or part of the
31 expenditures by the state board of indigents' defense services to provide
32 counsel and other defense services to the person. In determining the
33 amount and method of payment of such sum, the prisoner review board
34 shall take account of the financial resources of the person and the nature of
35 the burden that the payment of such sum will impose. Such amount shall
36 not exceed the amount claimed by appointed counsel on the payment
37 voucher for indigents' defense services or the amount prescribed by the
38 board of indigents' defense services reimbursement tables as provided in
39 K.S.A. 22-4522, and amendments thereto, whichever is less, minus any
40 previous payments for such services;

41 (6) shall order that the parolee or person on postrelease supervision
42 agree in writing to be subject to search or seizure by a parole officer or a
43 department of corrections enforcement, apprehension and investigation

1 officer, at any time of the day or night, with or without a search warrant
2 and with or without cause. Nothing in this subsection shall be construed to
3 authorize such officers to conduct arbitrary or capricious searches or
4 searches for the sole purpose of harassment; and

5 (7) shall order that the parolee or person on postrelease supervision
6 agree in writing to be subject to search or seizure by any law enforcement
7 officer based on reasonable suspicion of the person violating conditions of
8 parole or postrelease supervision or reasonable suspicion of criminal
9 activity.

10 (n) If the court which sentenced an inmate specified at the time of
11 sentencing the amount and the recipient of any restitution ordered as a
12 condition of parole or postrelease supervision, the prisoner review board
13 shall order as a condition of parole or postrelease supervision that the
14 inmate pay restitution in the amount and manner provided in the journal
15 entry unless the board finds compelling circumstances which would render
16 a plan of restitution unworkable.

17 (o) Whenever the prisoner review board grants the parole of an
18 inmate, the board, within 14 days of the date of the decision to grant
19 parole, shall give written notice of the decision to the county or district
20 attorney of the county where the inmate was sentenced.

21 (p) When an inmate is to be released on postrelease supervision, the
22 secretary, within 30 days prior to release, shall provide the county or
23 district attorney of the county where the inmate was sentenced written
24 notice of the release date.

25 (q) Inmates shall be released on postrelease supervision upon the
26 termination of the prison portion of their sentence. Time served while on
27 postrelease supervision will vest.

28 (r) An inmate who is allocated regular good time credits as provided
29 in K.S.A. 22-3725, and amendments thereto, may receive meritorious
30 good time credits in increments of not more than 90 days per meritorious
31 act. These credits may be awarded by the secretary of corrections when an
32 inmate has acted in a heroic or outstanding manner in coming to the
33 assistance of another person in a life threatening situation, preventing
34 injury or death to a person, preventing the destruction of property or taking
35 actions which result in a financial savings to the state.

36 (s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and
37 (d)(1)(E) shall be applied retroactively as provided in subsection (t).

38 (t) For offenders sentenced prior to ~~May 25, 2000~~ *July 1, 2013*, who
39 are eligible for modification of their postrelease supervision obligation, the
40 department of corrections shall modify the period of postrelease
41 supervision as provided for by this section:

42 (1) *On or before September 1, 2013*, for offenders convicted of:

43 (A) Severity levels 9 and 10 crimes on the sentencing guidelines grid

1 for nondrug crimes ~~and~~;

2 (B) severity level 4 crimes *on the sentencing guidelines grid for drug*
3 *crimes committed prior to July 1, 2012; and*

4 (C) *severity level 5 crimes on the sentencing guidelines grid for drug*
5 *crimes ~~on or before September 1, 2000~~ committed on and after July 1,*
6 *2012;*

7 (2) *on or before November 1, 2013, for offenders convicted of:*

8 (A) severity levels 6, 7 and 8 crimes on the sentencing guidelines grid
9 for nondrug crimes ~~on or before November 1, 2000; and;~~

10 (B) *level 3 crimes on the sentencing guidelines grid for drug crimes*
11 *committed prior to July 1, 2012; and*

12 (C) *level 4 crimes on the sentencing guidelines grid for drug crimes*
13 *committed on or after July 1, 2012; and*

14 (3) *on or before January 1, 2014, for offenders convicted of:*

15 (A) Severity levels 1, 2, 3, 4 and 5 ~~and 6~~ crimes on the sentencing
16 guidelines grid for nondrug crimes ~~and;~~

17 (B) ~~severity level 3~~ *levels 1 and 2 crimes on the sentencing guidelines*
18 *grid for drug crimes committed at any time; and*

19 (C) *severity level 3 crimes on the sentencing guidelines grid for drug*
20 *crimes ~~on or before January 1, 2001~~ committed on or after July 1, 2012.*

21 (u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-
22 4643, prior to its repeal, or K.S.A. 2012 Supp. 21-6627, and amendments
23 thereto, for crimes committed on or after July 1, 2006, shall be placed on
24 parole for life and shall not be discharged from supervision by the prisoner
25 review board. When the board orders the parole of an inmate pursuant to
26 this subsection, the board shall order as a condition of parole that the
27 inmate be electronically monitored for the duration of the inmate's natural
28 life.

29 (v) Whenever the prisoner review board orders a person to be
30 electronically monitored pursuant to this section, or the court orders a
31 person to be electronically monitored pursuant to subsection (r) of K.S.A.
32 2012 Supp. 21-6604, and amendments thereto, the board shall order the
33 person to reimburse the state for all or part of the cost of such monitoring.
34 In determining the amount and method of payment of such sum, the board
35 shall take account of the financial resources of the person and the nature of
36 the burden that the payment of such sum will impose.

37 (w) (1) On and after July 1, 2012, for any inmate who is a sex
38 offender, as defined in K.S.A. 22-4902, and amendments thereto,
39 whenever the prisoner review board orders the parole of such inmate or
40 establishes conditions for such inmate placed on postrelease supervision,
41 such inmate shall agree in writing to not possess pornographic materials.

42 (A) As used in this subsection, "pornographic materials" means: Any
43 obscene material or performance depicting sexual conduct, sexual contact

1 or a sexual performance; and any visual depiction of sexually explicit
2 conduct.

3 (B) As used in this subsection, all other terms have the meanings
4 provided by K.S.A. 2012 Supp. 21-5510, and amendments thereto.

5 (2) The provisions of this subsection shall be applied retroactively to
6 every sex offender, as defined in K.S.A. 22-4902, and amendments
7 thereto, who is on parole or postrelease supervision on July 1, 2012. The
8 prisoner review board shall obtain the written agreement required by this
9 subsection from such offenders as soon as practicable.

10 Sec. 14. K.S.A. 2012 Supp. 32-1438 is hereby amended to read as
11 follows: 32-1438. (a) For taxable years commencing on and after
12 December 31, 2003, December 31, 2004, December 31, 2005, December
13 31, 2006, and December 31, 2007, there shall be allowed as a credit
14 against the tax liability of a taxpayer imposed under the Kansas income tax
15 act, an amount equal to 20% of the cost of liability insurance paid by a
16 registered agritourism operator who operates an agritourism activity on the
17 effective date of this act. No tax credit claimed pursuant to this subsection
18 shall exceed \$2,000. If the amount of such tax credit exceeds the
19 taxpayer's income tax liability for such taxable year, the amount thereof
20 which exceeds such tax liability may be carried over for deduction from
21 the taxpayer's income tax liability in the next succeeding taxable year or
22 years until the total amount of tax credit has been deducted from tax
23 liability, except that no such tax credit shall be carried forward for
24 deduction after the third taxable year succeeding the taxable year in which
25 the tax credit is claimed.

26 (b) For the first five taxable years commencing after a taxpayer opens
27 such taxpayer's business, after the effective date of this act, there shall be
28 allowed as a credit against the tax liability of a taxpayer imposed under the
29 Kansas income tax act, an amount equal to 20% of the cost of liability
30 insurance paid by a registered agritourism operator who starts an
31 agritourism activity after the effective date of this act. No tax credit
32 claimed pursuant to this subsection shall exceed \$2,000. If the amount of
33 such tax credit exceeds the taxpayer's income tax liability for such taxable
34 year, the amount thereof which exceeds such tax liability may be carried
35 over for deduction from the taxpayer's income tax liability in the next
36 succeeding taxable year or years until the total amount of tax credit has
37 been deducted from tax liability, except that no such tax credit shall be
38 carried forward for deduction after the third taxable year succeeding the
39 taxable year in which the tax credit is claimed.

40 (c) The secretary of ~~commerce~~ *wildlife, parks and tourism* shall adopt
41 rules and regulations establishing criteria for determining those costs
42 which qualify as costs of liability insurance for agritourism activities of a
43 registered agritourism operator.

1 (d) On or before the 15th day of the regular legislative session in
2 2006, the secretary of commerce shall submit to the senate standing
3 committee on commerce and the house standing committee on tourism and
4 parks a report on the implementation and use of the tax credit provided by
5 this section.

6 (e) As used in this section, terms have the meanings provided by
7 K.S.A. 2012 Supp. 32-1432, and amendments thereto.

8 (f) For tax year 2013 and all tax years thereafter, the income tax
9 credit provided by this section shall only be available to taxpayers subject
10 to the income tax on corporations imposed pursuant to subsection (c) of
11 K.S.A. 79-32,110, and amendments thereto, and shall be applied only
12 against such taxpayer's corporate income tax liability.

13 Sec. 15. K.S.A. 2012 Supp. 39-709, as amended by section 1 of 2013
14 Senate Bill No. 149, is hereby amended to read as follows: 39-709. (a)
15 *General eligibility requirements for assistance for which federal moneys*
16 *are expended.* Subject to the additional requirements below, assistance in
17 accordance with plans under which federal moneys are expended may be
18 granted to any needy person who:

19 (1) Has insufficient income or resources to provide a reasonable
20 subsistence compatible with decency and health. Where a husband and
21 wife are living together, the combined income or resources of both shall be
22 considered in determining the eligibility of either or both for such
23 assistance unless otherwise prohibited by law. The secretary, in
24 determining need of any applicant for or recipient of assistance shall not
25 take into account the financial responsibility of any individual for any
26 applicant or recipient of assistance unless such applicant or recipient is
27 such individual's spouse or such individual's minor child or minor
28 stepchild if the stepchild is living with such individual. The secretary in
29 determining need of an individual may provide such income and resource
30 exemptions as may be permitted by federal law. For purposes of eligibility
31 for aid for families with dependent children, for food stamp assistance and
32 for any other assistance provided through the ~~department of social and~~
33 ~~rehabilitation services~~ *Kansas department for children and families* under
34 which federal moneys are expended, the secretary ~~of social and~~
35 ~~rehabilitation services~~ *for children and families* shall consider one motor
36 vehicle owned by the applicant for assistance, regardless of the value of
37 such vehicle, as exempt personal property and shall consider any equity in
38 any additional motor vehicle owned by the applicant for assistance to be a
39 nonexempt resource of the applicant for assistance.

40 (2) Is a citizen of the United States or is an alien lawfully admitted to
41 the United States and who is residing in the state of Kansas.

42 (b) *Assistance to families with dependent children.* Assistance may be
43 granted under this act to any dependent child, or relative, subject to the

1 general eligibility requirements as set out in subsection (a), who resides in
2 the state of Kansas or whose parent or other relative with whom the child
3 is living resides in the state of Kansas. Such assistance shall be known as
4 aid to families with dependent children. Where husband and wife are
5 living together both shall register for work under the program
6 requirements for aid to families with dependent children in accordance
7 with criteria and guidelines prescribed by rules and regulations of the
8 secretary.

9 (c) *Aid to families with dependent children; assignment of support*
10 *rights and limited power of attorney.* By applying for or receiving aid to
11 families with dependent children such applicant or recipient shall be
12 deemed to have assigned to the secretary on behalf of the state any
13 accrued, present or future rights to support from any other person such
14 applicant may have in such person's own behalf or in behalf of any other
15 family member for whom the applicant is applying for or receiving aid. In
16 any case in which an order for child support has been established and the
17 legal custodian and obligee under the order surrenders physical custody of
18 the child to a caretaker relative without obtaining a modification of legal
19 custody and support rights on behalf of the child are assigned pursuant to
20 this section, the surrender of physical custody and the assignment shall
21 transfer, by operation of law, the child's support rights under the order to
22 the secretary on behalf of the state. Such assignment shall be of all
23 accrued, present or future rights to support of the child surrendered to the
24 caretaker relative. The assignment of support rights shall automatically
25 become effective upon the date of approval for or receipt of such aid
26 without the requirement that any document be signed by the applicant,
27 recipient or obligee. By applying for or receiving aid to families with
28 dependent children, or by surrendering physical custody of a child to a
29 caretaker relative who is an applicant or recipient of such assistance on the
30 child's behalf, the applicant, recipient or obligee is also deemed to have
31 appointed the secretary, or the secretary's designee, as an attorney in fact to
32 perform the specific act of negotiating and endorsing all drafts, checks,
33 money orders or other negotiable instruments representing support
34 payments received by the secretary in behalf of any person applying for,
35 receiving or having received such assistance. This limited power of
36 attorney shall be effective from the date the secretary approves the
37 application for aid and shall remain in effect until the assignment of
38 support rights has been terminated in full.

39 (d) *Eligibility requirements for general assistance, the cost of which*
40 *is not shared by the federal government.* (1) General assistance may be
41 granted to eligible persons who do not qualify for financial assistance in a
42 program in which the federal government participates and who satisfy the
43 additional requirements prescribed by or under this subsection (d).

1 (A) To qualify for general assistance in any form a needy person must
2 have insufficient income or resources to provide a reasonable subsistence
3 compatible with decency and health and, except as provided for
4 transitional assistance, be a member of a family in which a minor child or
5 a pregnant woman resides or be unable to engage in employment. The
6 secretary shall adopt rules and regulations prescribing criteria for
7 establishing when a minor child may be considered to be living with a
8 family and whether a person is able to engage in employment, including
9 such factors as age or physical or mental condition. Eligibility for general
10 assistance, other than transitional assistance, is limited to families in which
11 a minor child or a pregnant woman resides or to an adult or family in
12 which all legally responsible family members are unable to engage in
13 employment. Where a husband and wife are living together the combined
14 income or resources of both shall be considered in determining the
15 eligibility of either or both for such assistance unless otherwise prohibited
16 by law. The secretary in determining need of any applicant for or recipient
17 of general assistance shall not take into account the financial responsibility
18 of any individual for any applicant or recipient of general assistance unless
19 such applicant or recipient is such individual's spouse or such individual's
20 minor child or a minor stepchild if the stepchild is living with such
21 individual. In determining the need of an individual, the secretary may
22 provide for income and resource exemptions.

23 (B) To qualify for general assistance in any form a needy person must
24 be a citizen of the United States or an alien lawfully admitted to the United
25 States and must be residing in the state of Kansas.

26 (2) General assistance in the form of transitional assistance may be
27 granted to eligible persons who do not qualify for financial assistance in a
28 program in which the federal government participates and who satisfy the
29 additional requirements prescribed by or under this subsection (d), but who
30 do not meet the criteria prescribed by rules and regulations of the secretary
31 relating to inability to engage in employment or are not a member of a
32 family in which a minor or a pregnant woman resides.

33 (3) In addition to the other requirements prescribed under this
34 subsection (d), the secretary shall adopt rules and regulations which
35 establish community work experience program requirements for eligibility
36 for the receipt of general assistance in any form and which establish
37 penalties to be imposed when a work assignment under a community work
38 experience program requirement is not completed without good cause. The
39 secretary may adopt rules and regulations establishing exemptions from
40 any such community work experience program requirements. A first time
41 failure to complete such a work assignment requirement shall result in
42 ineligibility to receive general assistance for a period fixed by such rules
43 and regulations of not more than three calendar months. A subsequent

1 failure to complete such a work assignment requirement shall result in a
2 period fixed by such rules and regulations of ineligibility of not more than
3 six calendar months.

4 (4) If any person is found guilty of the crime of theft under the
5 provisions of K.S.A. 39-720, and amendments thereto, such person shall
6 thereby become forever ineligible to receive any form of general
7 assistance under the provisions of this subsection (d) unless the conviction
8 is the person's first conviction under the provisions of K.S.A. 39-720, and
9 amendments thereto, or the law of any other state concerning welfare
10 fraud. First time offenders convicted of a misdemeanor under the
11 provisions of such statute shall become ineligible to receive any form of
12 general assistance for a period of 12 calendar months from the date of
13 conviction. First time offenders convicted of a felony under the provisions
14 of such statute shall become ineligible to receive any form of general
15 assistance for a period of 60 calendar months from the date of conviction.
16 If any person is found guilty by a court of competent jurisdiction of any
17 state other than the state of Kansas of a crime involving welfare fraud,
18 such person shall thereby become forever ineligible to receive any form of
19 general assistance under the provisions of this subsection (d) unless the
20 conviction is the person's first conviction under the law of any other state
21 concerning welfare fraud. First time offenders convicted of a misdemeanor
22 under the law of any other state concerning welfare fraud shall become
23 ineligible to receive any form of general assistance for a period of 12
24 calendar months from the date of conviction. First time offenders
25 convicted of a felony under the law of any other state concerning welfare
26 fraud shall become ineligible to receive any form of general assistance for
27 a period of 60 calendar months from the date of conviction.

28 (e) *Requirements for medical assistance for which federal moneys or*
29 *state moneys or both are expended.* (1) When the secretary has adopted a
30 medical care plan under which federal moneys or state moneys or both are
31 expended, medical assistance in accordance with such plan shall be
32 granted to any person who is a citizen of the United States or who is an
33 alien lawfully admitted to the United States and who is residing in the state
34 of Kansas, whose resources and income do not exceed the levels
35 prescribed by the secretary. In determining the need of an individual, the
36 secretary may provide for income and resource exemptions and protected
37 income and resource levels. Resources from inheritance shall be counted.
38 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
39 amendments thereto, shall constitute a transfer of resources. The secretary
40 shall exempt principal and interest held in irrevocable trust pursuant to
41 subsection (c) of K.S.A. 16-303, and amendments thereto, from the
42 eligibility requirements of applicants for and recipients of medical
43 assistance. Such assistance shall be known as medical assistance.

1 (2) For the purposes of medical assistance eligibility determinations
2 on or after July 1, 2004, if an applicant or recipient owns property in joint
3 tenancy with some other party and the applicant or recipient of medical
4 assistance has restricted or conditioned their interest in such property to a
5 specific and discrete property interest less than 100%, then such
6 designation will cause the full value of the property to be considered an
7 available resource to the applicant or recipient.

8 (3) (A) Resources from trusts shall be considered when determining
9 eligibility of a trust beneficiary for medical assistance. Medical assistance
10 is to be secondary to all resources, including trusts, that may be available
11 to an applicant or recipient of medical assistance.

12 (B) If a trust has discretionary language, the trust shall be considered
13 to be an available resource to the extent, using the full extent of discretion,
14 the trustee may make any of the income or principal available to the
15 applicant or recipient of medical assistance. Any such discretionary trust
16 shall be considered an available resource unless: (i) At the time of creation
17 or amendment of the trust, the trust states a clear intent that the trust is
18 supplemental to public assistance; and (ii) the trust: (a) Is funded from
19 resources of a person who, at the time of such funding, owed no duty of
20 support to the applicant or recipient of medical assistance; or (b) is funded
21 not more than nominally from resources of a person while that person
22 owed a duty of support to the applicant or recipient of medical assistance.

23 (C) For the purposes of this paragraph, "public assistance" includes,
24 but is not limited to, medicaid, medical assistance or title XIX of the social
25 security act.

26 (4) (A) When an applicant or recipient of medical assistance is a party
27 to a contract, agreement or accord for personal services being provided by
28 a nonlicensed individual or provider and such contract, agreement or
29 accord involves health and welfare monitoring, pharmacy assistance, case
30 management, communication with medical, health or other professionals,
31 or other activities related to home health care, long term care, medical
32 assistance benefits, or other related issues, any moneys paid under such
33 contract, agreement or accord shall be considered to be an available
34 resource unless the following restrictions are met: (i) The contract,
35 agreement or accord must be in writing and executed prior to any services
36 being provided; (ii) the moneys paid are in direct relationship with the fair
37 market value of such services being provided by similarly situated and
38 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
39 individuals or situations can be found, the value of services will be based
40 on federal hourly minimum wage standards; (iv) such individual providing
41 the services will report all receipts of moneys as income to the appropriate
42 state and federal governmental revenue agencies; (v) any amounts due
43 under such contract, agreement or accord shall be paid after the services

1 are rendered; (vi) the applicant or recipient shall have the power to revoke
2 the contract, agreement or accord; and (vii) upon the death of the applicant
3 or recipient, the contract, agreement or accord ceases.

4 (B) When an applicant or recipient of medical assistance is a party to
5 a written contract for personal services being provided by a licensed health
6 professional or facility and such contract involves health and welfare
7 monitoring, pharmacy assistance, case management, communication with
8 medical, health or other professionals, or other activities related to home
9 health care, long term care, medical assistance benefits or other related
10 issues, any moneys paid in advance of receipt of services for such
11 contracts shall be considered to be an available resource.

12 (5) Any trust may be amended if such amendment is permitted by the
13 Kansas uniform trust code.

14 (f) *Eligibility for medical assistance of resident receiving medical*
15 *care outside state.* A person who is receiving medical care including long-
16 term care outside of Kansas whose health would be endangered by the
17 postponement of medical care until return to the state or by travel to return
18 to Kansas, may be determined eligible for medical assistance if such
19 individual is a resident of Kansas and all other eligibility factors are met.
20 Persons who are receiving medical care on an ongoing basis in a long-term
21 medical care facility in a state other than Kansas and who do not return to
22 a care facility in Kansas when they are able to do so, shall no longer be
23 eligible to receive assistance in Kansas unless such medical care is not
24 available in a comparable facility or program providing such medical care
25 in Kansas. For persons who are minors or who are under guardianship, the
26 actions of the parent or guardian shall be deemed to be the actions of the
27 child or ward in determining whether or not the person is remaining
28 outside the state voluntarily.

29 (g) *Medical assistance; assignment of rights to medical support and*
30 *limited power of attorney; recovery from estates of deceased recipients.* (1)
31 Except as otherwise provided in K.S.A. 39-786 and 39-787, and
32 amendments thereto, or as otherwise authorized on and after September
33 30, 1989, under section 303, ~~and amendments thereto~~, of the federal
34 medicare catastrophic coverage act of 1988, whichever is applicable, by
35 applying for or receiving medical assistance under a medical care plan in
36 which federal funds are expended, any accrued, present or future rights to
37 support and any rights to payment for medical care from a third party of an
38 applicant or recipient and any other family member for whom the
39 applicant is applying shall be deemed to have been assigned to the
40 secretary on behalf of the state. The assignment shall automatically
41 become effective upon the date of approval for such assistance without the
42 requirement that any document be signed by the applicant or recipient. By
43 applying for or receiving medical assistance the applicant or recipient is

1 also deemed to have appointed the secretary, or the secretary's designee, as
2 an attorney in fact to perform the specific act of negotiating and endorsing
3 all drafts, checks, money orders or other negotiable instruments,
4 representing payments received by the secretary in behalf of any person
5 applying for, receiving or having received such assistance. This limited
6 power of attorney shall be effective from the date the secretary approves
7 the application for assistance and shall remain in effect until the
8 assignment has been terminated in full. The assignment of any rights to
9 payment for medical care from a third party under this subsection shall not
10 prohibit a health care provider from directly billing an insurance carrier for
11 services rendered if the provider has not submitted a claim covering such
12 services to the secretary for payment. Support amounts collected on behalf
13 of persons whose rights to support are assigned to the secretary only under
14 this subsection and no other shall be distributed pursuant to subsection (d)
15 of K.S.A. 39-756, and amendments thereto, except that any amounts
16 designated as medical support shall be retained by the secretary for
17 repayment of the unreimbursed portion of assistance. Amounts collected
18 pursuant to the assignment of rights to payment for medical care from a
19 third party shall also be retained by the secretary for repayment of the
20 unreimbursed portion of assistance.

21 (2) The amount of any medical assistance paid after June 30, 1992,
22 under the provisions of subsection (e) is (A) a claim against the property or
23 any interest therein belonging to and a part of the estate of any deceased
24 recipient or, if there is no estate, the estate of the surviving spouse, if any,
25 shall be charged for such medical assistance paid to either or both, and (B)
26 a claim against any funds of such recipient or spouse in any account under
27 K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-5829, and
28 amendments thereto. There shall be no recovery of medical assistance
29 correctly paid to or on behalf of an individual under subsection (e) except
30 after the death of the surviving spouse of the individual, if any, and only at
31 a time when the individual has no surviving child who is under 21 years of
32 age or is blind or permanently and totally disabled. Transfers of real or
33 personal property by recipients of medical assistance without adequate
34 consideration are voidable and may be set aside. Except where there is a
35 surviving spouse, or a surviving child who is under 21 years of age or is
36 blind or permanently and totally disabled, the amount of any medical
37 assistance paid under subsection (e) is a claim against the estate in any
38 guardianship or conservatorship proceeding. The monetary value of any
39 benefits received by the recipient of such medical assistance under long-
40 term care insurance, as defined by K.S.A. 40-2227, and amendments
41 thereto, shall be a credit against the amount of the claim provided for such
42 medical assistance under this subsection (g). The secretary is authorized to
43 enforce each claim provided for under this subsection (g). The secretary

1 shall not be required to pursue every claim, but is granted discretion to
2 determine which claims to pursue. All moneys received by the secretary
3 from claims under this subsection (g) shall be deposited in the social
4 welfare fund. The secretary may adopt rules and regulations for the
5 implementation and administration of the medical assistance recovery
6 program under this subsection (g).

7 (3) By applying for or receiving medical assistance under the
8 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, *and*
9 *amendments thereto*, such individual or such individual's agent, fiduciary,
10 guardian, conservator, representative payee or other person acting on
11 behalf of the individual consents to the following definitions of estate and
12 the results therefrom:

13 (A) If an individual receives any medical assistance before July 1,
14 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
15 *and amendments thereto*, which forms the basis for a claim under
16 subsection (g)(2), such claim is limited to the individual's probatable estate
17 as defined by applicable law; and

18 (B) if an individual receives any medical assistance on or after July 1,
19 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
20 *and amendments thereto*, which forms the basis for a claim under
21 subsection (g)(2), such claim shall apply to the individual's medical
22 assistance estate. The medical assistance estate is defined as including all
23 real and personal property and other assets in which the deceased
24 individual had any legal title or interest immediately before or at the time
25 of death to the extent of that interest or title. The medical assistance estate
26 includes, without limitation assets conveyed to a survivor, heir or assign of
27 the deceased recipient through joint tenancy, tenancy in common,
28 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
29 trust, annuities or similar arrangement.

30 (4) ~~The secretary of social and rehabilitation services of health and~~
31 ~~environment or the secretary's designee is authorized to file and enforce a~~
32 ~~lien against the real property of a recipient of medical assistance in certain~~
33 ~~situations, subject to all prior liens of record and transfers for value to a~~
34 ~~bona fide purchaser of record. The lien must be filed in the office of the~~
35 ~~register of deeds of the county where the real property is located within~~
36 ~~one year from the date of death of the recipient and must contain the legal~~
37 ~~description of all real property in the county subject to the lien. This lien is~~
38 ~~for payments of medical assistance made by the department of social and~~
39 ~~rehabilitation services to the recipient who is an inpatient in a nursing~~
40 ~~home or other medical institution.~~

41 (A) After the death of a recipient of medical assistance, the secretary
42 of health and environment or the secretary's designee may place a lien on
43 any interest in real property owned by such recipient.

1 (B) *The secretary of health and environment or the secretary's*
2 *designee may place a lien on any interest in real property owned by a*
3 *recipient of medical assistance during the lifetime of such recipient. Such*
4 *lien may be filed only after notice and an opportunity for a hearing has*
5 *been given. Such lien may be enforced only upon competent medical*
6 *testimony that the recipient cannot reasonably be expected to be*
7 *discharged and returned home. A six-month period of compensated*
8 *inpatient care at a nursing home, ~~nursing homes~~ or other medical*
9 *institution shall constitute a determination by the department of ~~social and~~*
10 *~~rehabilitation services~~ health and environment that the recipient cannot*
11 *reasonably be expected to be discharged and returned home. To return*
12 *home means the recipient leaves the nursing or medical facility and resides*
13 *in the home on which the lien has been placed for a continuous period of at*
14 *least 90 days without being readmitted as an inpatient to a nursing or*
15 *medical facility. The amount of the lien shall be for the amount of*
16 *assistance paid by the department of ~~social and rehabilitation services~~ after*
17 *~~the expiration of six months from the date the recipient became eligible for~~*
18 *~~compensated inpatient care at a nursing home, nursing homes or other~~*
19 *~~medical institution~~ of health and environment until the time of the filing of*
20 *the lien and for any amount paid thereafter for such medical assistance to*
21 *the recipient. After the lien is filed against any real property owned by the*
22 *recipient, such lien will be dissolved if the recipient is discharged, returns*
23 *home and resides upon the real property to which the lien is attached for a*
24 *continuous period of at least 90 days without being readmitted as an*
25 *inpatient to a nursing or medical facility. If the recipient is readmitted as*
26 *an inpatient to a nursing or medical facility for a continuous period of less*
27 *than 90 days, another continuous period of at least 90 days shall be*
28 *completed prior to dissolution of the lien.*

29 (5) The lien filed by the secretary of health and environment or the
30 secretary's designee for medical assistance correctly received may be
31 enforced before or after the death of the recipient by the filing of an action
32 to foreclose such lien in the Kansas district court or through an estate
33 probate court action in the county where the real property of the recipient
34 is located. However, it may be enforced only:

35 (A) After the death of the surviving spouse of the recipient;

36 (B) when there is no child of the recipient, natural or adopted, who is
37 20 years of age or less residing in the home;

38 (C) when there is no adult child of the recipient, natural or adopted,
39 who is blind or disabled residing in the home; or

40 (D) when no brother or sister of the recipient is lawfully residing in
41 the home, who has resided there for at least one year immediately before
42 the date of the recipient's admission to the nursing or medical facility, and
43 has resided there on a continuous basis since that time.

1 (6) The lien remains on the property even after a transfer of the title
2 by conveyance, sale, succession, inheritance or will unless one of the
3 following events occur:

4 (A) The lien is satisfied. The recipient, the heirs, personal
5 representative or assigns of the recipient may discharge such lien at any
6 time by paying the amount of the lien to the secretary or the secretary's
7 designee;

8 (B) the lien is terminated by foreclosure of prior lien of record or
9 settlement action taken in lieu of foreclosure; *or*

10 (C) the value of the real property is consumed by the lien, at which
11 time the secretary or the secretary's designee may force the sale for the real
12 property to satisfy the lien; *or*

13 ~~(D) after a lien is filed against the real property, it will be dissolved if
14 the recipient leaves the nursing or medical facility and resides in the
15 property to which the lien is attached for a period of more than 90 days
16 without being readmitted as an inpatient to a nursing or medical facility,
17 even though there may have been no reasonable expectation that this
18 would occur. If the recipient is readmitted to a nursing or medical facility
19 during this period, and does return home after being released, another 90
20 days must be completed before the lien can be dissolved.~~

21 ~~(7) If the secretary of social and rehabilitation for aging and
22 disability services or the secretary of health and environment, or both, or
23 such secretary's designee has not filed an action to foreclose the lien in the
24 Kansas district court in the county where the real property is located
25 within 10 years from the date of the filing of the lien, then the lien shall
26 become dormant, and shall cease to operate as a lien on the real estate of
27 the recipient. Such dormant lien may be revived in the same manner as a
28 dormant judgment lien is revived under K.S.A. 60-2403 et seq., and
29 amendments thereto.~~

30 (8) Within seven days of receipt of notice by the secretary for
31 children and families or the secretary's designee of the death of a recipient
32 of medical assistance under this subsection, the secretary for children and
33 families or the secretary's designee shall give notice of such recipient's
34 death to the secretary of health and environment or the secretary's
35 designee.

36 (h) *Placement under the revised Kansas code for care of children or*
37 *revised Kansas juvenile justice code; assignment of support rights and*
38 *limited power of attorney.* In any case in which the secretary of social and
39 ~~rehabilitation services for children and families~~ pays for the expenses of
40 care and custody of a child pursuant to K.S.A. 2012 Supp. 38-2201 et seq.
41 or 38-2301 et seq., and amendments thereto, including the expenses of any
42 foster care placement, an assignment of all past, present and future support
43 rights of the child in custody possessed by either parent or other person

1 entitled to receive support payments for the child is, by operation of law,
2 conveyed to the secretary. Such assignment shall become effective upon
3 placement of a child in the custody of the secretary or upon payment of the
4 expenses of care and custody of a child by the secretary without the
5 requirement that any document be signed by the parent or other person
6 entitled to receive support payments for the child. When the secretary pays
7 for the expenses of care and custody of a child or a child is placed in the
8 custody of the secretary, the parent or other person entitled to receive
9 support payments for the child is also deemed to have appointed the
10 secretary, or the secretary's designee, as attorney in fact to perform the
11 specific act of negotiating and endorsing all drafts, checks, money orders
12 or other negotiable instruments representing support payments received by
13 the secretary on behalf of the child. This limited power of attorney shall be
14 effective from the date the assignment to support rights becomes effective
15 and shall remain in effect until the assignment of support rights has been
16 terminated in full.

17 (i) No person who voluntarily quits employment or who is fired from
18 employment due to gross misconduct as defined by rules and regulations
19 of the secretary or who is a fugitive from justice by reason of a felony
20 conviction or charge shall be eligible to receive public assistance benefits
21 in this state. Any recipient of public assistance who fails to timely comply
22 with monthly reporting requirements under criteria and guidelines
23 prescribed by rules and regulations of the secretary shall be subject to a
24 penalty established by the secretary by rules and regulations.

25 (j) If the applicant or recipient of aid to families with dependent
26 children is a mother of the dependent child, as a condition of the mother's
27 eligibility for aid to families with dependent children the mother shall
28 identify by name and, if known, by current address the father of the
29 dependent child except that the secretary may adopt by rules and
30 regulations exceptions to this requirement in cases of undue hardship. Any
31 recipient of aid to families with dependent children who fails to cooperate
32 with requirements relating to child support enforcement under criteria and
33 guidelines prescribed by rules and regulations of the secretary shall be
34 subject to a penalty established by the secretary by rules and regulations
35 which penalty shall progress to ineligibility for the family after three
36 months of noncooperation.

37 (k) By applying for or receiving child care benefits or food stamps,
38 the applicant or recipient shall be deemed to have assigned, pursuant to
39 K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the
40 state only accrued, present or future rights to support from any other
41 person such applicant may have in such person's own behalf or in behalf of
42 any other family member for whom the applicant is applying for or
43 receiving aid. The assignment of support rights shall automatically become

1 effective upon the date of approval for or receipt of such aid without the
2 requirement that any document be signed by the applicant or recipient. By
3 applying for or receiving child care benefits or food stamps, the applicant
4 or recipient is also deemed to have appointed the secretary, or the
5 secretary's designee, as an attorney in fact to perform the specific act of
6 negotiating and endorsing all drafts, checks, money orders or other
7 negotiable instruments representing support payments received by the
8 secretary in behalf of any person applying for, receiving or having
9 received such assistance. This limited power of attorney shall be effective
10 from the date the secretary approves the application for aid and shall
11 remain in effect until the assignment of support rights has been terminated
12 in full. An applicant or recipient who has assigned support rights to the
13 secretary pursuant to this subsection shall cooperate in establishing and
14 enforcing support obligations to the same extent required of applicants for
15 or recipients of aid to families with dependent children.

16 (1) (1) A program of drug screening for applicants for cash assistance
17 as a condition of eligibility for cash assistance and persons receiving cash
18 assistance as a condition of continued receipt of cash assistance shall be
19 established, subject to applicable federal law, by the secretary for children
20 and families on or before January 1, 2014. Under such program of drug
21 screening, the secretary for children and families shall order a drug
22 screening of an applicant for or a recipient of cash assistance at any time
23 when reasonable suspicion exists that such applicant for or recipient of
24 cash assistance is unlawfully using a controlled substance or controlled
25 substance analog. The secretary for children and families may use any
26 information obtained by the secretary for children and families to
27 determine whether such reasonable suspicion exists, including, but not
28 limited to, an applicant's or recipient's demeanor, missed appointments and
29 arrest or other police records, previous employment or application for
30 employment in an occupation or industry that regularly conducts drug
31 screening, termination from previous employment due to unlawful use of a
32 controlled substance or controlled substance analog or prior drug screening
33 records of the applicant or recipient indicating unlawful use of a controlled
34 substance or controlled substance analog.

35 (2) Any applicant for or recipient of cash assistance whose drug
36 screening results in a positive test may request that the drug screening
37 specimen be sent to a different drug testing facility for an additional drug
38 screening. Any applicant for or recipient of cash assistance who requests
39 an additional drug screening at a different drug testing facility shall be
40 required to pay the cost of drug screening. Such applicant or recipient who
41 took the additional drug screening and who tested negative for unlawful
42 use of a controlled substance and controlled substance analog shall be
43 reimbursed for the cost of such additional drug screening.

1 (3) Any applicant for or recipient of cash assistance who tests
2 positive for unlawful use of a controlled substance or controlled substance
3 analog shall be required to complete a substance abuse treatment program
4 approved by the secretary for children and families, secretary of labor or
5 secretary of commerce, and a job skills program approved by the secretary
6 for children and families, secretary of labor or secretary of commerce.
7 Subject to applicable federal laws, any applicant for or recipient of cash
8 assistance who fails to complete or refuses to participate in the substance
9 abuse treatment program or job skills program as required under this
10 subsection shall be ineligible to receive cash assistance until completion of
11 such substance abuse treatment and job skills programs. Upon completion
12 of both substance abuse treatment and job skills programs, such applicant
13 for or recipient of cash assistance may be subject to periodic drug
14 screening, as determined by the secretary for children and families. Upon a
15 second positive test for unlawful use of a controlled substance or
16 controlled substance analog, a recipient of cash assistance shall be ordered
17 to complete again a substance abuse treatment program and job skills
18 program, and shall be terminated from cash assistance for a period of 12
19 months, or until such recipient of cash assistance completes both substance
20 abuse treatment and job skills programs, whichever is later. Upon a third
21 positive test for unlawful use of a controlled substance or controlled
22 substance analog, a recipient of cash assistance shall be terminated from
23 cash assistance, subject to applicable federal law.

24 (4) If an applicant for or recipient of cash assistance is ineligible for
25 or terminated from cash assistance as a result of a positive test for
26 unlawful use of a controlled substance or controlled substance analog, and
27 such applicant for or recipient of cash assistance is the parent or legal
28 guardian of a minor child, an appropriate protective payee shall be
29 designated to receive cash assistance on behalf of such child. Such parent
30 or legal guardian of the minor child may choose to designate an individual
31 to receive cash assistance for such parent's or legal guardian's minor child,
32 as approved by the secretary for children and families. Prior to the
33 designated individual receiving any cash assistance, the secretary for
34 children and families shall review whether reasonable suspicion exists that
35 such designated individual is unlawfully using a controlled substance or
36 controlled substance analog.

37 (A) In addition, any individual designated to receive cash assistance
38 on behalf of an eligible minor child shall be subject to drug screening at
39 any time when reasonable suspicion exists that such designated individual
40 is unlawfully using a controlled substance or controlled substance analog.
41 The secretary for children and families may use any information obtained
42 by the secretary for children and families to determine whether such
43 reasonable suspicion exists, including, but not limited to, the designated

1 individual's demeanor, missed appointments and arrest or other police
2 records, previous employment or application for employment in an
3 occupation or industry that regularly conducts drug screening, termination
4 from previous employment due to unlawful use of a controlled substance
5 or controlled substance analog or prior drug screening records of the
6 designated individual indicating unlawful use of a controlled substance or
7 controlled substance analog.

8 (B) Any designated individual whose drug screening results in a
9 positive test may request that the drug screening specimen be sent to a
10 different drug testing facility for an additional drug screening. Any
11 designated individual who requests an additional drug screening at a
12 different drug testing facility shall be required to pay the cost of drug
13 screening. Such designated individual who took the additional drug
14 screening and who tested negative for unlawful use of a controlled
15 substance and controlled substance analog shall be reimbursed for the cost
16 of such additional drug screening.

17 (C) Upon any positive test for unlawful use of a controlled substance
18 or controlled substance analog, the designated individual shall not receive
19 cash assistance on behalf of the parent's or legal guardian's minor child,
20 and another designated individual shall be selected by the secretary for
21 children and families to receive cash assistance on behalf of such parent's
22 or legal guardian's minor child.

23 (5) If a person has been convicted under federal or state law of any
24 offense which is classified as a felony by the law of the jurisdiction and
25 which has as an element of such offense the manufacture, cultivation,
26 distribution, possession or use of a controlled substance or controlled
27 substance analog, and the date of conviction is on or after July 1, 2013,
28 such person shall thereby become forever ineligible to receive any cash
29 assistance under this subsection unless such conviction is the person's first
30 conviction. First-time offenders convicted under federal or state law of any
31 offense which is classified as a felony by the law of the jurisdiction and
32 which has as an element of such offense the manufacture, cultivation,
33 distribution, possession or use of a controlled substance or controlled
34 substance analog, and the date of conviction is on or after July 1, 2013,
35 such person shall become ineligible to receive cash assistance for five
36 years from the date of conviction.

37 (6) Except for hearings before the Kansas department for children
38 and families or, the results of any drug screening administered as part of
39 the drug screening program authorized by this subsection shall be
40 confidential and shall not be disclosed publicly.

41 (7) The secretary for children and families may adopt such rules and
42 regulations as are necessary to carry out the provisions of this subsection.

43 (8) Any authority granted to the secretary for children and families

1 under this subsection shall be in addition to any other penalties prescribed
2 by law.

3 (9) As used in this subsection:

4 (A) "Cash assistance" means cash assistance provided to individuals
5 under the provisions of article 7 of chapter 39 of the Kansas Statutes
6 Annotated, and amendments thereto, and any rules and regulations adopted
7 pursuant to such statutes.

8 (B) "Controlled substance" means the same as in K.S.A. 2012 Supp.
9 21-5701, and amendments thereto, and 21 U.S.C. § 802.

10 (C) "Controlled substance analog" means the same as in K.S.A. 2012
11 Supp. 21-5701, and amendments thereto.

12 Sec. 16. K.S.A. 2012 Supp. 44-706, as amended by section 5 of 2013
13 Substitute for House Bill No. 2105, is hereby amended to read as follows:
14 44-706. An individual shall be disqualified for benefits:

15 (a) If the individual left work voluntarily without good cause
16 attributable to the work or the employer, subject to the other provisions of
17 this subsection. For purposes of this subsection, "good cause" is cause of
18 such gravity that would impel a reasonable, not supersensitive, individual
19 exercising ordinary common sense to leave employment. Good cause
20 requires a showing of good faith of the individual leaving work, including
21 the presence of a genuine desire to work. Failure to return to work after
22 expiration of approved personal or medical leave, or both, shall be
23 considered a voluntary resignation. After a temporary job assignment,
24 failure of an individual to affirmatively request an additional assignment
25 on the next succeeding workday, if required by the employment
26 agreement, after completion of a given work assignment, shall constitute
27 leaving work voluntarily. The disqualification shall begin the day
28 following the separation and shall continue until after the individual has
29 become reemployed and has had earnings from insured work of at least
30 three times the individual's weekly benefit amount. An individual shall not
31 be disqualified under this subsection if:

32 (1) The individual was forced to leave work because of illness or
33 injury upon the advice of a licensed and practicing health care provider
34 and, upon learning of the necessity for absence, immediately notified the
35 employer thereof, or the employer consented to the absence, and after
36 recovery from the illness or injury, when recovery was certified by a
37 practicing health care provider, the individual returned to the employer and
38 offered to perform services and the individual's regular work or
39 comparable and suitable work was not available. As used in this paragraph
40 "health care provider" means any person licensed by the proper licensing
41 authority of any state to engage in the practice of medicine and surgery,
42 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

43 (2) the individual left temporary work to return to the regular

1 employer;

2 (3) the individual left work to enlist in the armed forces of the United
3 States, but was rejected or delayed from entry;

4 (4) the spouse of an individual who is a member of the armed forces
5 of the United States who left work because of the voluntary or involuntary
6 transfer of the individual's spouse from one job to another job, which is for
7 the same employer or for a different employer, at a geographic location
8 which makes it unreasonable for the individual to continue work at the
9 individual's job. For the purposes of this provision the term "armed forces"
10 means active duty in the army, navy, marine corps, air force, coast guard or
11 any branch of the military reserves of the United States;

12 (5) the individual left work because of hazardous working conditions;
13 in determining whether or not working conditions are hazardous for an
14 individual, the degree of risk involved to the individual's health, safety and
15 morals, the individual's physical fitness and prior training and the working
16 conditions of workers engaged in the same or similar work for the same
17 and other employers in the locality shall be considered; as used in this
18 paragraph, "hazardous working conditions" means working conditions that
19 could result in a danger to the physical or mental well-being of the
20 individual; each determination as to whether hazardous working
21 conditions exist shall include, but shall not be limited to, a consideration
22 of: (A) The safety measures used or the lack thereof; and (B) the condition
23 of equipment or lack of proper equipment; no work shall be considered
24 hazardous if the working conditions surrounding the individual's work are
25 the same or substantially the same as the working conditions generally
26 prevailing among individuals performing the same or similar work for
27 other employers engaged in the same or similar type of activity;

28 (6) the individual left work to enter training approved under section
29 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
30 substantially equal or higher skill level than the individual's past adversely
31 affected employment (as defined for purposes of the federal trade act of
32 1974), and wages for such work are not less than 80% of the individual's
33 average weekly wage as determined for the purposes of the federal trade
34 act of 1974;

35 (7) the individual left work because of unwelcome harassment of the
36 individual by the employer or another employee of which the employing
37 unit had knowledge and that would impel the average worker to give up
38 such worker's employment;

39 (8) the individual left work to accept better work; each determination
40 as to whether or not the work accepted is better work shall include, but
41 shall not be limited to, consideration of: (A) The rate of pay, the hours of
42 work and the probable permanency of the work left as compared to the
43 work accepted; (B) the cost to the individual of getting to the work left in

1 comparison to the cost of getting to the work accepted; and (C) the
2 distance from the individual's place of residence to the work accepted in
3 comparison to the distance from the individual's residence to the work left;

4 (9) the individual left work as a result of being instructed or requested
5 by the employer, a supervisor or a fellow employee to perform a service or
6 commit an act in the scope of official job duties which is in violation of an
7 ordinance or statute;

8 (10) the individual left work because of a substantial violation of the
9 work agreement by the employing unit and, before the individual left, the
10 individual had exhausted all remedies provided in such agreement for the
11 settlement of disputes before terminating. For the purposes of this
12 paragraph, a demotion based on performance does not constitute a
13 violation of the work agreement;

14 (11) after making reasonable efforts to preserve the work, the
15 individual left work due to a personal emergency of such nature and
16 compelling urgency that it would be contrary to good conscience to
17 impose a disqualification; or

18 (12) (A) the individual left work due to circumstances resulting from
19 domestic violence, including:

20 (i) The individual's reasonable fear of future domestic violence at or
21 en route to or from the individual's place of employment;

22 (ii) the individual's need to relocate to another geographic area in
23 order to avoid future domestic violence;

24 (iii) the individual's need to address the physical, psychological and
25 legal impacts of domestic violence;

26 (iv) the individual's need to leave employment as a condition of
27 receiving services or shelter from an agency which provides support
28 services or shelter to victims of domestic violence; or

29 (v) the individual's reasonable belief that termination of employment
30 is necessary to avoid other situations which may cause domestic violence
31 and to provide for the future safety of the individual or the individual's
32 family.

33 (B) An individual may prove the existence of domestic violence by
34 providing one of the following:

35 (i) A restraining order or other documentation of equitable relief by a
36 court of competent jurisdiction;

37 (ii) a police record documenting the abuse;

38 (iii) documentation that the abuser has been convicted of one or more
39 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
40 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
41 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2012 Supp. 21-
42 6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments
43 thereto, where the victim was a family or household member;

1 (iv) medical documentation of the abuse;

2 (v) a statement provided by a counselor, social worker, health care
3 provider, clergy, shelter worker, legal advocate, domestic violence or
4 sexual assault advocate or other professional who has assisted the
5 individual in dealing with the effects of abuse on the individual or the
6 individual's family; or

7 (vi) a sworn statement from the individual attesting to the abuse.

8 (C) No evidence of domestic violence experienced by an individual,
9 including the individual's statement and corroborating evidence, shall be
10 disclosed by the department of labor unless consent for disclosure is given
11 by the individual.

12 (b) If the individual has been discharged or suspended for misconduct
13 connected with the individual's work. The disqualification shall begin the
14 day following the separation and shall continue until after the individual
15 becomes reemployed and in cases where the disqualification is due to
16 discharge for misconduct has had earnings from insured work of at least
17 three times the individual's determined weekly benefit amount, except that
18 if an individual is discharged for gross misconduct connected with the
19 individual's work, such individual shall be disqualified for benefits until
20 such individual again becomes employed and has had earnings from
21 insured work of at least eight times such individual's determined weekly
22 benefit amount. In addition, all wage credits attributable to the
23 employment from which the individual was discharged for gross
24 misconduct connected with the individual's work shall be canceled. No
25 such cancellation of wage credits shall affect prior payments made as a
26 result of a prior separation.

27 (1) For the purposes of this subsection, "misconduct" is defined as a
28 violation of a duty or obligation reasonably owed the employer as a
29 condition of employment including, but not limited to, a violation of a
30 company rule, including a safety rule, if: (A) The individual knew or
31 should have known about the rule; (B) the rule was lawful and reasonably
32 related to the job; and (C) the rule was fairly and consistently enforced.

33 (2) (A) Failure of the employee to notify the employer of an absence
34 and an individual's leaving work prior to the end of such individual's
35 assigned work period without permission shall be considered prima facie
36 evidence of a violation of a duty or obligation reasonably owed the
37 employer as a condition of employment.

38 (B) For the purposes of this subsection, misconduct shall include, but
39 not be limited to, violation of the employer's reasonable attendance
40 expectations if the facts show:

41 (i) The individual was absent or tardy without good cause;

42 (ii) the individual had knowledge of the employer's attendance
43 expectation; and

1 (iii) the employer gave notice to the individual that future absence or
2 tardiness may or will result in discharge.

3 (C) For the purposes of this subsection, if an employee disputes being
4 absent or tardy without good cause, the employee shall present evidence
5 that a majority of the employee's absences or tardiness were for good
6 cause. If the employee alleges that the employee's repeated absences or
7 tardiness were the result of health related issues, such evidence shall
8 include documentation from a licensed and practicing health care provider
9 as defined in subsection (a)(1).

10 (3) (A) The term "gross misconduct" as used in this subsection shall
11 be construed to mean conduct evincing extreme, willful or wanton
12 misconduct as defined by this subsection. Gross misconduct shall include,
13 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
14 property; (iv) intentional infliction of personal injury; or (v) any conduct
15 that constitutes a felony.

16 (B) For the purposes of this subsection, the following shall be
17 conclusive evidence of gross misconduct:

18 (i) The use of alcoholic liquor, cereal malt beverage or a
19 nonprescribed controlled substance by an individual while working;

20 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
21 or a nonprescribed controlled substance by an individual while working;

22 (iii) a positive breath alcohol test or a positive chemical test,
23 provided:

24 (a) The test was either:

25 (1) Required by law and was administered pursuant to the drug free
26 workplace act, 41 U.S.C. § 701 et seq.;

27 (2) administered as part of an employee assistance program or other
28 drug or alcohol treatment program in which the employee was
29 participating voluntarily or as a condition of further employment;

30 (3) requested pursuant to a written policy of the employer of which
31 the employee had knowledge and was a required condition of
32 employment;

33 (4) required by law and the test constituted a required condition of
34 employment for the individual's job; or

35 (5) there was reasonable suspicion to believe that the individual used,
36 had possession of, or was impaired by alcoholic liquor, cereal malt
37 beverage or a nonprescribed controlled substance while working;

38 (b) the test sample was collected either:

39 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
40 seq.;

41 (2) as prescribed by an employee assistance program or other drug or
42 alcohol treatment program in which the employee was participating
43 voluntarily or as a condition of further employment;

1 (3) as prescribed by the written policy of the employer of which the
2 employee had knowledge and which constituted a required condition of
3 employment;

4 (4) as prescribed by a test which was required by law and which
5 constituted a required condition of employment for the individual's job; or

6 (5) at a time contemporaneous with the events establishing probable
7 cause;

8 (c) the collecting and labeling of a chemical test sample was
9 performed by a licensed health care professional or any other individual
10 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
11 label test samples by federal or state law, or a federal or state rule or
12 regulation having the force or effect of law, including law enforcement
13 personnel;

14 (d) the chemical test was performed by a laboratory approved by the
15 United States department of health and human services or licensed by the
16 department of health and environment, except that a blood sample may be
17 tested for alcohol content by a laboratory commonly used for that purpose
18 by state law enforcement agencies;

19 (e) the chemical test was confirmed by gas chromatography, gas
20 chromatography-mass spectroscopy or other comparably reliable
21 analytical method, except that no such confirmation is required for a blood
22 alcohol sample or a breath alcohol test;

23 (f) the breath alcohol test was administered by an individual trained
24 to perform breath tests, the breath testing instrument used was certified
25 and operated strictly according to a description provided by the
26 manufacturers and the reliability of the instrument performance was
27 assured by testing with alcohol standards; and

28 (g) the foundation evidence establishes, beyond a reasonable doubt,
29 that the test results were from the sample taken from the individual;

30 (iv) an individual's refusal to submit to a chemical test or breath
31 alcohol test, provided:

32 (a) The test meets the standards of the drug free workplace act, 41
33 U.S.C. § 701 et seq.;

34 (b) the test was administered as part of an employee assistance
35 program or other drug or alcohol treatment program in which the
36 employee was participating voluntarily or as a condition of further
37 employment;

38 (c) the test was otherwise required by law and the test constituted a
39 required condition of employment for the individual's job;

40 (d) the test was requested pursuant to a written policy of the employer
41 of which the employee had knowledge and was a required condition of
42 employment; or

43 (e) there was reasonable suspicion to believe that the individual used,

1 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
2 nonprescribed controlled substance while working;

3 (v) an individual's dilution or other tampering of a chemical test.

4 ~~(B)~~ (C) For purposes of this subsection:

5 (i) "Alcohol concentration" means the number of grams of alcohol
6 per 210 liters of breath;

7 (ii) "alcoholic liquor" shall be defined as provided in K.S.A. 41-102,
8 and amendments thereto;

9 (iii) "cereal malt beverage" shall be defined as provided in K.S.A. 41-
10 2701, and amendments thereto;

11 (iv) "chemical test" shall include, but is not limited to, tests of urine,
12 blood or saliva;

13 (v) "controlled substance" shall be defined as provided in K.S.A.
14 2012 Supp. 21-5701, and amendments thereto;

15 (vi) "required by law" means required by a federal or state law, a
16 federal or state rule or regulation having the force and effect of law, a
17 county resolution or municipal ordinance, or a policy relating to public
18 safety adopted in an open meeting by the governing body of any special
19 district or other local governmental entity;

20 (vii) "positive breath test" shall mean a test result showing an alcohol
21 concentration of
22 .04 or greater, or the levels listed in 49 C.F.R. Part 40, if applicable, unless
23 the test was administered as part of an employee assistance program or
24 other drug or alcohol treatment program in which the employee was
25 participating voluntarily or as a condition of further employment, in which
26 case "positive chemical test" shall mean a test result showing an alcohol
27 concentration at or above the levels provided for in the assistance or
28 treatment program;

29 (viii) "positive chemical test" shall mean a chemical result showing a
30 concentration at or above the levels listed in K.S.A. 44-501, and
31 amendments thereto, or 49 C.F.R. Part 40, as applicable, for the drugs or
32 abuse listed therein, unless the test was administered as part of an
33 employee assistance program or other drug or alcohol treatment program
34 in which the employee was participating voluntarily or as a condition of
35 further employment, in which case "positive chemical test" shall mean a
36 chemical result showing a concentration at or above the levels provided for
37 in the assistance or treatment program.

38 (4) An individual shall not be disqualified under this subsection if the
39 individual is discharged under the following circumstances:

40 (A) The employer discharged the individual after learning the
41 individual was seeking other work or when the individual gave notice of
42 future intent to quit, except that the individual shall be disqualified after
43 the time at which such individual intended to quit and any individual who

1 commits misconduct after such individual gives notice to such individual's
2 intent to quit shall be disqualified;

3 (B) the individual was making a good-faith effort to do the assigned
4 work but was discharged due to: (i) Inefficiency; (ii) unsatisfactory
5 performance due to inability, incapacity or lack of training or experience;
6 (iii) isolated instances of ordinary negligence or inadvertence; (iv) good-
7 faith errors in judgment or discretion; or (v) unsatisfactory work or
8 conduct due to circumstances beyond the individual's control; or

9 (C) the individual's refusal to perform work in excess of the contract
10 of hire.

11 (c) If the individual has failed, without good cause, to either apply for
12 suitable work when so directed by the employment office of the secretary
13 of labor, or to accept suitable work when offered to the individual by the
14 employment office, the secretary of labor, or an employer, such
15 disqualification shall begin with the week in which such failure occurred
16 and shall continue until the individual becomes reemployed and has had
17 earnings from insured work of at least three times such individual's
18 determined weekly benefit amount. In determining whether or not any
19 work is suitable for an individual, the secretary of labor, or a person or
20 persons designated by the secretary, shall consider the degree of risk
21 involved to health, safety and morals, physical fitness and prior training,
22 experience and prior earnings, length of unemployment and prospects for
23 securing local work in the individual's customary occupation or work for
24 which the individual is reasonably fitted by training or experience, and the
25 distance of the available work from the individual's residence.
26 Notwithstanding any other provisions of this act, an otherwise eligible
27 individual shall not be disqualified for refusing an offer of suitable
28 employment, or failing to apply for suitable employment when notified by
29 an employment office, or for leaving the individual's most recent work
30 accepted during approved training, including training approved under
31 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
32 for suitable employment or continuing such work would require the
33 individual to terminate approved training and no work shall be deemed
34 suitable and benefits shall not be denied under this act to any otherwise
35 eligible individual for refusing to accept new work under any of the
36 following conditions: (1) If the position offered is vacant due directly to a
37 strike, lockout or other labor dispute; (2) if the remuneration, hours or
38 other conditions of the work offered are substantially less favorable to the
39 individual than those prevailing for similar work in the locality; (3) if as a
40 condition of being employed, the individual would be required to join or to
41 resign from or refrain from joining any labor organization; and (4) if the
42 individual left employment as a result of domestic violence, and the
43 position offered does not reasonably accommodate the individual's

1 physical, psychological, safety, or legal needs relating to such domestic
2 violence.

3 (d) For any week with respect to which the secretary of labor, or a
4 person or persons designated by the secretary, finds that the individual's
5 unemployment is due to a stoppage of work which exists because of a
6 labor dispute or there would have been a work stoppage had normal
7 operations not been maintained with other personnel previously and
8 currently employed by the same employer at the factory, establishment or
9 other premises at which the individual is or was last employed, except that
10 this subsection (d) shall not apply if it is shown to the satisfaction of the
11 secretary of labor, or a person or persons designated by the secretary, that:
12 (1) The individual is not participating in or financing or directly interested
13 in the labor dispute which caused the stoppage of work; and (2) the
14 individual does not belong to a grade or class of workers of which,
15 immediately before the commencement of the stoppage, there were
16 members employed at the premises at which the stoppage occurs any of
17 whom are participating in or financing or directly interested in the dispute.
18 If in any case separate branches of work which are commonly conducted
19 as separate businesses in separate premises are conducted in separate
20 departments of the same premises, each such department shall, for the
21 purpose of this subsection be deemed to be a separate factory,
22 establishment or other premises. For the purposes of this subsection,
23 failure or refusal to cross a picket line or refusal for any reason during the
24 continuance of such labor dispute to accept the individual's available and
25 customary work at the factory, establishment or other premises where the
26 individual is or was last employed shall be considered as participation and
27 interest in the labor dispute.

28 (e) For any week with respect to which or a part of which the
29 individual has received or is seeking unemployment benefits under the
30 unemployment compensation law of any other state or of the United
31 States, except that if the appropriate agency of such other state or the
32 United States finally determines that the individual is not entitled to such
33 unemployment benefits, this disqualification shall not apply.

34 (f) For any week with respect to which the individual is entitled to
35 receive any unemployment allowance or compensation granted by the
36 United States under an act of congress to ex-service men and women in
37 recognition of former service with the military or naval services of the
38 United States.

39 (g) For the period of five years beginning with the first day following
40 the last week of unemployment for which the individual received benefits,
41 or for five years from the date the act was committed, whichever is the
42 later, if the individual, or another in such individual's behalf with the
43 knowledge of the individual, has knowingly made a false statement or

1 representation, or has knowingly failed to disclose a material fact to obtain
2 or increase benefits under this act or any other unemployment
3 compensation law administered by the secretary of labor. In addition to the
4 penalties set forth in K.S.A. 44-719, and amendments thereto, an
5 individual who has knowingly made a false statement or representation or
6 who has knowingly failed to disclose a material fact to obtain or increase
7 benefits under this act or any other unemployment compensation law
8 administered by the secretary of labor shall be liable for a penalty in the
9 amount equal to 25% of the amount of benefits unlawfully received.

10 (h) For any week with respect to which the individual is receiving
11 compensation for temporary total disability or permanent total disability
12 under the workmen's compensation law of any state or under a similar law
13 of the United States.

14 (i) For any week of unemployment on the basis of service in an
15 instructional, research or principal administrative capacity for an
16 educational institution as defined in subsection (v) of K.S.A. 44-703, and
17 amendments thereto, if such week begins during the period between two
18 successive academic years or terms or, when an agreement provides
19 instead for a similar period between two regular but not successive terms
20 during such period or during a period of paid sabbatical leave provided for
21 in the individual's contract, if the individual performs such services in
22 the first of such academic years or terms and there is a contract or a reasonable
23 assurance that such individual will perform services in any such capacity
24 for any educational institution in the second of such academic years or
25 terms.

26 (j) For any week of unemployment on the basis of service in any
27 capacity other than service in an instructional, research, or administrative
28 capacity in an educational institution, as defined in subsection (v) of
29 K.S.A. 44-703, and amendments thereto, if such week begins during the
30 period between two successive academic years or terms if the individual
31 performs such services in the first of such academic years or terms and
32 there is a reasonable assurance that the individual will perform such
33 services in the second of such academic years or terms, except that if
34 benefits are denied to the individual under this subsection and the
35 individual was not offered an opportunity to perform such services for the
36 educational institution for the second of such academic years or terms,
37 such individual shall be entitled to a retroactive payment of benefits for
38 each week for which the individual filed a timely claim for benefits and for
39 which benefits were denied solely by reason of this subsection.

40 (k) For any week of unemployment on the basis of service in any
41 capacity for an educational institution as defined in subsection (v) of
42 K.S.A. 44-703, and amendments thereto, if such week begins during an
43 established and customary vacation period or holiday recess, if the

1 individual performs services in the period immediately before such
2 vacation period or holiday recess and there is a reasonable assurance that
3 such individual will perform such services in the period immediately
4 following such vacation period or holiday recess.

5 (l) For any week of unemployment on the basis of any services,
6 substantially all of which consist of participating in sports or athletic
7 events or training or preparing to so participate, if such week begins during
8 the period between two successive sport seasons or similar period if such
9 individual performed services in the first of such seasons or similar periods
10 and there is a reasonable assurance that such individual will perform such
11 services in the later of such seasons or similar periods.

12 (m) For any week on the basis of services performed by an alien
13 unless such alien is an individual who was lawfully admitted for
14 permanent residence at the time such services were performed, was
15 lawfully present for purposes of performing such services, or was
16 permanently residing in the United States under color of law at the time
17 such services were performed, including an alien who was lawfully present
18 in the United States as a result of the application of the provisions of
19 section 212(d)(5) of the federal immigration and nationality act. Any data
20 or information required of individuals applying for benefits to determine
21 whether benefits are not payable to them because of their alien status shall
22 be uniformly required from all applicants for benefits. In the case of an
23 individual whose application for benefits would otherwise be approved, no
24 determination that benefits to such individual are not payable because of
25 such individual's alien status shall be made except upon a preponderance
26 of the evidence.

27 (n) For any week in which an individual is receiving a governmental
28 or other pension, retirement or retired pay, annuity or other similar
29 periodic payment under a plan maintained by a base period employer and
30 to which the entire contributions were provided by such employer, except
31 that: (1) If the entire contributions to such plan were provided by the base
32 period employer but such individual's weekly benefit amount exceeds such
33 governmental or other pension, retirement or retired pay, annuity or other
34 similar periodic payment attributable to such week, the weekly benefit
35 amount payable to the individual shall be reduced, but not below zero, by
36 an amount equal to the amount of such pension, retirement or retired pay,
37 annuity or other similar periodic payment which is attributable to such
38 week; or (2) if only a portion of contributions to such plan were provided
39 by the base period employer, the weekly benefit amount payable to such
40 individual for such week shall be reduced, but not below zero, by the
41 prorated weekly amount of the pension, retirement or retired pay, annuity
42 or other similar periodic payment after deduction of that portion of the
43 pension, retirement or retired pay, annuity or other similar periodic

1 payment that is directly attributable to the percentage of the contributions
2 made to the plan by such individual; or (3) if the entire contributions to the
3 plan were provided by such individual, or by the individual and an
4 employer, or any person or organization, who is not a base period
5 employer, no reduction in the weekly benefit amount payable to the
6 individual for such week shall be made under this subsection; or (4)
7 whatever portion of contributions to such plan were provided by the base
8 period employer, if the services performed for the employer by such
9 individual during the base period, or remuneration received for the
10 services, did not affect the individual's eligibility for, or increased the
11 amount of, such pension, retirement or retired pay, annuity or other similar
12 periodic payment, no reduction in the weekly benefit amount payable to
13 the individual for such week shall be made under this subsection. No
14 reduction shall be made for payments made under the social security act or
15 railroad retirement act of 1974.

16 (o) For any week of unemployment on the basis of services
17 performed in any capacity and under any of the circumstances described in
18 subsection (i), (j) or (k) which an individual performed in an educational
19 institution while in the employ of an educational service agency. For the
20 purposes of this subsection, the term "educational service agency" means a
21 governmental agency or entity which is established and operated
22 exclusively for the purpose of providing such services to one or more
23 educational institutions.

24 (p) For any week of unemployment on the basis of service as a school
25 bus or other motor vehicle driver employed by a private contractor to
26 transport pupils, students and school personnel to or from school-related
27 functions or activities for an educational institution, as defined in
28 subsection (v) of K.S.A. 44-703, and amendments thereto, if such week
29 begins during the period between two successive academic years or during
30 a similar period between two regular terms, whether or not successive, if
31 the individual has a contract or contracts, or a reasonable assurance
32 thereof, to perform services in any such capacity with a private contractor
33 for any educational institution for both such academic years or both such
34 terms. An individual shall not be disqualified for benefits as provided in
35 this subsection for any week of unemployment on the basis of service as a
36 bus or other motor vehicle driver employed by a private contractor to
37 transport persons to or from nonschool-related functions or activities.

38 (q) For any week of unemployment on the basis of services
39 performed by the individual in any capacity and under any of the
40 circumstances described in subsection (i), (j), (k) or (o) which are provided
41 to or on behalf of an educational institution, as defined in subsection (v) of
42 K.S.A. 44-703, and amendments thereto, while the individual is in the
43 employ of an employer which is a governmental entity, Indian tribe or any

1 employer described in section 501(c)(3) of the federal internal revenue
2 code of 1986 which is exempt from income under section 501(a) of the
3 code.

4 (r) For any week in which an individual is registered at and attending
5 an established school, training facility or other educational institution, or is
6 on vacation during or between two successive academic years or terms. An
7 individual shall not be disqualified for benefits as provided in this
8 subsection provided:

9 (1) The individual was engaged in full-time employment concurrent
10 with the individual's school attendance;

11 (2) the individual is attending approved training as defined in
12 subsection (s) of K.S.A. 44-703, and amendments thereto; or

13 (3) the individual is attending evening, weekend or limited day time
14 classes, which would not affect availability for work, and is otherwise
15 eligible under subsection (c) of K.S.A. 44-705, and amendments thereto.

16 (s) For any week with respect to which an individual is receiving or
17 has received remuneration in the form of a back pay award or settlement.
18 The remuneration shall be allocated to the week or weeks in the manner as
19 specified in the award or agreement, or in the absence of such specificity
20 in the award or agreement, such remuneration shall be allocated to the
21 week or weeks in which such remuneration, in the judgment of the
22 secretary, would have been paid.

23 (1) For any such weeks that an individual receives remuneration in
24 the form of a back pay award or settlement, an overpayment will be
25 established in the amount of unemployment benefits paid and shall be
26 collected from the claimant.

27 (2) If an employer chooses to withhold from a back pay award or
28 settlement, amounts paid to a claimant while they claimed unemployment
29 benefits, such employer shall pay the department the amount withheld.
30 With respect to such amount, the secretary shall have available all of the
31 collection remedies authorized or provided in K.S.A. 44-717, and
32 amendments thereto.

33 ~~(t) If the individual has been discharged for failing a preemployment
34 drug screen required by the employer and if such discharge occurs not later
35 than seven days after the employer is notified of the results of such drug
36 screen. The disqualification shall begin the day following the separation
37 and shall continue until after the individual becomes reemployed and has
38 had earnings from insured work of at least three times the individual's
39 determined weekly benefit amount.~~

40 (1) Any applicant for or recipient of unemployment benefits who
41 tests positive for unlawful use of a controlled substance or controlled
42 substance analog shall be required to complete a substance abuse treatment
43 program approved by the secretary of labor, secretary of commerce or

1 secretary for children and families, and a job skills program approved by
2 the secretary of labor, secretary of commerce or the secretary for children
3 and families. Subject to applicable federal laws, any applicant for or
4 recipient of unemployment benefits who fails to complete or refuses to
5 participate in the substance abuse treatment program or job skills program
6 as required under this subsection shall be ineligible to receive
7 unemployment benefits until completion of such substance abuse
8 treatment and job skills programs. Upon completion of both substance
9 abuse treatment and job skills programs, such applicant for or recipient of
10 unemployment benefits may be subject to periodic drug screening, as
11 determined by the secretary of labor. Upon a second positive test for
12 unlawful use of a controlled substance or controlled substance analog, an
13 applicant for or recipient of unemployment benefits shall be ordered to
14 complete again a substance abuse treatment program and job skills
15 program, and shall be terminated from unemployment benefits for a period
16 of 12 months, or until such applicant for or recipient of unemployment
17 benefits completes both substance abuse treatment and job skills programs,
18 whichever is later. Upon a third positive test for unlawful use of a
19 controlled substance or controlled substance analog, an applicant for or a
20 recipient of unemployment benefits shall be terminated from receiving
21 unemployment benefits, subject to applicable federal law.

22 (2) Any individual who has been discharged or refused employment
23 for failing a preemployment drug screen required by an employer may
24 request that the drug screening specimen be sent to a different drug testing
25 facility for an additional drug screening. Any such individual who requests
26 an additional drug screening at a different drug testing facility shall be
27 required to pay the cost of drug screening.

28 (u) If the individual was found not to have a disqualifying
29 adjudication or conviction under K.S.A. 39-970, and amendments thereto,
30 or K.S.A. 65-5117, and amendments thereto, was hired and then was
31 subsequently convicted of a disqualifying felony under K.S.A. 39-970, and
32 amendments thereto, or K.S.A. 65-5117, and amendments thereto, and
33 discharged pursuant to K.S.A. 39-970, and amendments thereto, or K.S.A.
34 65-5117, and amendments thereto. The disqualification shall begin the day
35 following the separation and shall continue until after the individual
36 becomes reemployed and has had earnings from insured work of at least
37 three times the individual's determined weekly benefit amount.

38 Sec. 17. K.S.A. 2012 Supp. 44-709, as amended by section 3 of 2013
39 Senate Bill No. 187, is hereby amended to read as follows: 44-709. (a)
40 *Filing*. Claims for benefits shall be made in accordance with rules and
41 regulations adopted by the secretary. The secretary shall furnish a copy of
42 such rules and regulations to any individual requesting them. Each
43 employer shall post and maintain printed statements furnished by the

1 secretary without cost to the employer in places readily accessible to
2 individuals in the service of the employer.

3 (b) *Determination.* (1) Except as otherwise provided in this
4 ~~subsection (b)(1) paragraph~~, a representative designated by the secretary,
5 and hereinafter referred to as an examiner, shall promptly examine the
6 claim and, on the basis of the facts found by the examiner, shall determine
7 whether or not the claim is valid. If the examiner determines that the claim
8 is valid, the examiner shall determine the first day of the benefit year, the
9 weekly benefit amount and the total amount of benefits payable with
10 respect to the benefit year. If the claim is determined to be valid, the
11 examiner shall send a notice to the last employing unit who shall respond
12 within 10 days by providing the examiner all requested information
13 including all information required for a decision under K.S.A. 44-706, and
14 amendments thereto. The information may be submitted by the employing
15 unit in person at an employment office of the secretary or by mail, by
16 telefacsimile machine or by electronic mail. If the required information is
17 not submitted or postmarked within a response time limit of 10 days after
18 the examiner's notice was sent, the employing unit shall be deemed to have
19 waived its standing as a party to the proceedings arising from the claim
20 and shall be barred from protesting any subsequent decisions about the
21 claim by the secretary, a referee, the employment security board of review
22 or any court, except that the employing unit's response time limit may be
23 waived or extended by the examiner or upon appeal, if timely response
24 was impossible due to excusable neglect. In any case in which the payment
25 or denial of benefits will be determined by the provisions of subsection (d)
26 of K.S.A. 44-706, and amendments thereto, the examiner shall promptly
27 transmit the claim to a special examiner designated by the secretary to
28 make a determination on the claim after the investigation as the special
29 examiner deems necessary. The parties shall be promptly notified of the
30 special examiner's decision and any party aggrieved by the decision may
31 appeal to the referee as provided in subsection (c). The claimant and the
32 claimant's most recent employing unit shall be promptly notified of the
33 examiner's or special examiner's decision.

34 (2) The examiner may for good cause reconsider the examiner's
35 decision and shall promptly notify the claimant and the most recent
36 employing unit of the claimant, that the decision of the examiner is to be
37 reconsidered, except that no reconsideration shall be made after the
38 termination of the benefit year.

39 (3) Notwithstanding the provisions of any other statute, a decision of
40 an examiner or special examiner shall be final unless the claimant or the
41 most recent employing unit of the claimant files an appeal from the
42 decision as provided in subsection (c), *except that the time limit for appeal*
43 *may be waived or extended by the referee or board of review if a timely*

1 *response was impossible due to excusable neglect.* The appeal must be
2 filed within 16 calendar days after the mailing of notice to the last known
3 addresses of the claimant and employing unit or, if notice is not by mail,
4 within 16 calendar days after the delivery of the notice to the parties.

5 (c) *Appeals.* Unless the appeal is withdrawn, a referee, after affording
6 the parties reasonable opportunity for fair hearing, shall affirm or modify
7 the findings of fact and decision of the examiner or special examiner. The
8 parties shall be duly notified of the referee's decision, together with the
9 reasons for the decision. The decision shall be final, notwithstanding the
10 provisions of any other statute, unless a further appeal to the employment
11 security board of review is filed within 16 calendar days after the mailing
12 of the decision to the parties' last known addresses or, if notice is not by
13 mail, within 16 calendar days after the delivery of the decision, *except that*
14 *the time limit for appeal may be waived or extended by the referee or*
15 *board of review if a timely response was impossible due to excusable*
16 *neglect.*

17 (d) *Referees.* The secretary shall appoint, in accordance with
18 subsection (c) of K.S.A. 44-714, and amendments thereto, one or more
19 referees to hear and decide disputed claims.

20 (e) *Time, computation and extension.* In computing the period of time
21 for an employing unit response or for appeals under this section from the
22 examiner's or the special examiner's determination or from the referee's
23 decision, the day of the act, event or default from which the designated
24 period of time begins to run shall not be included. The last day of the
25 period shall be included unless it is a Saturday, Sunday or legal holiday, in
26 which event the period runs until the end of the next day which is not a
27 Saturday, Sunday or legal holiday.

28 (f) *Board of review.* (1) There is hereby created an employment
29 security board of review, hereinafter referred to as the board, consisting of
30 three members. Each member of the board shall be appointed for a term of
31 four years as provided in this subsection. Not more than two members of
32 the board shall belong to the same political party.

33 (2) When a vacancy on the employment security board of review
34 occurs, the workers compensation and employment security boards
35 nominating committee established under K.S.A. 44-551, and amendments
36 thereto, shall convene and submit a nominee to the governor for
37 appointment to each vacancy on the employment security board of review,
38 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
39 amendments thereto. The governor shall either: (A) Accept and submit to
40 the senate for confirmation the person nominated by the nominating
41 committee; or (B) reject the nomination and request the nominating
42 committee to nominate another person for that position. Except as
43 provided by K.S.A. 46-2601, and amendments thereto, no person

1 appointed to the employment security board of review, whose appointment
2 is subject to confirmation by the senate, shall exercise any power, duty or
3 function as a member until confirmed by the senate.

4 (3) No member of the employment security board of review shall
5 serve more than two consecutive terms.

6 (4) Each member of the employment security board shall serve until a
7 successor has been appointed and confirmed. Any vacancy in the
8 membership of the board occurring prior to expiration of a term shall be
9 filled by appointment for the unexpired term in the same manner as
10 provided for original appointment of the member.

11 (5) Each member of the employment security board of review shall
12 be entitled to receive as compensation for the member's services at the rate
13 of \$15,000 per year, together with the member's travel and other necessary
14 expenses actually incurred in the performance of the member's official
15 duties in accordance with rules and regulations adopted by the secretary.
16 Members' compensation and expenses shall be paid from the employment
17 security administration fund.

18 (6) The employment security board of review shall organize annually
19 by the election of a chairperson from among its members. The chairperson
20 shall serve in that capacity for a term of one year and until a successor is
21 elected. The board shall meet on the first Monday of each month or on the
22 call of the chairperson or any two members of the board at the place
23 designated. The secretary of labor shall appoint an executive secretary of
24 the board and the executive secretary shall attend the meetings of the
25 board.

26 (7) The employment security board of review, on its own motion,
27 may affirm, modify or set aside any decision of a referee on the basis of
28 the evidence previously submitted in the case; may direct the taking of
29 additional evidence; or may permit any of the parties to initiate further
30 appeal before it. The board shall permit such further appeal by any of the
31 parties interested in a decision of a referee which overrules or modifies the
32 decision of an examiner. The board may remove to itself the proceedings
33 on any claim pending before a referee. Any proceedings so removed to the
34 board shall be heard in accordance with the requirements of subsection (c).
35 The board shall promptly notify the interested parties of its findings and
36 decision.

37 (8) Two members of the employment security board of review shall
38 constitute a quorum and no action of the board shall be valid unless it has
39 the concurrence of at least two members. A vacancy on the board shall not
40 impair the right of a quorum to exercise all the rights and perform all the
41 duties of the board.

42 (g) *Procedure.* The manner in which disputed claims are presented,
43 the reports on claims required from the claimant and from employers and

1 the conduct of hearings and appeals shall be in accordance with rules of
2 procedure prescribed by the employment security board of review for
3 determining the rights of the parties, whether or not such rules conform to
4 common law or statutory rules of evidence and other technical rules of
5 procedure. A full and complete record shall be kept of all proceedings and
6 decisions in connection with a disputed claim. All testimony at any hearing
7 upon a disputed claim shall be recorded, but need not be transcribed unless
8 the disputed claim is further appealed. In the performance of its official
9 duties, the board shall have access to all of the records which pertain to the
10 disputed claim and are in the custody of the secretary of labor and shall
11 receive the assistance of the secretary upon request.

12 (h) *Witness fees.* Witnesses subpoenaed pursuant to this section shall
13 be allowed fees and necessary travel expenses at rates fixed by the board.
14 Such fees and expenses shall be deemed a part of the expense of
15 administering this act.

16 (i) *Court review.* Any action of the employment security board of
17 review is subject to review in accordance with the Kansas judicial review
18 act. No bond shall be required for commencing an action for such review.
19 In the absence of an action for such review, the action of such board shall
20 become final 16 calendar days after the date of the mailing of the decision.
21 In addition to those persons having standing pursuant to K.S.A. 77-611,
22 and amendments thereto, the examiner shall have standing to obtain
23 judicial review of an action of such board. The review proceeding, and the
24 questions of law certified, shall be heard in a summary manner and shall
25 be given precedence over all other civil cases except cases arising under
26 the workers compensation act.

27 (j) Any finding of fact or law, judgment, determination, conclusion or
28 final order made by the employment security board of review or any
29 examiner, special examiner, referee or other person with authority to make
30 findings of fact or law pursuant to the employment security law is not
31 admissible or binding in any separate or subsequent action or proceeding,
32 between a person and a present or previous employer brought before an
33 arbitrator, court or judge of the state or the United States, regardless of
34 whether the prior action was between the same or related parties or
35 involved the same facts.

36 (k) In any proceeding or hearing conducted under this section, a party
37 to the proceeding or hearing may appear before a referee or the
38 employment security board of review either personally or by means of a
39 designated representative to present evidence and to state the position of
40 the party. Hearings may be conducted in person, by telephone or other
41 means of electronic communication. The hearing shall be conducted by
42 telephone or other means of electronic communication if none of the
43 parties requests an in-person hearing. If only one party requests an in-

1 person hearing, the referee shall have the discretion of requiring all parties
2 to appear in person or allow the party not requesting an in-person hearing
3 to appear by telephone or other means of electronic communication. The
4 notice of hearing shall include notice to the parties of their right to request
5 an in-person hearing and instructions on how to make the request.

6 Sec. 18. K.S.A. 2012 Supp. 45-221, as amended by section 2 of 2013
7 Senate Bill No. 81, is hereby amended to read as follows: 45-221. (a)
8 Except to the extent disclosure is otherwise required by law, a public
9 agency shall not be required to disclose:

10 (1) Records the disclosure of which is specifically prohibited or
11 restricted by federal law, state statute or rule of the Kansas supreme court
12 or rule of the senate committee on confirmation oversight relating to
13 information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-
14 4315d, and amendments thereto, or the disclosure of which is prohibited or
15 restricted pursuant to specific authorization of federal law, state statute or
16 rule of the Kansas supreme court or rule of the senate committee on
17 confirmation oversight relating to information submitted to the committee
18 pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to
19 restrict or prohibit disclosure.

20 (2) Records which are privileged under the rules of evidence, unless
21 the holder of the privilege consents to the disclosure.

22 (3) Medical, psychiatric, psychological or alcoholism or drug
23 dependency treatment records which pertain to identifiable patients.

24 (4) Personnel records, performance ratings or individually identifiable
25 records pertaining to employees or applicants for employment, except that
26 this exemption shall not apply to the names, positions, salaries or actual
27 compensation employment contracts or employment-related contracts or
28 agreements and lengths of service of officers and employees of public
29 agencies once they are employed as such.

30 (5) Information which would reveal the identity of any undercover
31 agent or any informant reporting a specific violation of law.

32 (6) Letters of reference or recommendation pertaining to the character
33 or qualifications of an identifiable individual, except documents relating to
34 the appointment of persons to fill a vacancy in an elected office.

35 (7) Library, archive and museum materials contributed by private
36 persons, to the extent of any limitations imposed as conditions of the
37 contribution.

38 (8) Information which would reveal the identity of an individual who
39 lawfully makes a donation to a public agency, if anonymity of the donor is
40 a condition of the donation, except if the donation is intended for or
41 restricted to providing remuneration or personal tangible benefit to a
42 named public officer or employee.

43 (9) Testing and examination materials, before the test or examination

1 is given or if it is to be given again, or records of individual test or
2 examination scores, other than records which show only passage or failure
3 and not specific scores.

4 (10) Criminal investigation records, except as provided herein. The
5 district court, in an action brought pursuant to K.S.A. 45-222, and
6 amendments thereto, may order disclosure of such records, subject to such
7 conditions as the court may impose, if the court finds that disclosure:

8 (A) Is in the public interest;

9 (B) would not interfere with any prospective law enforcement action,
10 criminal investigation or prosecution;

11 (C) would not reveal the identity of any confidential source or
12 undercover agent;

13 (D) would not reveal confidential investigative techniques or
14 procedures not known to the general public;

15 (E) would not endanger the life or physical safety of any person; and

16 (F) would not reveal the name, address, phone number or any other
17 information which specifically and individually identifies the victim of any
18 sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,
19 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes
20 Annotated, and amendments thereto.

21 If a public record is discretionarily closed by a public agency pursuant
22 to this subsection, the record custodian, upon request, shall provide a
23 written citation to the specific provisions of paragraphs (A) through (F)
24 that necessitate closure of that public record.

25 (11) Records of agencies involved in administrative adjudication or
26 civil litigation, compiled in the process of detecting or investigating
27 violations of civil law or administrative rules and regulations, if disclosure
28 would interfere with a prospective administrative adjudication or civil
29 litigation or reveal the identity of a confidential source or undercover
30 agent.

31 (12) Records of emergency or security information or procedures of a
32 public agency, or plans, drawings, specifications or related information for
33 any building or facility which is used for purposes requiring security
34 measures in or around the building or facility or which is used for the
35 generation or transmission of power, water, fuels or communications, if
36 disclosure would jeopardize security of the public agency, building or
37 facility.

38 (13) The contents of appraisals or engineering or feasibility estimates
39 or evaluations made by or for a public agency relative to the acquisition of
40 property, prior to the award of formal contracts therefor.

41 (14) Correspondence between a public agency and a private
42 individual, other than correspondence which is intended to give notice of
43 an action, policy or determination relating to any regulatory, supervisory or

1 enforcement responsibility of the public agency or which is widely
2 distributed to the public by a public agency and is not specifically in
3 response to communications from such a private individual.

4 (15) Records pertaining to employer-employee negotiations, if
5 disclosure would reveal information discussed in a lawful executive
6 session under K.S.A. 75-4319, and amendments thereto.

7 (16) Software programs for electronic data processing and
8 documentation thereof, but each public agency shall maintain a register,
9 open to the public, that describes:

10 (A) The information which the agency maintains on computer
11 facilities; and

12 (B) the form in which the information can be made available using
13 existing computer programs.

14 (17) Applications, financial statements and other information
15 submitted in connection with applications for student financial assistance
16 where financial need is a consideration for the award.

17 (18) Plans, designs, drawings or specifications which are prepared by
18 a person other than an employee of a public agency or records which are
19 the property of a private person.

20 (19) Well samples, logs or surveys which the state corporation
21 commission requires to be filed by persons who have drilled or caused to
22 be drilled, or are drilling or causing to be drilled, holes for the purpose of
23 discovery or production of oil or gas, to the extent that disclosure is
24 limited by rules and regulations of the state corporation commission.

25 (20) Notes, preliminary drafts, research data in the process of
26 analysis, unfunded grant proposals, memoranda, recommendations or
27 other records in which opinions are expressed or policies or actions are
28 proposed, except that this exemption shall not apply when such records are
29 publicly cited or identified in an open meeting or in an agenda of an open
30 meeting.

31 (21) Records of a public agency having legislative powers, which
32 records pertain to proposed legislation or amendments to proposed
33 legislation, except that this exemption shall not apply when such records
34 are:

35 (A) Publicly cited or identified in an open meeting or in an agenda of
36 an open meeting; or

37 (B) distributed to a majority of a quorum of any body which has
38 authority to take action or make recommendations to the public agency
39 with regard to the matters to which such records pertain.

40 (22) Records of a public agency having legislative powers, which
41 records pertain to research prepared for one or more members of such
42 agency, except that this exemption shall not apply when such records are:

43 (A) Publicly cited or identified in an open meeting or in an agenda of

1 an open meeting; or

2 (B) distributed to a majority of a quorum of any body which has
3 authority to take action or make recommendations to the public agency
4 with regard to the matters to which such records pertain.

5 (23) Library patron and circulation records which pertain to
6 identifiable individuals.

7 (24) Records which are compiled for census or research purposes and
8 which pertain to identifiable individuals.

9 (25) Records which represent and constitute the work product of an
10 attorney.

11 (26) Records of a utility or other public service pertaining to
12 individually identifiable residential customers of the utility or service,
13 ~~except that information concerning billings for specific individual~~
14 ~~customers named by the requester shall be subject to disclosure as~~
15 ~~provided by this act.~~

16 (27) Specifications for competitive bidding, until the specifications
17 are officially approved by the public agency.

18 (28) Sealed bids and related documents, until a bid is accepted or all
19 bids rejected.

20 (29) Correctional records pertaining to an identifiable inmate or
21 release, except that:

22 (A) The name; photograph and other identifying information;
23 sentence data; parole eligibility date; custody or supervision level;
24 disciplinary record; supervision violations; conditions of supervision,
25 excluding requirements pertaining to mental health or substance abuse
26 counseling; location of facility where incarcerated or location of parole
27 office maintaining supervision and address of a releasee whose crime was
28 committed after the effective date of this act shall be subject to disclosure
29 to any person other than another inmate or releasee, except that the
30 disclosure of the location of an inmate transferred to another state pursuant
31 to the interstate corrections compact shall be at the discretion of the
32 secretary of corrections;

33 (B) the attorney general, law enforcement agencies, counsel for the
34 inmate to whom the record pertains and any county or district attorney
35 shall have access to correctional records to the extent otherwise permitted
36 by law;

37 (C) the information provided to the law enforcement agency pursuant
38 to the sex offender registration act, K.S.A. 22-4901 et seq., and
39 amendments thereto, shall be subject to disclosure to any person, except
40 that the name, address, telephone number or any other information which
41 specifically and individually identifies the victim of any offender required
42 to register as provided by the Kansas offender registration act, K.S.A. 22-
43 4901 et seq., and amendments thereto, shall not be disclosed; and

1 (D) records of the department of corrections regarding the financial
2 assets of an offender in the custody of the secretary of corrections shall be
3 subject to disclosure to the victim, or such victim's family, of the crime for
4 which the inmate is in custody as set forth in an order of restitution by the
5 sentencing court.

6 (30) Public records containing information of a personal nature where
7 the public disclosure thereof would constitute a clearly unwarranted
8 invasion of personal privacy.

9 (31) Public records pertaining to prospective location of a business or
10 industry where no previous public disclosure has been made of the
11 business' or industry's interest in locating in, relocating within or
12 expanding within the state. This exception shall not include those records
13 pertaining to application of agencies for permits or licenses necessary to
14 do business or to expand business operations within this state, except as
15 otherwise provided by law.

16 (32) Engineering and architectural estimates made by or for any
17 public agency relative to public improvements.

18 (33) Financial information submitted by contractors in qualification
19 statements to any public agency.

20 (34) Records involved in the obtaining and processing of intellectual
21 property rights that are expected to be, wholly or partially vested in or
22 owned by a state educational institution, as defined in K.S.A. 76-711, and
23 amendments thereto, or an assignee of the institution organized and
24 existing for the benefit of the institution.

25 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
26 65-4923 or 65-4924, and amendments thereto, and which is privileged
27 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

28 (36) Information which would reveal the precise location of an
29 archeological site.

30 (37) Any financial data or traffic information from a railroad
31 company, to a public agency, concerning the sale, lease or rehabilitation of
32 the railroad's property in Kansas.

33 (38) Risk-based capital reports, risk-based capital plans and
34 corrective orders including the working papers and the results of any
35 analysis filed with the commissioner of insurance in accordance with
36 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

37 (39) Memoranda and related materials required to be used to support
38 the annual actuarial opinions submitted pursuant to subsection (b) of
39 K.S.A. 40-409, and amendments thereto.

40 (40) Disclosure reports filed with the commissioner of insurance
41 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

42 (41) All financial analysis ratios and examination synopses
43 concerning insurance companies that are submitted to the commissioner by

1 the national association of insurance commissioners' insurance regulatory
2 information system.

3 (42) Any records the disclosure of which is restricted or prohibited by
4 a tribal-state gaming compact.

5 (43) Market research, market plans, business plans and the terms and
6 conditions of managed care or other third-party contracts, developed or
7 entered into by the university of Kansas medical center in the operation
8 and management of the university hospital which the chancellor of the
9 university of Kansas or the chancellor's designee determines would give an
10 unfair advantage to competitors of the university of Kansas medical center.

11 (44) The amount of franchise tax paid to the secretary of revenue or
12 the secretary of state by domestic corporations, foreign corporations,
13 domestic limited liability companies, foreign limited liability companies,
14 domestic limited partnership, foreign limited partnership, domestic limited
15 liability partnerships and foreign limited liability partnerships.

16 (45) Records, other than criminal investigation records, the disclosure
17 of which would pose a substantial likelihood of revealing security
18 measures that protect: (A) Systems, facilities or equipment used in the
19 production, transmission or distribution of energy, water or
20 communications services; (B) transportation and sewer or wastewater
21 treatment systems, facilities or equipment; or (C) private property or
22 persons, if the records are submitted to the agency. For purposes of this
23 paragraph, security means measures that protect against criminal acts
24 intended to intimidate or coerce the civilian population, influence
25 government policy by intimidation or coercion or to affect the operation of
26 government by disruption of public services, mass destruction,
27 assassination or kidnapping. Security measures include, but are not limited
28 to, intelligence information, tactical plans, resource deployment and
29 vulnerability assessments.

30 (46) Any information or material received by the register of deeds of
31 a county from military discharge papers, DD Form 214. Such papers shall
32 be disclosed: To the military dischargee; to such dischargee's immediate
33 family members and lineal descendants; to such dischargee's heirs, agents
34 or assigns; to the licensed funeral director who has custody of the body of
35 the deceased dischargee; when required by a department or agency of the
36 federal or state government or a political subdivision thereof; when the
37 form is required to perfect the claim of military service or honorable
38 discharge or a claim of a dependent of the dischargee; and upon the written
39 approval of the commissioner of veterans affairs, to a person conducting
40 research.

41 (47) Information that would reveal the location of a shelter or a
42 safehouse or similar place where persons are provided protection from
43 abuse or the name, address, location or other contact information of

1 alleged victims of stalking, domestic violence or sexual assault.

2 (48) Policy information provided by an insurance carrier in
3 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
4 thereto. This exemption shall not be construed to preclude access to an
5 individual employer's record for the purpose of verification of insurance
6 coverage or to the department of labor for their business purposes.

7 (49) An individual's e-mail address, cell phone number and other
8 contact information which has been given to the public agency for the
9 purpose of public agency notifications or communications which are
10 widely distributed to the public.

11 (50) Information provided by providers to the local collection point
12 administrator or to the 911 coordinating council pursuant to the Kansas
13 911 act, and amendments thereto, upon request of the party submitting
14 such records.

15 (51) Records of a public agency on a public website which are
16 searchable by a keyword search and identify the home address or home
17 ownership of a law enforcement officer as defined in K.S.A. 2012 Supp.
18 21-5111, and amendments thereto, parole officer, probation officer, court
19 services officer or community correctional services officer. Such
20 individual officer shall file with the custodian of such record a request to
21 have such officer's identifying information restricted from public access on
22 such public website. Within 10 business days of receipt of such requests,
23 the public agency shall restrict such officer's identifying information from
24 such public access. Such restriction shall expire after five years and such
25 officer may file with the custodian of such record a new request for
26 restriction at any time.

27 (52) Records of a public agency on a public website which are
28 searchable by a keyword search and identify the home address or home
29 ownership of a federal judge, a justice of the supreme court, a judge of the
30 court of appeals, a district judge, a district magistrate judge, the United
31 States attorney for the district of Kansas, an assistant United States
32 attorney, the attorney general, an assistant attorney general, a district
33 attorney or county attorney or an assistant district attorney or assistant
34 county attorney. Such person shall file with the custodian of such record a
35 request to have such person's identifying information restricted from
36 public access on such public website. Within 10 business days of receipt of
37 such requests, the public agency shall restrict such person's identifying
38 information from such public access. Such restriction shall expire after
39 five years and such person may file with the custodian of such record a
40 new request for restriction at any time.

41 (53) Records of a public agency that would disclose the name, home
42 address, *zip code*, e-mail address, phone number or cell phone number or
43 other contact information for any person licensed to carry concealed

1 handguns or of any person who enrolled in or completed any weapons
2 training in order to be licensed or has made application for such license
3 under the personal and family protection act, K.S.A. 2012 Supp. 75-7c01
4 et seq., and amendments thereto, shall not be disclosed unless otherwise
5 required by law.

6 (54) Records of a utility concerning information about cyber security
7 threats, attacks or general attempts to attack utility operations provided to
8 law enforcement agencies, the state corporation commission, the federal
9 energy regulatory commission, the department of energy, the southwest
10 power pool, the North American electric reliability corporation, the federal
11 communications commission or any other federal, state or regional
12 organization that has a responsibility for the safeguarding of
13 telecommunications, electric, potable water, waste water disposal or
14 treatment, motor fuel or natural gas energy supply systems.

15 (b) Except to the extent disclosure is otherwise required by law or as
16 appropriate during the course of an administrative proceeding or on appeal
17 from agency action, a public agency or officer shall not disclose financial
18 information of a taxpayer which may be required or requested by a county
19 appraiser or the director of property valuation to assist in the determination
20 of the value of the taxpayer's property for ad valorem taxation purposes; or
21 any financial information of a personal nature required or requested by a
22 public agency or officer, including a name, job description or title
23 revealing the salary or other compensation of officers, employees or
24 applicants for employment with a firm, corporation or agency, except a
25 public agency. Nothing contained herein shall be construed to prohibit the
26 publication of statistics, so classified as to prevent identification of
27 particular reports or returns and the items thereof.

28 (c) As used in this section, the term "cited or identified" shall not
29 include a request to an employee of a public agency that a document be
30 prepared.

31 (d) If a public record contains material which is not subject to
32 disclosure pursuant to this act, the public agency shall separate or delete
33 such material and make available to the requester that material in the
34 public record which is subject to disclosure pursuant to this act. If a public
35 record is not subject to disclosure because it pertains to an identifiable
36 individual, the public agency shall delete the identifying portions of the
37 record and make available to the requester any remaining portions which
38 are subject to disclosure pursuant to this act, unless the request is for a
39 record pertaining to a specific individual or to such a limited group of
40 individuals that the individuals' identities are reasonably ascertainable, the
41 public agency shall not be required to disclose those portions of the record
42 which pertain to such individual or individuals.

43 (e) The provisions of this section shall not be construed to exempt

1 from public disclosure statistical information not descriptive of any
2 identifiable person.

3 (f) Notwithstanding the provisions of subsection (a), any public
4 record which has been in existence more than 70 years shall be open for
5 inspection by any person unless disclosure of the record is specifically
6 prohibited or restricted by federal law, state statute or rule of the Kansas
7 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
8 amendments thereto.

9 (g) Any confidential records or information relating to security
10 measures provided or received under the provisions of subsection (a)(45)
11 shall not be subject to subpoena, discovery or other demand in any
12 administrative, criminal or civil action.

13 Sec. 19. K.S.A. 2012 Supp. 45-229, as amended by section 1 of 2013
14 House Bill No. 2012, is hereby amended to read as follows: 45-229. (a) It
15 is the intent of the legislature that exceptions to disclosure under the open
16 records act shall be created or maintained only if:

17 (1) The public record is of a sensitive or personal nature concerning
18 individuals;

19 (2) the public record is necessary for the effective and efficient
20 administration of a governmental program; or

21 (3) the public record affects confidential information.

22 The maintenance or creation of an exception to disclosure must be
23 compelled as measured by these criteria. Further, the legislature finds that
24 the public has a right to have access to public records unless the criteria in
25 this section for restricting such access to a public record are met and the
26 criteria are considered during legislative review in connection with the
27 particular exception to disclosure to be significant enough to override the
28 strong public policy of open government. To strengthen the policy of open
29 government, the legislature shall consider the criteria in this section before
30 enacting an exception to disclosure.

31 (b) Subject to the provisions of subsections (g) and (h), any new
32 exception to disclosure or substantial amendment of an existing exception
33 shall expire on July 1 of the fifth year after enactment of the new
34 exception or substantial amendment, unless the legislature acts to continue
35 the exception. A law that enacts a new exception or substantially amends
36 an existing exception shall state that the exception expires at the end of
37 five years and that the exception shall be reviewed by the legislature
38 before the scheduled date.

39 (c) For purposes of this section, an exception is substantially
40 amended if the amendment expands the scope of the exception to include
41 more records or information. An exception is not substantially amended if
42 the amendment narrows the scope of the exception.

43 (d) This section is not intended to repeal an exception that has been

1 amended following legislative review before the scheduled repeal of the
2 exception if the exception is not substantially amended as a result of the
3 review.

4 (e) In the year before the expiration of an exception, the revisor of
5 statutes shall certify to the president of the senate and the speaker of the
6 house of representatives, by July 15, the language and statutory citation of
7 each exception which will expire in the following year which meets the
8 criteria of an exception as defined in this section. Any exception that is not
9 identified and certified to the president of the senate and the speaker of the
10 house of representatives is not subject to legislative review and shall not
11 expire. If the revisor of statutes fails to certify an exception that the revisor
12 subsequently determines should have been certified, the revisor shall
13 include the exception in the following year's certification after that
14 determination.

15 (f) "Exception" means any provision of law which creates an
16 exception to disclosure or limits disclosure under the open records act
17 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any
18 other provision of law.

19 (g) A provision of law which creates or amends an exception to
20 disclosure under the open records law shall not be subject to review and
21 expiration under this act if such provision:

22 (1) Is required by federal law;

23 (2) applies solely to the legislature or to the state court system;

24 (3) has been reviewed and continued in existence twice by the
25 legislature; or

26 (4) has been reviewed and continued in existence by the legislature
27 during the 2013 legislative session and thereafter.

28 (h) (1) The legislature shall review the exception before its scheduled
29 expiration and consider as part of the review process the following:

30 (A) What specific records are affected by the exception;

31 (B) whom does the exception uniquely affect, as opposed to the
32 general public;

33 (C) what is the identifiable public purpose or goal of the exception;

34 (D) whether the information contained in the records may be obtained
35 readily by alternative means and how it may be obtained;

36 (2) an exception may be created or maintained only if it serves an
37 identifiable public purpose and may be no broader than is necessary to
38 meet the public purpose it serves. An identifiable public purpose is served
39 if the legislature finds that the purpose is sufficiently compelling to
40 override the strong public policy of open government and cannot be
41 accomplished without the exception and if the exception:

42 (A) Allows the effective and efficient administration of a
43 governmental program, which administration would be significantly

1 impaired without the exception;

2 (B) protects information of a sensitive personal nature concerning
3 individuals, the release of which information would be defamatory to such
4 individuals or cause unwarranted damage to the good name or reputation
5 of such individuals or would jeopardize the safety of such individuals.
6 Only information that would identify the individuals may be excepted
7 under this paragraph; or

8 (C) protects information of a confidential nature concerning entities,
9 including, but not limited to, a formula, pattern, device, combination of
10 devices, or compilation of information which is used to protect or further a
11 business advantage over those who do not know or use it, the disclosure of
12 which information would injure the affected entity in the marketplace.

13 (3) Records made before the date of the expiration of an exception
14 shall be subject to disclosure as otherwise provided by law. In deciding
15 whether the records shall be made public, the legislature shall consider
16 whether the damage or loss to persons or entities uniquely affected by the
17 exception of the type specified in paragraph (2)(B) or (2)(C) of this
18 subsection (h) would occur if the records were made public.

19 (i) (1) Exceptions contained in the following statutes as continued in
20 existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas
21 and which have been reviewed and continued in existence twice by the
22 legislature as provided in subsection (g) are hereby continued in existence:
23 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189,
24 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-
25 1312e, 17-2227, 17-5832, 17-7511, 17-7514, 17-76,139, 19-4321, 21-
26 2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312,
27 25-4161, 25-4165, 31-405, 34-251, ~~38-1664~~, 38-2212, 39-709b, 39-719e,
28 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20,
29 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308,
30 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-
31 594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1)
32 through (43) of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849,
33 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-4114, 59-2135, 59-2802,
34 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b, 65-118, 65-119, 65-153f,
35 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-
36 1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507,
37 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d,
38 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-
39 34,126, 65-4019, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003,
40 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151,
41 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-996, 72-4311, 72-4452, 72-
42 5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-
43 4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, 74-8104, 74-8307,

1 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-7b15, 75-1267, 75-2943,
2 75-4332, 75-4362, 75-5133, 75-5266, 75-5665, 75-5666, 75-7310, 76-355,
3 76-359, 76-493, 76-12b11, 76-3305, 79-1119, 79-1437f, 79-3234, 79-
4 3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-
5 5206.

6 (2) Exceptions contained in the following statutes as certified by the
7 revisor of statutes to the president of the senate and the speaker of the
8 house of representatives pursuant to subsection (e) during 2009 are hereby
9 continued in existence until July 1, 2015, at which time such exceptions
10 shall expire: 17-2036, 40-5301, subsections (a)(45) and (a)(46) of 45-221,
11 60-3351, 72-972a, 74-99d05 and 75-53,105.

12 (j) (1) Exceptions contained in the following statutes as continued in
13 existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas
14 and which have been reviewed and continued in existence twice by the
15 legislature as provided in subsection (g) are hereby continued in existence:
16 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and
17 74-7508.

18 (2) Exceptions contained in the following statutes as certified by the
19 revisor of statutes to the president of the senate and the speaker of the
20 house of representatives pursuant to subsection (e) during 2010 are hereby
21 continued in existence until July 1, 2016, at which time such exceptions
22 shall expire: 12-5358, 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-
23 2326, 44-1132, 60-3333, 65-6154, 71-218, 75-457, 75-712c, 75-723 and
24 75-7c06.

25 (k) Exceptions contained in the following statutes as certified by the
26 revisor of statutes to the president of the senate and the speaker of the
27 house of representatives pursuant to subsection (e) during 2006, 2007 and
28 2008 are hereby continued in existence until July 1, 2014, at which time
29 such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-
30 17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-5006, 40-
31 5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46)
32 and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239, 66-1233, 74-
33 50,184, 74-8134, 74-99b06 and 82a-2210.

34 (l) Exceptions contained in the following statutes as certified by the
35 revisor of statutes to the president of the senate and the speaker of the
36 house of representatives pursuant to subsection (e) during 2011 are hereby
37 continued in existence until July 1, 2017, at which time such exceptions
38 shall expire: 12-5711, 21-2511, 38-2313, 65-516, 74-8745, 74-8752, 74-
39 8772 and 75-7427.

40 (m) Exceptions contained in the following statutes as certified by the
41 revisor of statutes to the president of the senate and the speaker of the
42 house of representatives pursuant to subsection (e) during 2012 and which
43 have been reviewed during the 2013 legislative session and continued in

1 existence by the legislature as provided in subsection (g) are hereby
2 continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a,
3 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-60c01, 75-
4 712 and 75-5366.

5 Sec. 20. K.S.A. 2012 Supp. 47-422 is hereby amended to read as
6 follows: 47-422. (a) Any brand registered with the animal health
7 commissioner of the Kansas department of agriculture in compliance with
8 the requirements of this act shall be the property of the person causing
9 such record to be made. Such brand shall be subject to sale, assignment,
10 transfer, devise and descent as other personal property. Instruments of
11 writing evidencing the sale, assignment or transfer of such brand shall be
12 recorded by the animal health commissioner. The fee for recording such
13 instruments of writing shall be \$15. Such instruments shall have the same
14 force and effect as recorded instruments affecting real estate. A certified
15 copy of the record of any such instrument may be introduced in evidence
16 the same as ~~is now provided for~~ certified copies of instruments affecting
17 real estate. Any brand recorded with the Kansas department of agriculture
18 division of animal health shall not be used by any person other than the
19 recorded owner.

20 (b) Any person violating any provision of this section shall be guilty
21 of a class C misdemeanor.

22 Sec. 21. K.S.A. 2012 Supp. 47-1804 is hereby amended to read as
23 follows: 47-1804. As used in K.S.A. 47-1804 through 47-1808, and
24 amendments thereto, unless the context otherwise requires:

25 (a) "Commissioner" means the animal health commissioner of the
26 Kansas department of agriculture.

27 (b) "Livestock" means cattle, bison, swine, horses, sheep, goats,
28 camelids and all creatures of the ratite family that are not indigenous to
29 this state, including, but not limited to, ostriches, emus and rheas and
30 domesticated deer.

31 (c) "Livestock dealer" means any person engaged in the business of
32 buying or selling livestock in commerce, either on that person's own
33 account or as the employee or agent of the seller or purchaser, or any
34 person engaged in the business of buying or selling livestock in commerce
35 on a commission basis and shall include any person who buys or sells
36 livestock with the use of a video. "Livestock dealer" does not include any
37 person who buys or sells livestock as part of that person's own breeding,
38 feeding or dairy operation, nor any person who receives livestock
39 exclusively for immediate slaughter.

40 (d) "Person" means any individual, partnership, corporation,
41 company, firm or association. "Person" does not include any public
42 livestock market operator licensed under K.S.A. 47-1001 et seq., and
43 amendments thereto, or any feedlot operator licensed under K.S.A. 47-

1 1501 et seq., and amendments thereto.

2 (e) "Domesticated deer" means any member of the family cervidae
3 which was legally obtained and is being sold or raised in a confined area
4 for: (1) Breeding stock; ~~for~~ (2) any carcass, skin or part of such animal; ~~for~~
5 (3) exhibition; or ~~for~~ (4) companionship.

6 Sec. 22. K.S.A. 2012 Supp. 60-3107 is hereby amended to read as
7 follows: 60-3107. (a) The court may approve any consent agreement to
8 bring about a cessation of abuse of the plaintiff or minor children or grant
9 any of the following orders:

10 (1) Restraining the defendant from abusing, molesting or interfering
11 with the privacy or rights of the plaintiff or of any minor children of the
12 parties. Such order shall contain a statement that if such order is violated,
13 such violation may constitute assault as defined in subsection (a) of K.S.A.
14 2012 Supp. 21-5412, and amendments thereto, battery as defined in
15 subsection (a) of K.S.A. 2012 Supp. 21-5413, and amendments thereto,
16 domestic battery as defined in K.S.A. 2012 Supp. 21-5414, and
17 amendments thereto, and violation of a protective order as defined in
18 K.S.A. 2012 Supp. 21-5924, and amendments thereto.

19 (2) Granting possession of the residence or household to the plaintiff
20 to the exclusion of the defendant, and further restraining the defendant
21 from entering or remaining upon or in such residence or household,
22 subject to the limitation of subsection (d). Such order shall contain a
23 statement that if such order is violated, such violation shall constitute
24 criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp.
25 21-5808, and amendments thereto, and violation of a protective order as
26 defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. The court
27 may grant an order, which shall expire 60 days following the date of
28 issuance, restraining the defendant from cancelling utility service to the
29 residence or household.

30 (3) Requiring defendant to provide suitable, alternate housing for the
31 plaintiff and any minor children of the parties.

32 (4) Awarding temporary custody and residency and establishing
33 temporary parenting time with regard to minor children.

34 (5) Ordering a law enforcement officer to evict the defendant from
35 the residence or household.

36 (6) Ordering support payments by a party for the support of a party's
37 minor child, if the party is the father or mother of the child, or the plaintiff,
38 if the plaintiff is married to the defendant. Such support orders shall
39 remain in effect until modified or dismissed by the court or until expiration
40 and shall be for a fixed period of time not to exceed one year. On the
41 motion of the plaintiff, the court may extend the effect of such order for 12
42 months.

43 (7) Awarding costs and attorney fees to either party.

1 (8) Making provision for the possession of personal property of the
2 parties and ordering a law enforcement officer to assist in securing
3 possession of that property, if necessary.

4 (9) Requiring any person against whom an order is issued to seek
5 counseling to aid in the cessation of abuse.

6 (10) Ordering or restraining any other acts deemed necessary to
7 promote the safety of the plaintiff or of any minor children of the parties.

8 (b) No protection from abuse order shall be entered against the
9 plaintiff unless:

10 (1) The defendant properly files a written cross or counter petition
11 seeking such a protection order;

12 (2) the plaintiff had reasonable notice of the written cross or counter
13 petition by personal service as provided in subsection (d) of K.S.A. 60-
14 3104, and amendments thereto; and

15 (3) the issuing court made specific findings of abuse against both the
16 plaintiff and the defendant and determined that both parties acted primarily
17 as aggressors and neither party acted primarily in self-defense.

18 (c) Any order entered under the protection from abuse act shall not be
19 subject to modification on ex parte application or on motion for temporary
20 orders in any action filed pursuant to K.S.A. 60-1601 et seq., prior to their
21 transfer or repeal, or article 22 or 27 of chapter 23 of the Kansas Statutes
22 Annotated, and amendments thereto, or K.S.A. 38-1101 et seq., and
23 amendments thereto. Orders previously issued in an action filed pursuant
24 to K.S.A. 60-1601 et seq., prior to their transfer or repeal, or article 22 or
25 27 of chapter 23 of the Kansas Statutes Annotated, and amendments
26 thereto, or K.S.A. 38-1101 et seq., and amendments thereto, shall be
27 subject to modification under the protection from abuse act only as to
28 those matters subject to modification by the terms of K.S.A. 2012 Supp.
29 ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-3001~~
30 ~~through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~ *and*
31 *article 27 of chapter 23 of the Kansas Statutes Annotated*, and
32 amendments thereto, and on sworn testimony to support a showing of
33 good cause. Immediate and present danger of abuse to the plaintiff or
34 minor children shall constitute good cause. If an action is filed pursuant to
35 K.S.A. 2012 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through~~
36 ~~23-2905, 23-3001 through 23-3006, 23-3201 through 23-3207, 23-3216~~
37 ~~and or 23-3218 or article 22 or 27 of chapter 23 of the Kansas Statutes~~
38 *Annotated*, and amendments thereto, during the pendency of a proceeding
39 filed under the protection from abuse act or while an order issued under
40 the protection from abuse act is in effect, the court, on final hearing or on
41 agreement of the parties, may issue final orders authorized by K.S.A. 2012
42 Supp. ~~23-2712, 23-2715, 23-2716, 23-2802, 23-2902 through 23-2905, 23-~~
43 ~~3001 through 23-3006, 23-3201 through 23-3207, 23-3216 and 23-3218~~

1 *and articles 22 and 27 of chapter 23 of the Kansas Statutes Annotated*, and
2 amendments thereto, that are inconsistent with orders entered under the
3 protection from abuse act. Any inconsistent order entered pursuant to this
4 subsection shall be specific in its terms, reference the protection from
5 abuse order and parts thereof being modified and a copy thereof shall be
6 filed in both actions. The court shall consider whether the actions should
7 be consolidated in accordance with K.S.A. 60-242, and amendments
8 thereto. Any custody or parenting time order, or order relating to the best
9 interests of a child, issued pursuant to the revised Kansas code for care of
10 children or the revised Kansas juvenile justice code, shall be binding and
11 shall take precedence over any such custody or parenting order involving
12 the same child issued under the protection from abuse act, until
13 jurisdiction under the revised Kansas code for care of children or the
14 revised Kansas juvenile justice code is terminated. Any inconsistent
15 custody or parenting order issued in the revised Kansas code for care of
16 children case or the revised Kansas juvenile justice code case shall be
17 specific in its terms, reference any preexisting protection from abuse order
18 and the custody being modified, and a copy of such order shall be filed in
19 the preexisting protection from abuse case.

20 (d) If the parties to an action under the protection from abuse act are
21 not married to each other and one party owns the residence or household,
22 the court shall not have the authority to grant possession of the residence
23 or household under subsection (a)(2) to the exclusion of the party who
24 owns it.

25 (e) Subject to the provisions of subsections (b), (c) and (d), a
26 protective order or approved consent agreement shall remain in effect until
27 modified or dismissed by the court and shall be for a fixed period of time
28 not to exceed one year, except as provided in subsection (e)(1) and (e)(2).

29 (1) Upon motion of the plaintiff, such period may be extended for one
30 additional year.

31 (2) Upon verified motion of the plaintiff and after the defendant has
32 been personally served with a copy of the motion and has had an
33 opportunity to present evidence and cross-examine witnesses at a hearing
34 on the motion, if the court determines by a preponderance of the evidence
35 that the defendant has violated a valid protection order or (A) has
36 previously violated a valid protection order, or (B) has been convicted of a
37 person felony or any conspiracy, criminal solicitation or attempt thereof,
38 under the laws of Kansas or the laws of any other jurisdiction which are
39 substantially similar to such person felony, committed against the plaintiff
40 or any member of the plaintiff's household, the court shall extend a
41 protective order for not less than two additional years and may extend the
42 protective order up to the lifetime of the defendant. No service fee shall be
43 required for a motion filed pursuant to this subsection.

1 (f) The court may amend its order or agreement at any time upon
2 motion filed by either party.

3 (g) No order or agreement under the protection from abuse act shall
4 in any manner affect title to any real property.

5 (h) If a person enters or remains on premises or property violating an
6 order issued pursuant to subsection (a)(2), such violation shall constitute
7 criminal trespass as defined in subsection (a)(1)(C) of K.S.A. 2012 Supp.
8 21-5808, and amendments thereto, and violation of a protective order as
9 defined in K.S.A. 2012 Supp. 21-5924, and amendments thereto. If a
10 person abuses, molests or interferes with the privacy or rights of another
11 violating an order issued pursuant to subsection (a)(1), such violation may
12 constitute assault as defined in subsection (a) of K.S.A. 2012 Supp. 21-
13 5412, and amendments thereto, battery as defined in subsection (a) of
14 K.S.A. 2012 Supp. 21-5413, and amendments thereto, domestic battery as
15 defined in K.S.A. 2012 Supp. 21-5414, and amendments thereto, and
16 violation of a protective order as defined in K.S.A. 2012 Supp. 21-5924,
17 and amendments thereto.

18 Sec. 23. K.S.A. 2012 Supp. 60-4104, as amended by section 41 of
19 2013 Senate Substitute for House Bill No. 2034, is hereby amended to
20 read as follows: 60-4104. Conduct and offenses giving rise to forfeiture
21 under this act, whether or not there is a prosecution or conviction related to
22 the offense, are:

23 (a) All offenses which statutorily and specifically authorize forfeiture;

24 (b) violations involving controlled substances, as described in K.S.A.
25 2012 Supp. 21-5701 through 21-5717, and amendments thereto;

26 (c) theft, as defined in K.S.A. 2012 Supp. 21-5801, and amendments
27 thereto;

28 (d) criminal discharge of a firearm, as defined in subsections (a)(1)
29 and (a)(2) of K.S.A. 2012 Supp. 21-6308, and amendments thereto;

30 (e) gambling, as defined in K.S.A. 2012 Supp. 21-6404, and
31 amendments thereto, and commercial gambling, as defined in subsection
32 (a)(1) of K.S.A. 2012 Supp. 21-6406, and amendments thereto;

33 (f) counterfeiting, as defined in K.S.A. 2012 Supp. 21-5825, and
34 amendments thereto;

35 (g) unlawful possession or use of a scanning device or reencoder, as
36 described in K.S.A. 2012 Supp. 21-6108, and amendments thereto;

37 (h) medicaid fraud, as described in K.S.A. 2012 Supp. 21-5925
38 through 21-5934, and amendments thereto;

39 (i) an act or omission occurring outside this state, which would be a
40 violation in the place of occurrence and would be described in this section
41 if the act occurred in this state, whether or not it is prosecuted in any state;

42 (j) an act or omission committed in furtherance of any act or omission
43 described in this section including any inchoate or preparatory offense,

- 1 whether or not there is a prosecution or conviction related to the act or
2 omission;
- 3 (k) any solicitation or conspiracy to commit any act or omission
4 described in this section, whether or not there is a prosecution or
5 conviction related to the act or omission;
- 6 (l) furtherance of terrorism or illegal use of weapons of mass
7 destruction, as described in K.S.A. 2012 Supp. 21-5423, and amendments
8 thereto;
- 9 (m) unlawful conduct of dog fighting and unlawful possession of dog
10 fighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
11 2012 Supp. 21-6414, and amendments thereto;
- 12 (n) unlawful conduct of cockfighting and unlawful possession of
13 cockfighting paraphernalia, as defined in subsections (a) and (b) of K.S.A.
14 2012 Supp. 21-6417, and amendments thereto;
- 15 (o) selling sexual relations, as defined in K.S.A. 2012 Supp. 21-
16 6419, and amendments thereto, promoting the sale of sexual relations, as
17 defined in K.S.A. 2012 Supp. 21-6420, and amendments thereto, and
18 buying sexual relations, as defined in K.S.A. 2012 Supp. 21-6421, and
19 amendments thereto;
- 20 (p) human trafficking and aggravated human trafficking, as defined in
21 K.S.A. 2012 Supp. 21-5426, and amendments thereto;
- 22 (q) violations of the banking code, as described in K.S.A. 9-2012, and
23 amendments thereto;
- 24 (r) mistreatment of a dependent adult, as defined in K.S.A. 2012
25 Supp. 21-5417, and amendments thereto;
- 26 (s) giving a worthless check, as defined in K.S.A. 2012 Supp. 21-
27 5821, and amendments thereto;
- 28 (t) forgery, as defined in K.S.A. 2012 Supp. 21-5823, and
29 amendments thereto;
- 30 (u) making false information, as defined in K.S.A. 2012 Supp. 21-
31 5824, and amendments thereto;
- 32 (v) criminal use of a financial card, as defined in K.S.A. 2012 Supp.
33 21-5828, and amendments thereto;
- 34 (w) unlawful acts concerning computers, as described in K.S.A. 2012
35 Supp. 21-5839, and amendments thereto;
- 36 (x) identity theft and identity fraud, as defined in subsections (a) and
37 (b) of K.S.A. 2012 Supp. 21-6107, and amendments thereto;
- 38 (y) electronic solicitation, as defined in K.S.A. 2012 Supp. 21-5509,
39 and amendments thereto;
- 40 (z) felony violations of fleeing or attempting to elude a police officer,
41 as described in K.S.A. 8-1568, and amendments thereto; ~~and~~
- 42 (aa) commercial sexual exploitation of a child, as defined in section 4
43 of 2013 Senate Substitute for House Bill No. 2034, and amendments

1 thereto; and

2 *(bb) violations of the Kansas racketeer influenced and corrupt*
3 *organization act, as described in section 3 of 2013 Senate Bill No. 16, and*
4 *amendments thereto.*

5 Sec. 24. K.S.A. 2012 Supp. 65-4101 is hereby amended to read as
6 follows: 65-4101. As used in this act: (a) "Administer" means the direct
7 application of a controlled substance, whether by injection, inhalation,
8 ingestion or any other means, to the body of a patient or research subject
9 by: (1) A practitioner or pursuant to the lawful direction of a practitioner;
10 or

11 (2) the patient or research subject at the direction and in the presence
12 of the practitioner.

13 (b) "Agent" means an authorized person who acts on behalf of or at
14 the direction of a manufacturer, distributor or dispenser. It does not include
15 a common carrier, public warehouseman or employee of the carrier or
16 warehouseman.

17 (c) *"Application service provider" means an entity that sells*
18 *electronic prescription or pharmacy prescription applications as a hosted*
19 *service where the entity controls access to the application and maintains*
20 *the software and records on its server.*

21 (d) "Board" means the state board of pharmacy.

22 ~~(d)~~(e) "Bureau" means the bureau of narcotics and dangerous drugs,
23 United States department of justice, or its successor agency.

24 ~~(e)~~ (f) "Controlled substance" means any drug, substance or
25 immediate precursor included in any of the schedules designated in K.S.A.
26 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments
27 thereto.

28 (g) (1) "Controlled substance analog" means a substance that is
29 intended for human consumption, and:

30 (A) The chemical structure of which is substantially similar to the
31 chemical structure of a controlled substance listed in or added to the
32 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments
33 thereto;

34 (B) which has a stimulant, depressant or hallucinogenic effect on the
35 central nervous system substantially similar to the stimulant, depressant or
36 hallucinogenic effect on the central nervous system of a controlled
37 substance included in the schedules designated in K.S.A. 65-4105 or 65-
38 4107, and amendments thereto; or

39 (C) with respect to a particular individual, which such individual
40 represents or intends to have a stimulant, depressant or hallucinogenic
41 effect on the central nervous system substantially similar to the stimulant,
42 depressant or hallucinogenic effect on the central nervous system of a
43 controlled substance included in the schedules designated in K.S.A. 65-

1 4105 or 65-4107, and amendments thereto.

2 (2) "Controlled substance analog" does not include:

3 (A) A controlled substance;

4 (B) a substance for which there is an approved new drug application;
5 or

6 (C) a substance with respect to which an exemption is in effect for
7 investigational use by a particular person under section 505 of the federal
8 food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with
9 respect to the substance is permitted by the exemption.

10 ~~(f)~~ (h) "Counterfeit substance" means a controlled substance which,
11 or the container or labeling of which, without authorization bears the
12 trademark, trade name or other identifying mark, imprint, number or
13 device or any likeness thereof of a manufacturer, distributor or dispenser
14 other than the person who in fact manufactured, distributed or dispensed
15 the substance.

16 (i) "Cultivate" means the planting or promotion of growth of five or
17 more plants which contain or can produce controlled substances.

18 (j) "DEA" means the U.S. department of justice, drug enforcement
19 administration.

20 ~~(g)~~ (k) "Deliver" or "delivery" means the actual, constructive or
21 attempted transfer from one person to another of a controlled substance,
22 whether or not there is an agency relationship.

23 ~~(h)~~ (l) "Dispense" means to deliver a controlled substance to an
24 ultimate user or research subject by or pursuant to the lawful order of a
25 practitioner, including the packaging, labeling or compounding necessary
26 to prepare the substance for that delivery, or pursuant to the prescription of
27 a mid-level practitioner.

28 ~~(i)~~ (m) "Dispenser" means a practitioner or pharmacist who dispenses.

29 ~~(j)~~ (n) "Distribute" means to deliver other than by administering or
30 dispensing a controlled substance.

31 ~~(k)~~ (o) "Distributor" means a person who distributes.

32 ~~(l)~~ (p) "Drug" means: (1) Substances recognized as drugs in the
33 official United States pharmacopoeia, official homeopathic pharmacopoeia
34 of the United States or official national formulary or any supplement to
35 any of them; (2) substances intended for use in the diagnosis, cure,
36 mitigation, treatment or prevention of disease in man or animals; (3)
37 substances (other than food) intended to affect the structure or any
38 function of the body of man or animals; and (4) substances intended for
39 use as a component of any article specified in clause (1), (2) or (3) of this
40 subsection. It does not include devices or their components, parts or
41 accessories.

42 ~~(m)~~ (q) "Immediate precursor" means a substance which the board
43 has found to be and by rule and regulation designates as being the

1 principal compound commonly used or produced primarily for use and
2 which is an immediate chemical intermediary used or likely to be used in
3 the manufacture of a controlled substance, the control of which is
4 necessary to prevent, curtail or limit manufacture.

5 (r) "Electronic prescription" means an electronically prepared
6 prescription that is authorized and transmitted from the prescriber to the
7 pharmacy by means of electronic transmission.

8 (s) "Electronic prescription application" means software that is used
9 to create electronic prescriptions and that is intended to be installed on the
10 prescriber's computers and servers where access and records are controlled
11 by the prescriber.

12 (t) "Electronic signature" means a confidential personalized digital
13 key, code, number or other method for secure electronic data transmissions
14 which identifies a particular person as the source of the message,
15 authenticates the signatory of the message and indicates the person's
16 approval of the information contained in the transmission.

17 (u) "Electronic transmission" means the transmission of an electronic
18 prescription, formatted as an electronic data file, from a prescriber's
19 electronic prescription application to a pharmacy's computer, where the
20 data file is imported into the pharmacy prescription application.

21 (v) "Electronically prepared prescription" means a prescription that is
22 generated using an electronic prescription application.

23 (w) "Facsimile transmission" or "fax transmission" means the
24 transmission of a digital image of a prescription from the prescriber or the
25 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
26 is not limited to, transmission of a written prescription between the
27 prescriber's fax machine and the pharmacy's fax machine; transmission of
28 an electronically prepared prescription from the prescriber's electronic
29 prescription application to the pharmacy's fax machine, computer or
30 printer; or transmission of an electronically prepared prescription from the
31 prescriber's fax machine to the pharmacy's fax machine, computer or
32 printer.

33 (x) "Intermediary" means any technology system that receives and
34 transmits an electronic prescription between the prescriber and the
35 pharmacy.

36 (y) "Isomer" means all enantiomers and diastereomers.

37 (z) "Manufacture" means the production, preparation,
38 propagation, compounding, conversion or processing of a controlled
39 substance either directly or indirectly or by extraction from substances of
40 natural origin or independently by means of chemical synthesis or by a
41 combination of extraction and chemical synthesis and includes any
42 packaging or repackaging of the substance or labeling or relabeling of its
43 container, except that this term does not include the preparation or

1 compounding of a controlled substance by an individual for the
2 individual's own lawful use or the preparation, compounding, packaging or
3 labeling of a controlled substance:

4 (1) By a practitioner or the practitioner's agent pursuant to a lawful
5 order of a practitioner as an incident to the practitioner's administering or
6 dispensing of a controlled substance in the course of the practitioner's
7 professional practice; or

8 (2) by a practitioner or by the practitioner's authorized agent under
9 such practitioner's supervision for the purpose of or as an incident to
10 research, teaching or chemical analysis or by a pharmacist or medical care
11 facility as an incident to dispensing of a controlled substance.

12 (⊕) (aa) "Marijuana" means all parts of all varieties of the plant
13 Cannabis whether growing or not, the seeds thereof, the resin extracted
14 from any part of the plant and every compound, manufacture, salt,
15 derivative, mixture or preparation of the plant, its seeds or resin. It does
16 not include the mature stalks of the plant, fiber produced from the stalks,
17 oil or cake made from the seeds of the plant, any other compound,
18 manufacture, salt, derivative, mixture or preparation of the mature stalks,
19 except the resin extracted therefrom, fiber, oil, or cake or the sterilized
20 seed of the plant which is incapable of germination.

21 (bb) "Medical care facility" shall have the meaning ascribed to that
22 term in K.S.A. 65-425, and amendments thereto.

23 (cc) "Mid-level practitioner" means an advanced practice registered
24 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
25 thereto, who has authority to prescribe drugs pursuant to a written protocol
26 with a responsible physician under K.S.A. 65-1130, and amendments
27 thereto, or a physician assistant licensed under the physician assistant
28 licensure act who has authority to prescribe drugs pursuant to a written
29 protocol with a responsible physician under K.S.A. 65-28a08, and
30 amendments thereto.

31 (⊕) (dd) "Narcotic drug" means any of the following whether
32 produced directly or indirectly by extraction from substances of vegetable
33 origin or independently by means of chemical synthesis or by a
34 combination of extraction and chemical synthesis:

35 (1) Opium and opiate and any salt, compound, derivative or
36 preparation of opium or opiate;

37 (2) any salt, compound, isomer, derivative or preparation thereof
38 which is chemically equivalent or identical with any of the substances
39 referred to in clause (1) but not including the isoquinoline alkaloids of
40 opium;

41 (3) opium poppy and poppy straw;

42 (4) coca leaves and any salt, compound, derivative or preparation of
43 coca leaves, and any salt, compound, isomer, derivative or preparation

1 thereof which is chemically equivalent or identical with any of these
2 substances, but not including decocainized coca leaves or extractions of
3 coca leaves which do not contain cocaine or ecgonine.

4 (†) (ee) "Opiate" means any substance having an addiction-forming
5 or addiction-sustaining liability similar to morphine or being capable of
6 conversion into a drug having addiction-forming or addiction-sustaining
7 liability. It does not include, unless specifically designated as controlled
8 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer
9 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
10 include its racemic and levorotatory forms.

11 (†) (ff) "Opium poppy" means the plant of the species *Papaver*
12 *somniferum* L. except its seeds.

13 (s) (gg) "Person" means *an* individual, corporation, government, or
14 governmental subdivision or agency, business trust, estate, trust,
15 partnership or association or any other legal entity.

16 (hh) "Pharmacist" means any natural person licensed under K.S.A.
17 65-1625 et seq., to practice pharmacy.

18 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an
19 accredited pharmacy program; (2) a graduate of an accredited pharmacy
20 program serving such person's internship; or (3) a graduate of a pharmacy
21 program located outside of the United States which is not accredited and
22 who had successfully passed equivalency examinations approved by the
23 board.

24 (jj) "Pharmacy prescription application" means software that is used
25 to process prescription information, is installed on a pharmacy's computers
26 and servers, and is controlled by the pharmacy.

27 (†) (kk) "Poppy straw" means all parts, except the seeds, of the opium
28 poppy, after mowing.

29 ~~(u) "Pharmacist" means an individual currently licensed by the board
30 to practice the profession of pharmacy in this state.~~

31 (v) (ll) "Practitioner" means a person licensed to practice medicine
32 and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific
33 investigator or other person authorized by law to use a controlled
34 substance in teaching or chemical analysis or to conduct research with
35 respect to a controlled substance.

36 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

37 (w) (nn) "Production" includes the manufacture, planting, cultivation,
38 growing or harvesting of a controlled substance.

39 (oo) "Readily retrievable" means that records kept by automatic data
40 processing applications or other electronic or mechanized recordkeeping
41 systems can be separated out from all other records within a reasonable
42 time not to exceed 48 hours of a request from the board or other authorized
43 agent or that hard-copy records are kept on which certain items are

1 asterisked, redlined or in some other manner visually identifiable apart
2 from other items appearing on the records.

3 ~~(x) (pp)~~ "Ultimate user" means a person who lawfully possesses a
4 controlled substance for such person's own use or for the use of a member
5 of such person's household or for administering to an animal owned by
6 such person or by a member of such person's household.

7 ~~(y)~~ "Isomer" means all enantiomers and diastereomers.

8 ~~(z)~~ "Medical care facility" shall have the meaning ascribed to that
9 term in K.S.A. 65-425, and amendments thereto.

10 ~~(aa)~~ "Cultivate" means the planting or promotion of growth of five or
11 more plants which contain or can produce controlled substances.

12 ~~(bb) (1)~~ "Controlled substance analog" means a substance that is
13 intended for human consumption, and:

14 ~~(A)~~ The chemical structure of which is substantially similar to the
15 chemical structure of a controlled substance listed in or added to the
16 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments
17 thereto;

18 ~~(B)~~ which has a stimulant, depressant or hallucinogenic effect on the
19 central nervous system substantially similar to the stimulant, depressant or
20 hallucinogenic effect on the central nervous system of a controlled
21 substance included in the schedules designated in K.S.A. 65-4105 or 65-
22 4107, and amendments thereto; or

23 ~~(C)~~ with respect to a particular individual, which the individual
24 represents or intends to have a stimulant, depressant or hallucinogenic
25 effect on the central nervous system substantially similar to the stimulant,
26 depressant or hallucinogenic effect on the central nervous system of a
27 controlled substance included in the schedules designated in K.S.A. 65-
28 4105 or 65-4107, and amendments thereto.

29 ~~(2)~~ "Controlled substance analog" does not include:

30 ~~(A)~~ A controlled substance;

31 ~~(B)~~ a substance for which there is an approved new drug application;

32 or

33 ~~(C)~~ a substance with respect to which an exemption is in effect for
34 investigational use by a particular person under section 505 of the federal
35 food, drug, and cosmetic act (21 U.S.C. § 355) to the extent conduct with
36 respect to the substance is permitted by the exemption.

37 ~~(cc)~~ "Mid-level practitioner" means an advanced practice registered
38 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
39 thereto, who has authority to prescribe drugs pursuant to a written protocol
40 with a responsible physician under K.S.A. 65-1130, and amendments
41 thereto, or a physician assistant licensed under the physician assistant
42 licensure act who has authority to prescribe drugs pursuant to a written
43 protocol with a responsible physician under K.S.A. 65-28a08, and

1 ~~amendments thereto.~~

2 Sec. 25. K.S.A. 2012 Supp. 72-978 is hereby amended to read as
3 follows: 72-978. (a) Each year, the state board of education shall
4 determine the amount of state aid for the provision of special education
5 and related services each school district shall receive for the ensuing
6 school year. The amount of such state aid shall be computed by the state
7 board as provided in this section. The state board shall:

8 (1) Determine the total amount of general fund and local option
9 budgets of all school districts;

10 (2) subtract from the amount determined in paragraph (1) the total
11 amount attributable to assignment of transportation weighting, program
12 weighting, special education weighting and at-risk pupil weighting to
13 enrollment of all school districts;

14 (3) divide the remainder obtained in paragraph (2) by the total
15 number of full-time equivalent pupils enrolled in all school districts on
16 September 20;

17 (4) determine the total full-time equivalent enrollment of exceptional
18 children receiving special education and related services provided by all
19 school districts;

20 (5) multiply the amount of the quotient obtained in paragraph (3) by
21 the full-time equivalent enrollment determined in paragraph (4);

22 (6) determine the amount of federal funds received by all school
23 districts for the provision of special education and related services;

24 (7) determine the amount of revenue received by all school districts
25 rendered under contracts with the state institutions for the provisions of
26 special education and related services by the state institution;

27 (8) add the amounts determined under paragraphs (6) and (7) to the
28 amount of the product obtained under paragraph (5);

29 (9) determine the total amount of expenditures of all school districts
30 for the provision of special education and related services;

31 (10) subtract the amount of the sum obtained under paragraph (8)
32 from the amount determined under paragraph (9); and

33 (11) multiply the remainder obtained under paragraph (10) by 92%.

34 The computed amount is the amount of state aid for the provision of
35 special education and related services aid a school district is entitled to
36 receive for the ensuing school year.

37 (b) Each school district shall be entitled to receive:

38 (1) Reimbursement for actual travel allowances paid to special
39 teachers at not to exceed the rate specified under K.S.A. 75-3203, and
40 amendments thereto, for each mile actually traveled during the school year
41 in connection with duties in providing special education or related services
42 for exceptional children; such reimbursement shall be computed by the
43 state board by ascertaining the actual travel allowances paid to special

1 teachers by the school district for the school year and shall be in an
2 amount equal to 80% of such actual travel allowances;

3 (2) reimbursement in an amount equal to 80% of the actual travel
4 expenses incurred for providing transportation for exceptional children to
5 special education or related services; such reimbursement shall not be paid
6 if such child has been counted in determining the transportation weighting
7 of the district under the provisions of the school district finance and
8 quality performance act;

9 (3) reimbursement in an amount equal to 80% of the actual expenses
10 incurred for the maintenance of an exceptional child at some place other
11 than the residence of such child for the purpose of providing special
12 education or related services; such reimbursement shall not exceed \$600
13 per exceptional child per school year; and

14 (4) (A) except for those school districts entitled to receive
15 reimbursement under subsection (c) or (d), after subtracting the amounts of
16 reimbursement under paragraphs (1), (2) and (3) of ~~this~~ subsection (a)
17 from the total amount appropriated for special education and related
18 services under this act, an amount which bears the same proportion to the
19 remaining amount appropriated as the number of full-time equivalent
20 special teachers who are qualified to provide special education or related
21 services to exceptional children and are employed by the school district for
22 approved special education or related services bears to the total number of
23 such qualified full-time equivalent special teachers employed by all school
24 districts for approved special education or related services.

25 (B) Each special teacher who is qualified to assist in the provision of
26 special education or related services to exceptional children shall be
27 counted as $\frac{2}{5}$ full-time equivalent special teacher who is qualified to
28 provide special education or related services to exceptional children.

29 (C) For purposes of this paragraph (4), a special teacher, qualified to
30 assist in the provision of special education and related services to
31 exceptional children, who assists in providing special education and
32 related services to exceptional children at either the state school for the
33 blind or the state school for the deaf and whose services are paid for by a
34 school district pursuant to K.S.A. 76-1006 or 76-1102, and amendments
35 thereto, shall be considered a special teacher of such school district.

36 (c) Each school district which has paid amounts for the provision of
37 special education and related services under an interlocal agreement shall
38 be entitled to receive reimbursement under subsection (b)(4). The amount
39 of such reimbursement for the district shall be the amount which bears the
40 same relation to the aggregate amount available for reimbursement for the
41 provision of special education and related services under the interlocal
42 agreement, as the amount paid by such district in the current school year
43 for provision of such special education and related services bears to the

1 aggregate of all amounts paid by all school districts in the current school
2 year who have entered into such interlocal agreement for provision of such
3 special education and related services.

4 (d) Each contracting school district which has paid amounts for the
5 provision of special education and related services as a member of a
6 cooperative shall be entitled to receive reimbursement under subsection (b)
7 (4). The amount of such reimbursement for the district shall be the amount
8 which bears the same relation to the aggregate amount available for
9 reimbursement for the provision of special education and related services
10 by the cooperative, as the amount paid by such district in the current
11 school year for provision of such special education and related services
12 bears to the aggregate of all amounts paid by all contracting school
13 districts in the current school year by such cooperative for provision of
14 such special education and related services.

15 (e) No time spent by a special teacher in connection with duties
16 performed under a contract entered into by the Kansas juvenile
17 correctional complex, the Atchison juvenile correctional facility, the
18 Larned juvenile correctional facility, or the Topeka juvenile correctional
19 facility and a school district for the provision of special education services
20 by such state institution shall be counted in making computations under
21 this section.

22 Sec. 26. K.S.A. 2012 Supp. 74-7901 is hereby amended to read as
23 follows: 74-7901. There is hereby created a Kansas wildlife arts council
24 which shall be composed of five members. One member shall be a
25 member of the Kansas wildlife ~~and parks~~, *parks and tourism* commission
26 appointed by such commission, one member shall be a member of the
27 Kansas creative arts industries commission appointed by such commission,
28 one member shall be the director of the Fort Hays state university
29 Sternberg museum, and two members shall be from the public at large
30 appointed by the president of Fort Hays state university. The director of
31 the Fort Hays state university Sternberg museum shall be chairperson of
32 the council, and personnel of the Fort Hays state university Sternberg
33 museum shall provide such staff and clerical services as the council may
34 require.

35 Sec. 27. K.S.A. 2012 Supp. 75-7c05, as amended by section 7 of
36 2013 Senate Substitute for House Bill No. 2052, is hereby amended to
37 read as follows: 75-7c05. (a) The application for a license pursuant to this
38 act shall be completed, under oath, on a form prescribed by the attorney
39 general and shall only include:

40 (1) (A) Subject to the provisions of subsection (a)(1)(B), the name,
41 address, social security number, Kansas driver's license number or Kansas
42 nondriver's license identification number, place and date of birth, a
43 photocopy of the applicant's driver's license or nondriver's identification

1 card and a photocopy of the applicant's certificate of training course
2 completion; (B) in the case of an applicant who presents proof that such
3 person is on active duty with any branch of the armed forces of the United
4 States, or is the dependent of such a person, and who does not possess a
5 Kansas driver's license or Kansas nondriver's license identification, the
6 number of such license or identification shall not be required;

7 (2) a statement that the applicant is in compliance with criteria
8 contained within K.S.A. 2012 Supp. 75-7c04, and amendments thereto;

9 (3) a statement that the applicant has been furnished a copy of this act
10 and is knowledgeable of its provisions;

11 (4) a conspicuous warning that the application is executed under oath
12 and that a false answer to any question, or the submission of any false
13 document by the applicant, subjects the applicant to criminal prosecution
14 under K.S.A. 2012 Supp. 21-5903, and amendments thereto; and

15 (5) a statement that the applicant desires a concealed handgun license
16 as a means of lawful self-defense.

17 (b) The applicant shall submit to the sheriff of the county where the
18 applicant resides, during any normal business hours:

19 (1) A completed application described in subsection (a);

20 (2) a nonrefundable license fee of \$132.50, if the applicant has not
21 previously been issued a statewide license or if the applicant's license has
22 permanently expired, which fee shall be in the form of two cashier's
23 checks, personal checks or money orders of \$32.50 payable to the sheriff
24 of the county where the applicant resides and \$100 payable to the attorney
25 general;

26 ~~(3) a photocopy of a certificate or an affidavit or document as~~
27 ~~described in subsection (b) of K.S.A. 2012 Supp. 75-7c04, and~~
28 ~~amendments thereto, or if applicable, of a license to carry a firearm as~~
29 ~~described in if applicable, a photocopy of the proof of training required by~~
30 subsection (d) of K.S.A. 2012 Supp. 75-7c03, and amendments thereto;
31 and

32 (4) a full frontal view photograph of the applicant taken within the
33 preceding 30 days.

34 (c) (1) The sheriff, upon receipt of the items listed in subsection (b) of
35 this section, shall provide for the full set of fingerprints of the applicant to
36 be taken and forwarded to the attorney general for purposes of a criminal
37 history records check as provided by subsection (d). In addition, the sheriff
38 shall forward to the attorney general ~~a copy of the application and the~~
39 portion of the original license fee which is payable to the attorney general.
40 The cost of taking such fingerprints shall be included in the portion of the
41 fee retained by the sheriff. Notwithstanding anything in this section to the
42 contrary, an applicant shall not be required to submit fingerprints for a
43 renewal application under K.S.A. 2012 Supp. 75-7c08, and amendments

1 thereto.

2 (2) The sheriff of the applicant's county of residence or the chief law
3 enforcement officer of any law enforcement agency, at the sheriff's or chief
4 law enforcement officer's discretion, may participate in the process by
5 submitting a voluntary report to the attorney general containing readily
6 discoverable information, corroborated through public records, which,
7 when combined with another enumerated factor, establishes that the
8 applicant poses a significantly greater threat to law enforcement or the
9 public at large than the average citizen. Any such voluntary reporting shall
10 be made within 45 days after the date the sheriff receives the application.
11 Any sheriff or chief law enforcement officer submitting a voluntary report
12 shall not incur any civil or criminal liability as the result of the good faith
13 submission of such report.

14 (3) All funds retained by the sheriff pursuant to the provisions of this
15 section shall be credited to a special fund of the sheriff's office which shall
16 be used solely for the purpose of administering this act.

17 (d) Each applicant shall be subject to a state and national criminal
18 history records check which conforms to applicable federal standards,
19 including an inquiry of the national instant criminal background check
20 system for the purpose of verifying the identity of the applicant and
21 whether the applicant has been convicted of any crime or has been the
22 subject of any restraining order or any mental health related finding that
23 would disqualify the applicant from holding a license under this act. The
24 attorney general is authorized to use the information obtained from the
25 state or national criminal history record check to determine the applicant's
26 eligibility for such license.

27 (e) *Except as provided in K.S.A. 2012 Supp. 75-7c03, and*
28 *amendments thereto*, within 90 days after the date of receipt of the items
29 listed in subsection (b), the attorney general shall:

30 (1) Issue the license and certify the issuance to the department of
31 revenue; or

32 (2) deny the application based solely on: (A) The report submitted by
33 the sheriff or other chief law enforcement officer under subsection (c)(2)
34 for good cause shown therein; or (B) the ground that the applicant is
35 disqualified under the criteria listed in K.S.A. 2012 Supp. 75-7c04, and
36 amendments thereto. If the attorney general denies the application, the
37 attorney general shall notify the applicant in writing, stating the ground for
38 denial and informing the applicant the opportunity for a hearing pursuant
39 to the Kansas administrative procedure act.

40 (f) Each person issued a license shall pay to the department of
41 revenue a fee for the cost of the license which shall be in amounts equal to
42 the fee required pursuant to K.S.A. 8-243 and 8-246, and amendments
43 thereto, for replacement of a driver's license.

1 (g) (1) A person who is a retired law enforcement officer, as defined
2 in K.S.A. 2012 Supp. 21-5111, and amendments thereto, shall be: (A)
3 Required to pay an original license fee as provided in subsection (b)(2), to
4 be forwarded by the sheriff to the attorney general; (B) exempt from the
5 required completion of a handgun safety and training course if such person
6 was certified by the Kansas commission on peace officer's standards and
7 training, or similar body from another jurisdiction, not more than eight
8 years prior to submission of the application; (C) required to pay the license
9 renewal fee; (D) required to pay to the department of revenue the fees
10 required by subsection (f); and (E) required to comply with the criminal
11 history records check requirement of this section.

12 (2) Proof of retirement as a law enforcement officer shall be required
13 and provided to the attorney general in the form of a letter from the agency
14 head, or their designee, of the officer's retiring agency that attests to the
15 officer having retired in good standing from that agency as a law
16 enforcement officer for reasons other than mental instability and that the
17 officer has a nonforfeitable right to benefits under a retirement plan of the
18 agency.

19 (h) A person who is a corrections officer, a parole officer or a
20 corrections officer employed by the federal bureau of prisons, as defined
21 by K.S.A. 75-5202, and amendments thereto, shall be: (1) Required to pay
22 an original license fee as provided in subsection (b)(2); (2) exempt from
23 the required completion of a handgun safety and training course if such
24 person was issued a certificate of firearms training by the department of
25 corrections or the federal bureau of prisons or similar body not more than
26 one year prior to submission of the application; (3) required to pay the
27 license renewal fee; (4) required to pay to the department of revenue the
28 fees required by subsection (f); and (5) required to comply with the
29 criminal history records check requirement of this section.

30 Sec. 28. K.S.A. 2012 Supp. 75-3740 is hereby amended to read as
31 follows: 75-3740. (a) Except as provided by K.S.A. 75-3740b, and
32 amendments thereto, and ~~subsection (g)~~ subsections (b) and (k), all
33 contracts and purchases made by or under the supervision of the director
34 of purchases or any state agency for which competitive bids are required
35 shall be awarded to the lowest responsible bidder, taking into consideration
36 conformity with the specifications, terms of delivery, and other conditions
37 imposed in the call for bids.

38 (b) *A contract shall be awarded to a certified business which is also a*
39 *responsible bidder, whose total bid cost is not more than 10% higher than*
40 *the lowest competitive bid. Such contract shall contain a promise by the*
41 *certified business that the percentage of employees that are individuals*
42 *with disabilities will be maintained throughout the contract term and a*
43 *condition that the certified business shall not subcontract for goods or*

1 *services in an aggregate amount of more than 25% of the total bid cost.*

2 (c) The director of purchases shall have power to decide as to the
3 lowest responsible bidder for all purchases, but if:

4 (1) (A) A responsible bidder purchases from a qualified vendor goods
5 or services on the list certified by the director of purchases pursuant to
6 K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of
7 such purchases made during the previous fiscal year shall be deducted
8 from the original bid received from such bidder for the purpose of
9 determining the lowest responsible bid, except that such deduction shall
10 not exceed 10% of the original bid received from such bidder; or

11 (B) a responsible bidder purchases from a certified business the dollar
12 amount of such purchases made during the previous fiscal year shall be
13 deducted from the original bid received from such bidder for the purpose
14 of determining the lowest responsible bid, except that such deduction shall
15 not exceed 10% of the original bid received from such bidder;

16 ~~(+)~~ (2) the dollar amount of the bid received from the lowest
17 responsible bidder from within the state is identical to the dollar amount of
18 the bid received from the lowest responsible bidder from without the state,
19 the contract shall be awarded to the bidder from within the state; and

20 ~~(=)~~ (3) in the case of bids for paper products specified in K.S.A. 75-
21 3740b, and amendments thereto, the dollar amounts of the bids received
22 from two or more lowest responsible bidders are identical, the contract
23 shall be awarded to the bidder whose bid is for those paper products
24 containing the highest percentage of recycled materials.

25 ~~(e)~~(d) Any or all bids may be rejected, and a bid shall be rejected if it
26 contains any material alteration or erasure made after the bid is opened.
27 The director of purchases may reject the bid of any bidder who is in
28 arrears on taxes due the state, who is not properly registered to collect and
29 remit taxes due the state or who has failed to perform satisfactorily on a
30 previous contract with the state. The secretary of revenue is hereby
31 authorized to exchange such information with the director of purchases as
32 is necessary to effectuate the preceding sentence notwithstanding any other
33 provision of law prohibiting disclosure of the contents of taxpayer records
34 or information. Prior to determining the lowest responsible bidder on
35 contracts for construction of buildings or for major repairs or
36 improvements to buildings for state agencies, the director of purchases
37 shall consider: (1) The criteria and information developed by the secretary
38 of administration, with the advice of the state building advisory
39 commission to rate contractors on the basis of their performance under
40 similar contracts with the state, local governmental entities and private
41 entities, in addition to other criteria and information available; and (2) the
42 recommendations of the project architect, or, if there is no project
43 architect, the recommendations of the secretary of administration or the

1 agency architect for the project as provided in K.S.A. 75-1254, and
2 amendments thereto. In any case where competitive bids are required and
3 where all bids are rejected, new bids shall be called for as in the first
4 instance, unless otherwise expressly provided by law or the state agency
5 elects not to proceed with the procurement.

6 ~~(d)~~ (e) Before the awarding of any contract for construction of a
7 building or the making of repairs or improvements upon any building for a
8 state agency, the director of purchases shall receive written approval from
9 the state agency for which the building construction project has been
10 approved, that the bids generally conform with the plans and specifications
11 prepared by the project architect, by the secretary of administration or by
12 the agency architect for the project, as the case may be, so as to avoid error
13 and mistake on the part of the contractors. In all cases where material
14 described in a contract can be obtained from any state institution, the
15 director of purchases shall exclude the same from the contract.

16 ~~(e)~~ (f) All bids with the names of the bidders and the amounts thereof,
17 together with all documents pertaining to the award of a contract, shall be
18 made a part of a file or record and retained by the director of purchases for
19 five years, unless reproduced as provided in K.S.A. 75-3737, and
20 amendments thereto, and shall be open to public inspection at all
21 reasonable times.

22 ~~(f) As used in this section and in K.S.A. 75-3741, and amendments~~
23 ~~thereto, "project architect" shall have the meaning ascribed thereto in~~
24 ~~K.S.A. 75-1251, and amendments thereto.~~

25 (g) *As used in this section:*

26 (1) "Certified business" means any business certified annually by the
27 department of administration that is a sole proprietorship, partnership,
28 association or corporation domiciled in Kansas, or any corporation, even if
29 a wholly owned subsidiary of a foreign corporation, that:

30 (A) Does business primarily in Kansas or substantially all of its
31 production in Kansas;

32 (B) employs at least 20% of its employees who are individuals with
33 disabilities and reside in Kansas;

34 (C) offers to contribute at least 75% of the premium cost for
35 individual health insurance coverage for each employee. The level of such
36 coverage shall be at least equal to the level of benefits offered by the state
37 employee benefit program established by K.S.A. 75-6501 et seq., and
38 amendments thereto. The department of administration shall require a
39 certification of these facts as a condition to the certified business being
40 awarded a contract pursuant to subsection (b); and

41 (D) does not employ individuals under a certificate issued by the
42 United States secretary of labor under subsection (c) of 29 U.S.C. § 214;

43 (2) "individuals with disabilities" or "individual with a disability"

1 means any individual who:

2 (A) Is certified by the Kansas department for aging and disability
3 services as having a physical or mental impairment which constitutes a
4 substantial barrier to employment;

5 (B) works a minimum number of hours per week for a certified
6 business necessary to qualify for health insurance coverage offered
7 pursuant to subsection (g)(1); and

8 (C) (i) is receiving services, has received services or is eligible to
9 receive services under a home and community based services program, as
10 defined by K.S.A. 39-7,100, and amendments thereto;

11 (ii) is employed by a charitable organization domiciled in the state of
12 Kansas and exempt from federal income taxation pursuant to section
13 501(c)(3) of the federal internal revenue code of 1986, as amended; or

14 (iii) is an individual with a severe and persistent mental illness, as
15 determined by a clinical or functional assessment approved by the Kansas
16 department for aging and disability services;

17 (3) "physical or mental impairment" means:

18 (A) Any physiological disorder or condition, cosmetic disfigurement
19 or anatomical loss substantially affecting one or more of the following
20 body systems: Neurological; musculoskeletal; special sense organs;
21 respiratory, including speech organs; cardiovascular; reproductive;
22 digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

23 (B) any mental or psychological disorder, such as intellectual
24 disability, organic brain syndrome, mental illness and specific learning
25 disabilities. The term "physical or mental impairment" includes, but is not
26 limited to, such diseases and conditions as orthopedic, visual, speech and
27 hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple
28 sclerosis and intellectual disability; and

29 (4) "project architect" shall have the meaning ascribed thereto in
30 K.S.A. 75-1251, and amendments thereto.

31 (h) Any state agency authorized by the director of purchases to make
32 purchases pursuant to subsection (e) of K.S.A. 75-3739, and amendments
33 thereto, shall consider any unsolicited proposal for goods or services under
34 this section.

35 (i) The secretary of administration and the secretary for aging and
36 disability services, jointly, shall adopt rules and regulations as necessary to
37 effectuate the purpose of this section.

38 (j) On and after January 13, 2014, at the beginning of each regular
39 session of the legislature, the secretary of administration and the secretary
40 for aging and disability services shall submit to the social services budget
41 committee of the house of representatives and the appropriate
42 subcommittee of the committee on ways and means of the senate, a written
43 report on:

1 (1) The number of certified businesses certified by the department of
2 administration during the previous fiscal year;

3 (2) the number of certified businesses awarded contracts pursuant to
4 subsection (b) during the previous fiscal year;

5 (3) the number of contracts awarded pursuant to subsection (b) to
6 each certified business during the previous fiscal year;

7 (4) the number of individuals with disabilities removed from,
8 reinstated to or not reinstated to home and community based services or
9 other medicaid program services during the previous fiscal year as a result
10 of employment with a certified business;

11 (5) the number of individuals employed by each certified business
12 during the previous fiscal year; and

13 (6) the number of individuals with disabilities employed by each
14 certified business during the previous fiscal year.

15 (k) When a state agency is receiving bids to purchase passenger
16 motor vehicles, such agency shall follow the procedures prescribed in
17 subsection ~~(b)(1)~~ (c)(2), except in the case where one of the responsible
18 bidders offers motor vehicles which are assembled in Kansas. In such a
19 case, 3% of the bid of the responsible bidder which offers motor vehicles
20 assembled in Kansas shall be subtracted from the bid amount, and that
21 amount shall be used to determine the lowest bid pursuant to subsection
22 ~~(b)(1)~~ (c)(2). This subsection shall only apply to bids which match the
23 exact motor vehicle specifications of the agency purchasing passenger
24 motor vehicles.

25 Sec. 29. K.S.A. 2012 Supp. 75-37,121 is hereby amended to read as
26 follows: 75-37,121. (a) There is created the office of administrative
27 hearings within the department of administration, to be headed by a
28 director appointed by the secretary of administration. The director shall be
29 in the unclassified service under the Kansas civil service act.

30 (b) The office may employ or contract with presiding officers, court
31 reporters and other support personnel as necessary to conduct proceedings
32 required by the Kansas administrative procedure act for adjudicative
33 proceedings of the state agencies, boards and commissions specified in
34 subsection (h). The office shall conduct adjudicative proceedings of any
35 state agency which is specified in subsection (h) when requested by such
36 agency. Only a person admitted to practice law in this state or a person
37 directly supervised by a person admitted to practice law in this state may
38 be employed as a presiding officer. The office may employ regular part-
39 time personnel. Persons employed by the office shall be under the
40 classified civil service.

41 (c) If the office cannot furnish one of its presiding officers within 60
42 days in response to a requesting agency's request, the director shall
43 designate in writing a full-time employee of an agency other than the

1 requesting agency to serve as presiding officer for the proceeding, but only
2 with the consent of the employing agency. The designee must possess the
3 same qualifications required of presiding officers employed by the office.

4 (d) The director may furnish presiding officers on a contract basis to
5 any governmental entity to conduct any proceeding other than a
6 proceeding as provided in subsection (h).

7 (e) The secretary of administration may adopt rules and regulations:

8 (1) To establish procedures for agencies to request and for the
9 director to assign presiding officers. An agency may neither select nor
10 reject any individual presiding officer for any proceeding except in
11 accordance with the Kansas administrative procedure act;

12 (2) to establish procedures and adopt forms, consistent with the
13 Kansas administrative procedure act, the model rules of procedure, and
14 other provisions of law, to govern presiding officers; and

15 (3) to facilitate the performance of the responsibilities conferred upon
16 the office by the Kansas administrative procedure act.

17 (f) The director may implement the provisions of this section and
18 rules and regulations adopted under its authority.

19 (g) The secretary of administration may adopt rules and regulations to
20 establish fees to charge a state agency for the cost of using a presiding
21 officer.

22 (h) The following state agencies, boards and commissions shall
23 utilize the office of administrative hearings for conducting adjudicative
24 hearings under the Kansas administrative procedures act in which the
25 presiding officer is not the agency head or one or more members of the
26 agency head:

27 (1) On and after July 1, 2005: Department of social and rehabilitation
28 services, juvenile justice authority, department on aging, department of
29 health and environment, Kansas public employees retirement system,
30 Kansas water office, Kansas ~~animal health~~ department *of agriculture*
31 *division of animal health* and Kansas insurance department.

32 (2) On and after July 1, 2006: Emergency medical services board,
33 emergency medical services council and Kansas human rights
34 commission.

35 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and
36 gaming commission, state treasurer, pooled money investment board,
37 Kansas department of wildlife, parks and tourism and state court of tax
38 appeals.

39 (4) On and after July 1, 2008: Department of human resources, state
40 corporation commission, ~~state conservation commission~~ *Kansas*
41 *department of agriculture division of conservation*, agricultural labor
42 relations board, department of administration, department of revenue,
43 board of adult care home administrators, Kansas state grain inspection

1 department, board of accountancy and Kansas wheat commission.

2 (5) On and after July 1, 2009, all other Kansas administrative
3 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

4 (i) (1) Effective July 1, 2005, any presiding officer in agencies
5 specified in subsection (h)(1) which conduct hearings pursuant to the
6 Kansas administrative procedure act, except those exempted pursuant to
7 K.S.A. 77-551, and amendments thereto, and support personnel for such
8 presiding officers, shall be transferred to and shall become employees of
9 the office of administrative hearings. Such personnel shall retain all rights
10 under the state personnel system and retirement benefits under the laws of
11 this state which had accrued to or vested in such personnel prior to the
12 effective date of this section. Such person's services shall be deemed to
13 have been continuous. All transfers of personnel positions in the classified
14 service under the Kansas civil service act shall be in accordance with civil
15 service laws and any rules and regulations adopted thereunder. This
16 section shall not affect any matter pending before an administrative
17 hearing officer at the time of the effective date of the transfer, and such
18 matter shall proceed as though no transfer of employment had occurred.

19 (2) Effective July 1, 2006, any presiding officer in agencies specified
20 in subsection (h)(2) which conduct hearings pursuant to the Kansas
21 administrative procedure act, except those exempted pursuant to K.S.A.
22 77-551, and amendments thereto, and support personnel for such presiding
23 officers, shall be transferred to and shall become employees of the office
24 of administrative hearings. Such personnel shall retain all rights under the
25 state personnel system and retirement benefits under the laws of this state
26 which had accrued to or vested in such personnel prior to the effective date
27 of this section. Such person's services shall be deemed to have been
28 continuous. All transfers of personnel positions in the classified service
29 under the Kansas civil service act shall be in accordance with civil service
30 laws and any rules and regulations adopted thereunder. This section shall
31 not affect any matter pending before an administrative hearing officer at
32 the time of the effective date of the transfer, and such matter shall proceed
33 as though no transfer of employment had occurred.

34 (3) Effective July 1, 2007, any presiding officer in agencies specified
35 in subsection (h)(3) which conduct hearings pursuant to the Kansas
36 administrative procedure act, except those exempted pursuant to K.S.A.
37 77-551, and amendments thereto, and support personnel for such presiding
38 officers, shall be transferred to and shall become employees of the office
39 of administrative hearings. Such personnel shall retain all rights under the
40 state personnel system and retirement benefits under the laws of this state
41 which had accrued to or vested in such personnel prior to the effective date
42 of this section. Such person's services shall be deemed to have been
43 continuous. All transfers of personnel positions in the classified service

1 under the Kansas civil service act shall be in accordance with civil service
2 laws and any rules and regulations adopted thereunder. This section shall
3 not affect any matter pending before an administrative hearing officer at
4 the time of the effective date of the transfer, and such matter shall proceed
5 as though no transfer of employment had occurred.

6 (4) Effective July 1, 2008, any full-time presiding officer in agencies
7 specified in subsection (h)(4) which conduct hearings pursuant to the
8 Kansas administrative procedure act, except those exempted pursuant to
9 K.S.A. 77-551, and amendments thereto, and support personnel for such
10 presiding officers, shall be transferred to and shall become employees of
11 the office of administrative hearings. Such personnel shall retain all rights
12 under the state personnel system and retirement benefits under the laws of
13 this state which had accrued to or vested in such personnel prior to the
14 effective date of this section. Such person's services shall be deemed to
15 have been continuous. All transfers of personnel positions in the classified
16 service under the Kansas civil service act shall be in accordance with civil
17 service laws and any rules and regulations adopted thereunder. This
18 section shall not affect any matter pending before an administrative
19 hearing officer at the time of the effective date of the transfer, and such
20 matter shall proceed as though no transfer of employment had occurred.

21 (5) Effective July 1, 2009, any full-time presiding officer in agencies
22 specified in subsection (h)(5) which conduct hearings pursuant to the
23 Kansas administrative procedure act, except those exempted pursuant to
24 K.S.A. 77-551, and amendments thereto, and support personnel for such
25 presiding officers, shall be transferred to and shall become employees of
26 the office of administrative hearings. Such personnel shall retain all rights
27 under the state personnel system and retirement benefits under the laws of
28 this state which had accrued to or vested in such personnel prior to the
29 effective date of this section. Such person's services shall be deemed to
30 have been continuous. All transfers of personnel positions in the classified
31 service under the Kansas civil service act shall be in accordance with civil
32 service laws and any rules and regulations adopted thereunder. This
33 section shall not affect any matter pending before an administrative
34 hearing officer at the time of the effective date of the transfer, and such
35 matter shall proceed as though no transfer of employment occurred.

36 Sec. 30. K.S.A. 2012 Supp. 75-4362, as amended by section 5 of
37 2013 Senate Bill No. 149, is hereby amended to read as follows: 75-4362.

38 (a) The director of the division of personnel services of the department of
39 administration shall have the authority to establish and implement a drug
40 screening program for persons taking office as governor, lieutenant
41 governor, attorney general or members of the Kansas senate or house of
42 representatives and for applicants for safety sensitive positions in state
43 government, but no applicant for a safety sensitive position shall be

1 required to submit to a test as a part of this program unless the applicant is
2 first given a conditional offer of employment.

3 (b) The director also shall have the authority to establish and
4 implement a drug screening program based upon a reasonable suspicion of
5 illegal drug use by any person currently holding one of the following
6 positions or offices:

7 (1) The office of governor, lieutenant governor or attorney general;

8 (2) members of the Kansas senate or house of representatives;

9 (3) any safety sensitive position;

10 (4) any position in an institution of mental health, as defined in
11 K.S.A. 76-12a01, and amendments thereto, that is not a safety sensitive
12 position;

13 (5) any position in the Kansas state school for the blind, as
14 established under K.S.A. 76-1101 et seq., and amendments thereto;

15 (6) any position in the Kansas state school for the deaf, as established
16 under K.S.A. 76-1001 et seq., and amendments thereto; or

17 (7) any employee of a state veteran's home operated by the Kansas
18 commission on veteran's affairs as described in K.S.A. 76-1901 et seq. and
19 K.S.A. 76-1951 et seq., and amendments thereto.

20 (c) Any public announcement or advertisement soliciting applications
21 for employment in a safety sensitive position in state government shall
22 include a statement of the requirements of the drug screening program
23 established under this section for applicants for and employees holding a
24 safety sensitive position.

25 (d) *Except for a person who has access to a secured biological*
26 *laboratory in the office of laboratory services of the department of health*
27 *and environment*, no person shall be terminated solely due to positive
28 results of a test administered as a part of a program authorized by this
29 section if:

30 (1) The employee has not previously had a valid positive test result;
31 and

32 (2) the employee undergoes a drug evaluation and successfully
33 completes any education or treatment program recommended as a result of
34 the evaluation. Nothing herein shall be construed as prohibiting demotions,
35 suspensions or terminations pursuant to K.S.A. 75-2949e or 75-2949f, and
36 amendments thereto.

37 (e) Except in hearings before the state civil service board regarding
38 disciplinary action taken against the employee, the results of any test
39 administered as a part of a program authorized by this section shall be
40 confidential and shall not be disclosed publicly.

41 (f) The secretary of administration may adopt such rules and
42 regulations as necessary to carry out the provisions of this section.

43 (g) "Safety sensitive positions" means the following:

- 1 (1) All state law enforcement officers who are authorized to carry
2 firearms;
 - 3 (2) all state corrections officers;
 - 4 (3) all state parole officers;
 - 5 (4) heads of state agencies who are appointed by the governor and
6 employees on the governor's staff;
 - 7 (5) all employees with access to secure facilities of a correctional
8 institution, as defined in K.S.A. 2012 Supp. 21-5914, and amendments
9 thereto;
 - 10 (6) all employees of a juvenile correctional facility, as defined in
11 K.S.A. 2012 Supp. 38-2302, and amendments thereto; ~~and~~
 - 12 (7) all employees within an institution of mental health, as defined in
13 K.S.A. 76-12a01, and amendments thereto, who provide clinical,
14 therapeutic or rehabilitative services to the clients and patients of those
15 institutions; *and*
 - 16 (8) *all employees who have access to a secured biological laboratory*
17 *in the office of laboratory services of the department of health and*
18 *environment.*
- 19 Sec. 31. K.S.A. 2012 Supp. 75-5133 is hereby amended to read as
20 follows: 75-5133. (a) Except as otherwise more specifically provided by
21 law, all information received by the secretary of revenue, the director of
22 taxation or the director of alcoholic beverage control from returns, reports,
23 license applications or registration documents made or filed under the
24 provisions of any law imposing any sales, use or other excise tax
25 administered by the secretary of revenue, the director of taxation, or the
26 director of alcoholic beverage control, or from any investigation conducted
27 under such provisions, shall be confidential, and it shall be unlawful for
28 any officer or employee of the department of revenue to divulge any such
29 information except in accordance with other provisions of law respecting
30 the enforcement and collection of such tax, in accordance with proper
31 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.
- 32 (b) The secretary of revenue or the secretary's designee may:
 - 33 (1) Publish statistics, so classified as to prevent identification of
34 particular reports or returns and the items thereof;
 - 35 (2) allow the inspection of returns by the attorney general or the
36 attorney general's designee;
 - 37 (3) provide the post auditor access to all such excise tax reports or
38 returns in accordance with and subject to the provisions of subsection (g)
39 of K.S.A. 46-1106, and amendments thereto;
 - 40 (4) disclose taxpayer information from excise tax returns to persons
41 or entities contracting with the secretary of revenue where the secretary
42 has determined disclosure of such information is essential for completion
43 of the contract and has taken appropriate steps to preserve confidentiality;

1 (5) provide information from returns and reports filed under article 42
2 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
3 to county appraisers as is necessary to insure proper valuations of property.
4 Information from such returns and reports may also be exchanged with any
5 other state agency administering and collecting conservation or other taxes
6 and fees imposed on or measured by mineral production;

7 (6) provide, upon request by a city or county clerk or treasurer or
8 finance officer of any city or county receiving distributions from a local
9 excise tax, monthly reports identifying each retailer doing business in such
10 city or county or making taxable sales sourced to such city or county,
11 setting forth the tax liability and the amount of such tax remitted by each
12 retailer during the preceding month, and identifying each business location
13 maintained by the retailer and such retailer's sales or use tax registration or
14 account number;

15 (7) provide information from returns and applications for registration
16 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
17 3601, and amendments thereto, to a city or county treasurer or clerk or
18 finance officer to explain the basis of statistics contained in reports
19 provided by subsection (b)(6);

20 (8) disclose the following oil and gas production statistics received by
21 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
22 amendments thereto: Volumes of production by well name, well number,
23 operator's name and identification number assigned by the state
24 corporation commission, lease name, leasehold property description,
25 county of production or zone of production, name of purchaser and
26 purchaser's tax identification number assigned by the department of
27 revenue, name of transporter, field code number or lease code, tax period,
28 exempt production volumes by well name or lease, or any combination of
29 this information;

30 (9) release or publish liquor brand registration information provided
31 by suppliers, farm wineries, *microdistilleries* and microbreweries in
32 accordance with the liquor control act. The information to be released is
33 limited to: Item number, universal numeric code, type status, product
34 description, alcohol percentage, selling units, unit size, unit of
35 measurement, supplier number, supplier name, distributor number and
36 distributor name;

37 (10) release or publish liquor license information provided by liquor
38 licensees, distributors, suppliers, farm wineries, *microdistilleries* and
39 microbreweries in accordance with the liquor control act. The information
40 to be released is limited to: County name, owner, business name, address,
41 license type, license number, license expiration date and the process agent
42 contact information;

43 (11) release or publish cigarette and tobacco license information

1 obtained from cigarette and tobacco licensees in accordance with the
2 Kansas cigarette and tobacco products act. The information to be released
3 is limited to: County name, owner, business name, address, license type
4 and license number;

5 (12) provide environmental surcharge or solvent fee, or both,
6 information from returns and applications for registration filed pursuant to
7 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
8 of health and environment or the secretary's designee for the sole purpose
9 of ensuring that retailers collect the environmental surcharge tax or solvent
10 fee, or both;

11 (13) provide water protection fee information from returns and
12 applications for registration filed pursuant to K.S.A. 82a-954, and
13 amendments thereto, to the secretary of the state board of agriculture or the
14 secretary's designee and the secretary of the Kansas water office or the
15 secretary's designee for the sole purpose of verifying revenues deposited to
16 the state water plan fund;

17 (14) provide to the secretary of commerce copies of applications for
18 project exemption certificates sought by any taxpayer under the enterprise
19 zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,
20 and amendments thereto;

21 (15) disclose information received pursuant to the Kansas cigarette
22 and tobacco act and subject to the confidentiality provisions of this act to
23 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
24 4701, and amendments thereto, or to any law enforcement officer, as
25 defined in K.S.A. 2012 Supp. 21-5111, and amendments thereto, on behalf
26 of a criminal justice agency, when requested in writing in conjunction with
27 a pending investigation;

28 (16) provide to retailers tax exemption information for the sole
29 purpose of verifying the authenticity of tax exemption numbers issued by
30 the department;

31 (17) provide information concerning remittance by sellers, as defined
32 in K.S.A. 2012 Supp. 12-5363, and amendments thereto, of prepaid
33 wireless 911 fees from returns to the local collection point administrator,
34 as defined in K.S.A. 2012 Supp. 12-5363, and amendments thereto, for
35 purposes of verifying seller compliance with collection and remittance of
36 such fees; and

37 (18) release or publish charitable gaming information obtained in
38 bingo licensee and registration applications and renewals in accordance
39 with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The
40 information to be released is limited to: The name, address, phone number,
41 license registration number and email address of the organization,
42 distributor or of premises.

43 (c) Any person receiving any information under the provisions of

1 subsection (b) shall be subject to the confidentiality provisions of
2 subsection (a) and to the penalty provisions of subsection (d).

3 (d) Any violation of this section shall be a class A, nonperson
4 misdemeanor, and if the offender is an officer or employee of this state,
5 such officer or employee shall be dismissed from office. Reports of
6 violations of this paragraph shall be investigated by the attorney general.
7 The district attorney or county attorney and the attorney general shall have
8 authority to prosecute any violation of this section if the offender is a city
9 or county clerk or treasurer or finance officer of a city or county.

10 Sec. 32. K.S.A. 2012 Supp. 75-6102 is hereby amended to read as
11 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
12 amendments thereto, unless the context clearly requires otherwise:

13 (a) "State" means the state of Kansas and any department or branch of
14 state government, or any agency, authority, institution or other
15 instrumentality thereof.

16 (b) "Municipality" means any county, township, city, school district
17 or other political or taxing subdivision of the state, or any agency,
18 authority, institution or other instrumentality thereof.

19 (c) "Governmental entity" means state or municipality.

20 (d) (1) "Employee" means: (A) Any officer, employee, servant or
21 member of a board, commission, committee, division, department, branch
22 or council of a governmental entity, including elected or appointed
23 officials and persons acting on behalf or in service of a governmental
24 entity in any official capacity, whether with or without compensation and a
25 charitable health care provider;

26 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
27 8818, and amendments thereto, regardless of whether the services of such
28 steward or racing judge are rendered pursuant to contract as an
29 independent contractor;

30 (C) employees of the United States marshal's service engaged in the
31 transportation of inmates on behalf of the secretary of corrections;

32 (D) a person who is an employee of a nonprofit independent
33 contractor, other than a municipality, under contract to provide educational
34 or vocational training to inmates in the custody of the secretary of
35 corrections and who is engaged in providing such service in an institution
36 under the control of the secretary of corrections provided that such
37 employee does not otherwise have coverage for such acts and omissions
38 within the scope of their employment through a liability insurance contract
39 of such independent contractor;

40 (E) a person who is an employee or volunteer of a nonprofit program,
41 other than a municipality, who has contracted with the commissioner of
42 juvenile justice or with another nonprofit program that has contracted with
43 the commissioner of juvenile justice to provide a juvenile justice program

1 for juvenile offenders in a judicial district provided that such employee or
2 volunteer does not otherwise have coverage for such acts and omissions
3 within the scope of their employment or volunteer activities through a
4 liability insurance contract of such nonprofit program;

5 (F) a person who contracts with the Kansas guardianship program to
6 provide services as a court-appointed guardian or conservator;

7 (G) an employee of an indigent health care clinic;

8 (H) former employees for acts and omissions within the scope of their
9 employment during their former employment with the governmental
10 entity;

11 (I) any member of a regional medical emergency response team,
12 created under the provisions of K.S.A. 48-928, and amendments thereto, in
13 connection with authorized training or upon activation for an emergency
14 response; and

15 (J) medical students enrolled at the university of Kansas medical
16 center who are in clinical training, on or after July 1, 2008, at the
17 university of Kansas medical center or at another health care institution.

18 (2) "Employee" does not include: (A) An individual or entity for
19 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

20 (B) any independent contractor under contract with a governmental
21 entity except those contractors specifically listed in paragraph (1) of this
22 subsection.

23 (e) "Charitable health care provider" means a person licensed by the
24 state board of healing arts as an exempt licensee or a federally active
25 licensee, a person issued a limited permit by the state board of healing arts,
26 a physician assistant licensed by the state board of healing arts, a mental
27 health practitioner licensed by the behavioral sciences regulatory board, an
28 ultrasound technologist currently registered in any area of sonography
29 credentialed through the American registry of radiology technologists, the
30 American registry for diagnostic medical sonography or cardiovascular
31 credentialing international and working under the supervision of a person
32 licensed to practice medicine and surgery, or a health care provider as the
33 term "health care provider" is defined under K.S.A. 65-4921, and
34 amendments thereto, who has entered into an agreement with:

35 (1) The secretary of health and environment under K.S.A. 75-6120,
36 and amendments thereto, who, pursuant to such agreement, gratuitously
37 renders professional services to a person who has provided information
38 which would reasonably lead the health care provider to make the good
39 faith assumption that such person meets the definition of medically
40 indigent person as defined by this section or to a person receiving medical
41 assistance from the programs operated by the ~~Kansas health policy~~
42 ~~authority~~ *department of health and environment*, and who is considered an
43 employee of the state of Kansas under K.S.A. 75-6120, and amendments

1 thereto;

2 (2) the secretary of health and environment and who, pursuant to such
3 agreement, gratuitously renders professional services in conducting
4 children's immunization programs administered by the secretary;

5 (3) a local health department or indigent health care clinic, which
6 renders professional services to medically indigent persons or persons
7 receiving medical assistance from the programs operated by the ~~Kansas~~
8 ~~health policy authority~~ *department of health and environment* gratuitously
9 or for a fee paid by the local health department or indigent health care
10 clinic to such provider and who is considered an employee of the state of
11 Kansas under K.S.A. 75-6120, and amendments thereto. Professional
12 services rendered by a provider under this paragraph (3) shall be
13 considered gratuitous notwithstanding fees based on income eligibility
14 guidelines charged by a local health department or indigent health care
15 clinic and notwithstanding any fee paid by the local health department or
16 indigent health care clinic to a provider in accordance with this paragraph
17 (3); or

18 (4) the secretary of health and environment to provide dentistry
19 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
20 dental hygienist services defined by K.S.A. 65-1456, and amendments
21 thereto, that are targeted, but are not limited to, medically indigent
22 persons, and are provided on a gratuitous basis: (A) At a location
23 sponsored by a not-for-profit organization that is not the dentist or dental
24 hygienist office location; or (B) at the office location of a dentist or dental
25 hygienist provided the care be delivered as part of a program organized by
26 a not-for-profit organization and approved by the secretary of health and
27 environment; or (C) as part of a charitable program organized by the
28 dentist that has been approved by the secretary of health and environment
29 upon a showing that the dentist seeks to treat medically indigent patients
30 on a gratuitous basis, except that such dentistry services and dental
31 hygienist services shall not include "oral and maxillofacial surgery" as
32 defined by ~~rules and regulations adopted by the Kansas dental board~~
33 *K.A.R. 71-2-2*, or use sedation or general anesthesia that result in "deep
34 sedation" or "general anesthesia" as defined by ~~rules and regulations~~
35 ~~adopted by the Kansas dental board~~ *K.A.R. 71-5-7*.

36 (f) "Medically indigent person" means a person who lacks resources
37 to pay for medically necessary health care services and who meets the
38 eligibility criteria for qualification as a medically indigent person
39 established by the secretary of health and environment under K.S.A. 75-
40 6120, and amendments thereto.

41 (g) "Indigent health care clinic" means an outpatient medical care
42 clinic operated on a not-for-profit basis which has a contractual agreement
43 in effect with the secretary of health and environment to provide health

1 care services to medically indigent persons.

2 (h) "Local health department" shall have the meaning ascribed to
3 such term under K.S.A. 65-241, and amendments thereto.

4 (i) "Fire control, fire rescue or emergency medical services
5 equipment" means any vehicle, firefighting tool, protective clothing,
6 breathing apparatus and any other supplies, tools or equipment used in
7 firefighting or fire rescue or in the provision of emergency medical
8 services.

9 Sec. 33. K.S.A. 2012 Supp. 75-6609 is hereby amended to read as
10 follows: 75-6609. (a) When used in this section, "surplus real estate"
11 means real estate which is no longer needed by the state agency which
12 owns such real estate as determined in accordance with this section.

13 (b) (1) The secretary of administration shall develop criteria for the
14 identification of surplus real estate, including, but not limited to, a review
15 of any legal restrictions associated with the real estate and the reasons for
16 the state agency to keep the real estate. In accordance with such criteria,
17 the secretary shall assist state agencies in the identification of surplus real
18 estate. The secretary of administration shall periodically review the status
19 of all real estate of state agencies subject to this section to determine if any
20 of the real estate owned by state agencies is potentially surplus real estate.
21 If any real estate owned by a state agency is determined by the secretary of
22 administration, in consultation with the head of the state agency, to be
23 surplus real estate in accordance with the criteria developed under
24 subsection (a), then the secretary of administration shall recommend to the
25 governor that such real estate be sold under the procedures prescribed by
26 this section.

27 (2) The secretary of administration shall develop guidelines for the
28 sale of surplus real estate. In accordance with such guidelines and upon the
29 approval of the governor, after consultation with the head of the state
30 agency which owns such surplus real estate, after consultation with the
31 joint committee on state building construction and after approval by the
32 state finance council under subsection (c), the secretary may offer such
33 property for sale by one of the following means: (A) Public auction; (B) by
34 listing the surplus property with a licensed real estate broker or
35 salesperson; or (C) by sealed bid. Subject to the approval of the state
36 finance council as required by subsection (c), the secretary of
37 administration may sell surplus real estate and any improvements thereon
38 on behalf of the state agency which owns such property.

39 (c) Prior to the sale of any surplus real estate under subsection (b), the
40 state finance council shall approve the sale, which is hereby characterized
41 as a matter of legislative delegation and subject to the guidelines
42 prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto.
43 The matter may be submitted to the state finance council for approval at

1 any time, including periods of time during which the legislature is in
2 session.

3 (d) Prior to offering any real estate for sale, such property shall be
4 appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless
5 the appraisal is waived as provided in this subsection. The secretary of
6 administration may waive the requirement for appraisal for any parcel of
7 surplus real estate that is to be sold at public auction under this section if
8 the secretary of administration determines that it is in the best interests of
9 the state to waive the requirement for appraisal for such parcel of surplus
10 real estate. The costs of any such appraisal may be paid from the proceeds
11 of the sale.

12 (e) Conveyance of title in surplus real estate offered for sale by the
13 secretary of administration shall be executed on behalf of the state agency
14 by the secretary of administration. The deed for the conveyance may be by
15 warranty deed or by quitclaim deed as determined to be in the best
16 interests of the state by the secretary of administration in consultation with
17 the head of the state agency which owns the surplus real estate.

18 (f) (1) Any proceeds from the sale of surplus real estate and any
19 improvements thereon, after deduction of the expenses of such sale and
20 any cost of appraisal of the surplus real estate, shall be deposited in the
21 state treasury as prescribed by this subsection, unless otherwise authorized
22 by law. On and after ~~the effective date of this act~~ *July 1, 2012*, 20% of the
23 proceeds from each such sale deposited in the state treasury shall be
24 credited to the surplus real estate fund or another appropriate special
25 revenue fund of the state agency which owned the surplus real estate, as is
26 prescribed by law or as may be determined by the state agency, unless
27 otherwise required by state or federal law or by the limitations or
28 restrictions of the state's title to the real estate being sold. In the case of
29 proceeds from the sale of surplus real estate at a state mental health
30 institution or a state institution for people with intellectual disability, such
31 portion of the proceeds shall be credited to the client benefit fund of such
32 institution or to another special revenue fund of such institution for: (A)
33 Rehabilitation and repair or other capital improvements for such
34 institution; or (B) one-time expenditures for community mental health
35 organizations if the real estate sold was at a state mental health institution
36 or for community developmental disabilities organizations if the real estate
37 sold was at a state institution for people with intellectual disability, and, in
38 any such case, shall be expended in accordance with the provisions of
39 appropriation acts. The remaining 80% of the proceeds from each such
40 sale deposited in the state treasury shall be credited to the Kansas public
41 employees retirement fund to be applied to the payment, in full or in part,
42 of the unfunded actuarial pension liability as directed by the Kansas public
43 employees retirement system. As used in this section, "unfunded actuarial

1 pension liability" means the unfunded actuarially accrued liability of the
2 state for the state of Kansas and participating employers under K.S.A. 74-
3 4931, and amendments thereto, portion of such liability of the Kansas
4 public employees retirement system, determined as of the later of
5 December 31, 2011, or the end of the most recent calendar year for which
6 an actuarial valuation report is available.

7 (2) The amount of expenses and the cost of appraisal for each sale of
8 surplus real estate pursuant to this section shall be transferred and credited
9 to the property contingency fund created under K.S.A. 75-3652, and
10 amendments thereto, and may be expended for any operations of the
11 department of administration.

12 (3) Any state agency owning real estate may apply to the director of
13 accounts and reports to establish a surplus real estate special revenue fund
14 in the state treasury. Subject to the provisions of appropriation acts,
15 moneys in a surplus real estate special revenue fund may be expended for
16 the operating expenditures of the state agency.

17 (g) Any sale of property by the secretary of transportation pursuant to
18 K.S.A. 68-413, and amendments thereto, shall not be subject to the
19 provisions of this section. The provisions of this section shall not be
20 applicable to real estate given as an endowment, bequest, or gift to a state
21 educational institution as defined in K.S.A. 72-4412, and amendments
22 thereto, or to the university of Kansas medical center.

23 (h) Sale of the Olathe travel information center shall not be subject to
24 the provisions of this section.

25 Sec. 34. K.S.A. 2012 Supp. 79-3234 is hereby amended to read as
26 follows: 79-3234. (a) All reports and returns required by this act shall be
27 preserved for three years and thereafter until the director orders them to be
28 destroyed.

29 (b) Except in accordance with proper judicial order, or as provided in
30 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,
31 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be
32 unlawful for the secretary, the director, any deputy, agent, clerk or other
33 officer, employee or former employee of the department of revenue or any
34 other state officer or employee or former state officer or employee to
35 divulge, or to make known in any way, the amount of income or any
36 particulars set forth or disclosed in any report, return, federal return or
37 federal return information required under this act; and it shall be unlawful
38 for the secretary, the director, any deputy, agent, clerk or other officer or
39 employee engaged in the administration of this act to engage in the
40 business or profession of tax accounting or to accept employment, with or
41 without consideration, from any person, firm or corporation for the
42 purpose, directly or indirectly, of preparing tax returns or reports required
43 by the laws of the state of Kansas, by any other state or by the United

1 States government, or to accept any employment for the purpose of
2 advising, preparing material or data, or the auditing of books or records to
3 be used in an effort to defeat or cancel any tax or part thereof that has been
4 assessed by the state of Kansas, any other state or by the United States
5 government.

6 (c) The secretary or the secretary's designee may: (1) Publish
7 statistics, so classified as to prevent the identification of particular reports
8 or returns and the items thereof;

9 (2) allow the inspection of returns by the attorney general or other
10 legal representatives of the state;

11 (3) provide the post auditor access to all income tax reports or returns
12 in accordance with and subject to the provisions of subsection (g) of
13 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

14 (4) disclose taxpayer information from income tax returns to persons
15 or entities contracting with the secretary of revenue where the secretary
16 has determined disclosure of such information is essential for completion
17 of the contract and has taken appropriate steps to preserve confidentiality;

18 (5) disclose to the secretary of commerce the following: (A) Specific
19 taxpayer information related to financial information previously submitted
20 by the taxpayer to the secretary of commerce concerning or relevant to any
21 income tax credits, for purposes of verification of such information or
22 evaluating the effectiveness of any tax credit or economic incentive
23 program administered by the secretary of commerce; (B) the amount of
24 payroll withholding taxes an employer is retaining pursuant to K.S.A.
25 2012 Supp. 74-50,212, and amendments thereto; (C) information received
26 from businesses completing the form required by K.S.A. 2012 Supp. 74-
27 50,217, and amendments thereto; and (D) findings related to a compliance
28 audit conducted by the department of revenue upon the request of the
29 secretary of commerce pursuant to K.S.A. 2012 Supp. 74-50,215, and
30 amendments thereto;

31 (6) disclose income tax returns to the state gaming agency to be used
32 solely for the purpose of determining qualifications of licensees of and
33 applicants for licensure in tribal gaming. Any information received by the
34 state gaming agency shall be confidential and shall not be disclosed except
35 to the executive director, employees of the state gaming agency and
36 members and employees of the tribal gaming commission;

37 (7) disclose the taxpayer's name, last known address and residency
38 status to the ~~Kansas~~ department of wildlife ~~and parks~~, *parks and tourism* to
39 be used solely in its license fraud investigations;

40 (8) disclose the name, residence address, employer or Kansas
41 adjusted gross income of a taxpayer who may have a duty of support in a
42 title IV-D case to the secretary of the Kansas department of social and
43 rehabilitation services for use solely in administrative or judicial

1 proceedings to establish, modify or enforce such support obligation in a
2 title IV-D case. In addition to any other limits on use, such use shall be
3 allowed only where subject to a protective order which prohibits
4 disclosure outside of the title IV-D proceeding. As used in this section,
5 "title IV-D case" means a case being administered pursuant to part D of
6 title IV of the federal social security act (42 U.S.C. § 651 et seq.) and
7 amendments thereto. Any person receiving any information under the
8 provisions of this subsection shall be subject to the confidentiality
9 provisions of subsection (b) and to the penalty provisions of subsection
10 (e);

11 (9) permit the commissioner of internal revenue of the United States,
12 or the proper official of any state imposing an income tax, or the
13 authorized representative of either, to inspect the income tax returns made
14 under this act and the secretary of revenue may make available or furnish
15 to the taxing officials of any other state or the commissioner of internal
16 revenue of the United States or other taxing officials of the federal
17 government, or their authorized representatives, information contained in
18 income tax reports or returns or any audit thereof or the report of any
19 investigation made with respect thereto, filed pursuant to the income tax
20 laws, as the secretary may consider proper, but such information shall not
21 be used for any other purpose than that of the administration of tax laws of
22 such state, the state of Kansas or of the United States;

23 (10) communicate to the executive director of the Kansas lottery
24 information as to whether a person, partnership or corporation is current in
25 the filing of all applicable tax returns and in the payment of all taxes,
26 interest and penalties to the state of Kansas, excluding items under formal
27 appeal, for the purpose of determining whether such person, partnership or
28 corporation is eligible to be selected as a lottery retailer;

29 (11) communicate to the executive director of the Kansas racing
30 commission as to whether a person, partnership or corporation has failed
31 to meet any tax obligation to the state of Kansas for the purpose of
32 determining whether such person, partnership or corporation is eligible for
33 a facility owner license or facility manager license pursuant to the Kansas
34 parimutuel racing act;

35 (12) provide such information to the executive director of the Kansas
36 public employees retirement system for the purpose of determining that
37 certain individuals' reported compensation is in compliance with the
38 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and
39 amendments thereto;

40 (13) (i) provide taxpayer information of persons suspected of
41 violating K.S.A. 2012 Supp. 44-766, and amendments thereto, to the
42 secretary of labor or such secretary's designee for the purpose of
43 determining compliance by any person with the provisions of *subsection*

1 (i)(3)(D) of K.S.A. 44-703~~(i)(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and
2 amendments thereto. The information to be provided shall include all
3 relevant information in the possession of the department of revenue
4 necessary for the secretary of labor to make a proper determination of
5 compliance with the provisions of *subsection (i)(3)(D) of K.S.A. 44-703*~~(i)~~
6 ~~(3)(D)~~ and K.S.A. 2012 Supp. 44-766, and amendments thereto, and to
7 calculate any unemployment contribution taxes due. Such information to
8 be provided by the department of revenue shall include, but not be limited to,
9 to, withholding tax and payroll information, the identity of any person that
10 has been or is currently being audited or investigated in connection with
11 the administration and enforcement of the withholding and declaration of
12 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the
13 results or status of such audit or investigation;

14 (ii) any person receiving tax information under the provisions of this
15 paragraph shall be subject to the same duty of confidentiality imposed by
16 law upon the personnel of the department of revenue and shall be subject
17 to any civil or criminal penalties imposed by law for violations of such
18 duty of confidentiality; *and*

19 (iii) each of the secretary of labor and the secretary of revenue may
20 adopt rules and regulations necessary to effect the provisions of this
21 paragraph;

22 (14) provide such information to the state treasurer for the sole
23 purpose of carrying out the provisions of K.S.A. 58-3934, and
24 amendments thereto. Such information shall be limited to current and prior
25 addresses of taxpayers or associated persons who may have knowledge as
26 to the location of an owner of unclaimed property. For the purposes of this
27 paragraph, "associated persons" includes spouses or dependents listed on
28 income tax returns; and

29 (15) After receipt of information pursuant to subsection (f), forward
30 such information and provide the following reported Kansas individual
31 income tax information for each listed defendant, if available, to the state
32 board of indigents' defense services in an electronic format and in the
33 manner determined by the secretary: (A) The defendant's name; (B) social
34 security number; (C) Kansas adjusted gross income; (D) number of
35 exemptions claimed; and (E) the relevant tax year of such records. Any
36 social security number provided to the secretary and the state board of
37 indigents' defense services pursuant to this section shall remain
38 confidential.

39 (d) Any person receiving information under the provisions of
40 subsection (c) shall be subject to the confidentiality provisions of
41 subsection (b) and to the penalty provisions of subsection (e).

42 (e) Any violation of subsection (b) or (c) is a class A nonperson
43 misdemeanor and, if the offender is an officer or employee of the state,

1 such officer or employee shall be dismissed from office.

2 (f) For the purpose of determining whether a defendant is financially
3 able to employ legal counsel under the provisions of K.S.A. 22-4504, and
4 amendments thereto, in all felony cases with appointed counsel where the
5 defendant's social security number is accessible from the records of the
6 district court, the court shall electronically provide the defendant's name,
7 social security number, district court case number and county to the
8 secretary of revenue in the manner and format agreed to by the office of
9 judicial administration and the secretary.

10 (g) Nothing in this section shall be construed to allow disclosure of
11 the amount of income or any particulars set forth or disclosed in any
12 report, return, federal return or federal return information, where such
13 disclosure is prohibited by the federal internal revenue code as in effect on
14 September 1, 1996, and amendments thereto, related federal internal
15 revenue rules or regulations, or other federal law.

16 Sec. 35. K.S.A. 2012 Supp. 79-32,117, as amended by section 3 of
17 2013 House Substitute for Senate Bill No. 83 is hereby amended to read as
18 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
19 means such individual's federal adjusted gross income for the taxable year,
20 with the modifications specified in this section.

21 (b) There shall be added to federal adjusted gross income:

22 (i) Interest income less any related expenses directly incurred in the
23 purchase of state or political subdivision obligations, to the extent that the
24 same is not included in federal adjusted gross income, on obligations of
25 any state or political subdivision thereof, but to the extent that interest
26 income on obligations of this state or a political subdivision thereof issued
27 prior to January 1, 1988, is specifically exempt from income tax under the
28 laws of this state authorizing the issuance of such obligations, it shall be
29 excluded from computation of Kansas adjusted gross income whether or
30 not included in federal adjusted gross income. Interest income on
31 obligations of this state or a political subdivision thereof issued after
32 December 31, 1987, shall be excluded from computation of Kansas
33 adjusted gross income whether or not included in federal adjusted gross
34 income.

35 (ii) Taxes on or measured by income or fees or payments in lieu of
36 income taxes imposed by this state or any other taxing jurisdiction to the
37 extent deductible in determining federal adjusted gross income and not
38 credited against federal income tax. This paragraph shall not apply to taxes
39 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and
40 amendments thereto, for privilege tax year 1995, and all such years
41 thereafter.

42 (iii) The federal net operating loss deduction.

43 (iv) Federal income tax refunds received by the taxpayer if the

1 deduction of the taxes being refunded resulted in a tax benefit for Kansas
2 income tax purposes during a prior taxable year. Such refunds shall be
3 included in income in the year actually received regardless of the method
4 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
5 be deemed to have resulted if the amount of the tax had been deducted in
6 determining income subject to a Kansas income tax for a prior year
7 regardless of the rate of taxation applied in such prior year to the Kansas
8 taxable income, but only that portion of the refund shall be included as
9 bears the same proportion to the total refund received as the federal taxes
10 deducted in the year to which such refund is attributable bears to the total
11 federal income taxes paid for such year. For purposes of the foregoing
12 sentence, federal taxes shall be considered to have been deducted only to
13 the extent such deduction does not reduce Kansas taxable income below
14 zero.

15 (v) The amount of any depreciation deduction or business expense
16 deduction claimed on the taxpayer's federal income tax return for any
17 capital expenditure in making any building or facility accessible to the
18 handicapped, for which expenditure the taxpayer claimed the credit
19 allowed by K.S.A. 79-32,177, and amendments thereto.

20 (vi) Any amount of designated employee contributions picked up by
21 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
22 and amendments thereto.

23 (vii) The amount of any charitable contribution made to the extent the
24 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
25 32,196, and amendments thereto.

26 (viii) The amount of any costs incurred for improvements to a swine
27 facility, claimed for deduction in determining federal adjusted gross
28 income, to the extent the same is claimed as the basis for any credit
29 allowed pursuant to K.S.A. 2012 Supp. 79-32,204, and amendments
30 thereto.

31 (ix) The amount of any ad valorem taxes and assessments paid and
32 the amount of any costs incurred for habitat management or construction
33 and maintenance of improvements on real property, claimed for deduction
34 in determining federal adjusted gross income, to the extent the same is
35 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
36 and amendments thereto.

37 (x) Amounts received as nonqualified withdrawals, as defined by
38 K.S.A. 2012 Supp. 75-643, and amendments thereto, if, at the time of
39 contribution to a family postsecondary education savings account, such
40 amounts were subtracted from the federal adjusted gross income pursuant
41 to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments
42 thereto, or if such amounts are not already included in the federal adjusted
43 gross income.

1 (xi) The amount of any contribution made to the same extent the
2 same is claimed as the basis for the credit allowed pursuant to K.S.A. 2012
3 Supp. 74-50,154, and amendments thereto.

4 (xii) For taxable years commencing after December 31, 2004,
5 amounts received as withdrawals not in accordance with the provisions of
6 K.S.A. 2012 Supp. 74-50,204, and amendments thereto, if, at the time of
7 contribution to an individual development account, such amounts were
8 subtracted from the federal adjusted gross income pursuant to paragraph
9 (xiii) of subsection (c), or if such amounts are not already included in the
10 federal adjusted gross income.

11 (xiii) The amount of any expenditures claimed for deduction in
12 determining federal adjusted gross income, to the extent the same is
13 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.
14 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

15 (xiv) The amount of any amortization deduction claimed in
16 determining federal adjusted gross income to the extent the same is
17 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,221, and
18 amendments thereto.

19 (xv) The amount of any expenditures claimed for deduction in
20 determining federal adjusted gross income, to the extent the same is
21 claimed as the basis for any credit allowed pursuant to K.S.A. 2012 Supp.
22 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
23 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
24 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

25 (xvi) The amount of any amortization deduction claimed in
26 determining federal adjusted gross income to the extent the same is
27 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,227, 79-
28 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
29 thereto.

30 (xvii) The amount of any amortization deduction claimed in
31 determining federal adjusted gross income to the extent the same is
32 claimed for deduction pursuant to K.S.A. 2012 Supp. 79-32,256, and
33 amendments thereto.

34 (xviii) For taxable years commencing after December 31, 2006, the
35 amount of any ad valorem or property taxes and assessments paid to a state
36 other than Kansas or local government located in a state other than Kansas
37 by a taxpayer who resides in a state other than Kansas, when the law of
38 such state does not allow a resident of Kansas who earns income in such
39 other state to claim a deduction for ad valorem or property taxes or
40 assessments paid to a political subdivision of the state of Kansas in
41 determining taxable income for income tax purposes in such other state, to
42 the extent that such taxes and assessments are claimed as an itemized
43 deduction for federal income tax purposes.

1 (xix) For all taxable years beginning after December 31, 2012, the
2 amount of any: (1) Loss from business as determined under the federal
3 internal revenue code and reported from schedule C and on line 12 of the
4 taxpayer's form 1040 federal individual income tax return; (2) loss from
5 rental real estate, royalties, partnerships, S corporations, except those with
6 wholly owned subsidiaries subject to the Kansas privilege tax, estates,
7 trusts, residual interest in real estate mortgage investment conduits and net
8 farm rental as determined under the federal internal revenue code and
9 reported from schedule E and on line 17 of the taxpayer's form 1040
10 federal individual income tax return; and (3) farm loss as determined under
11 the federal internal revenue code and reported from schedule F and on line
12 18 of the taxpayer's form 1040 federal income tax return; all to the extent
13 deducted or subtracted in determining the taxpayer's federal adjusted gross
14 income. For purposes of this subsection, references to the federal form
15 1040 and federal schedule C, schedule E, and schedule F, shall be to such
16 form and schedules as they existed for tax year 2011, and as revised
17 thereafter by the internal revenue service.

18 (xx) For all taxable years beginning after December 31, 2012, the
19 amount of any deduction for self-employment taxes under section 164(f)
20 of the federal internal revenue code as in effect on January 1, 2012, and
21 amendments thereto, in determining the federal adjusted gross income of
22 an individual taxpayer.

23 (xxi) For all taxable years beginning after December 31, 2012, the
24 amount of any deduction for pension, profit sharing, and annuity plans of
25 self-employed individuals under section 62(a)(6) of the federal internal
26 revenue code as in effect on January 1, 2012, and amendments thereto, in
27 determining the federal adjusted gross income of an individual taxpayer.

28 (xxii) For all taxable years beginning after December 31, 2012, the
29 amount of any deduction for health insurance under section 162(l) of the
30 federal internal revenue code as in effect on January 1, 2012, and
31 amendments thereto, in determining the federal adjusted gross income of
32 an individual taxpayer.

33 (xxiii) For all taxable years beginning after December 31, 2012, the
34 amount of any deduction for domestic production activities under section
35 199 of the federal internal revenue code as in effect on January 1, 2012,
36 and amendments thereto, in determining the federal adjusted gross income
37 of an individual taxpayer.

38 (xxiv) For taxable years commencing after December 31, 2013, that
39 portion of the amount of any expenditure deduction claimed in
40 determining federal adjusted gross income for expenses paid for medical
41 care of the taxpayer or the taxpayer's spouse or dependents when such
42 expenses were paid or incurred for an abortion, or for a health benefit plan,
43 as defined in section 1 of 2013 House Bill No. 2253, and amendments

1 thereto, for the purchase of an optional rider for coverage of abortion in
2 accordance with K.S.A. 2012 Supp. 40-2,190, and amendments thereto, to
3 the extent that such taxes and assessments are claimed as an itemized
4 deduction for federal income tax purposes.

5 (xxv) For taxable years commencing after December 31, 2013, that
6 portion of the amount of any expenditure deduction claimed in
7 determining federal adjusted gross income for expenses paid by a taxpayer
8 for health care when such expenses were paid or incurred for abortion
9 coverage, a health benefit plan, as defined in section 1 of 2013 House Bill
10 No. 2253, and amendments thereto, when such expenses were paid or
11 incurred for abortion coverage or amounts contributed to health savings
12 accounts for such taxpayer's employees for the purchase of an optional
13 rider for coverage of abortion in accordance with K.S.A. 2012 Supp. 40-
14 2,190, and amendments thereto, to the extent that such taxes and
15 assessments are claimed as a deduction for federal income tax purposes.

16 (c) There shall be subtracted from federal adjusted gross income:

17 (i) Interest or dividend income on obligations or securities of any
18 authority, commission or instrumentality of the United States and its
19 possessions less any related expenses directly incurred in the purchase of
20 such obligations or securities, to the extent included in federal adjusted
21 gross income but exempt from state income taxes under the laws of the
22 United States.

23 (ii) Any amounts received which are included in federal adjusted
24 gross income but which are specifically exempt from Kansas income
25 taxation under the laws of the state of Kansas.

26 (iii) The portion of any gain or loss from the sale or other disposition
27 of property having a higher adjusted basis for Kansas income tax purposes
28 than for federal income tax purposes on the date such property was sold or
29 disposed of in a transaction in which gain or loss was recognized for
30 purposes of federal income tax that does not exceed such difference in
31 basis, but if a gain is considered a long-term capital gain for federal
32 income tax purposes, the modification shall be limited to that portion of
33 such gain which is included in federal adjusted gross income.

34 (iv) The amount necessary to prevent the taxation under this act of
35 any annuity or other amount of income or gain which was properly
36 included in income or gain and was taxed under the laws of this state for a
37 taxable year prior to the effective date of this act, as amended, to the
38 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
39 the right to receive the income or gain, or to a trust or estate from which
40 the taxpayer received the income or gain.

41 (v) The amount of any refund or credit for overpayment of taxes on
42 or measured by income or fees or payments in lieu of income taxes
43 imposed by this state, or any taxing jurisdiction, to the extent included in

1 gross income for federal income tax purposes.

2 (vi) Accumulation distributions received by a taxpayer as a
3 beneficiary of a trust to the extent that the same are included in federal
4 adjusted gross income.

5 (vii) Amounts received as annuities under the federal civil service
6 retirement system from the civil service retirement and disability fund and
7 other amounts received as retirement benefits in whatever form which
8 were earned for being employed by the federal government or for service
9 in the armed forces of the United States.

10 (viii) Amounts received by retired railroad employees as a
11 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
12 228c (a)(1) et seq.

13 (ix) Amounts received by retired employees of a city and by retired
14 employees of any board of such city as retirement allowances pursuant to
15 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
16 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
17 amendments thereto.

18 (x) For taxable years beginning after December 31, 1976, the amount
19 of the federal tentative jobs tax credit disallowance under the provisions of
20 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
21 amount of the targeted jobs tax credit and work incentive credit
22 disallowances under 26 U.S.C. § 280 C.

23 (xi) For taxable years beginning after December 31, 1986, dividend
24 income on stock issued by Kansas Venture Capital, Inc.

25 (xii) For taxable years beginning after December 31, 1989, amounts
26 received by retired employees of a board of public utilities as pension and
27 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
28 and amendments thereto.

29 (xiii) For taxable years beginning after December 31, 2004, amounts
30 contributed to and the amount of income earned on contributions deposited
31 to an individual development account under K.S.A. 2012 Supp. 74-50,201
32 et seq., and amendments thereto.

33 (xiv) For all taxable years commencing after December 31, 1996, that
34 portion of any income of a bank organized under the laws of this state or
35 any other state, a national banking association organized under the laws of
36 the United States, an association organized under the savings and loan
37 code of this state or any other state, or a federal savings association
38 organized under the laws of the United States, for which an election as an
39 S corporation under subchapter S of the federal internal revenue code is in
40 effect, which accrues to the taxpayer who is a stockholder of such
41 corporation and which is not distributed to the stockholders as dividends of
42 the corporation. For all taxable years beginning after December 31, 2012,
43 the amount of modification under this subsection shall exclude the portion

1 of income or loss reported on schedule E and included on line 17 of the
2 taxpayer's form 1040 federal individual income tax return.

3 (xv) For all taxable years beginning after December 31, 2006,
4 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
5 joint return, for each designated beneficiary which are contributed to a
6 family postsecondary education savings account established under the
7 Kansas postsecondary education savings program or a qualified tuition
8 program established and maintained by another state or agency or
9 instrumentality thereof pursuant to section 529 of the internal revenue
10 code of 1986, as amended, for the purpose of paying the qualified higher
11 education expenses of a designated beneficiary at an institution of
12 postsecondary education. The terms and phrases used in this paragraph
13 shall have the meaning respectively ascribed thereto by the provisions of
14 K.S.A. 2012 Supp. 75-643, and amendments thereto, and the provisions of
15 such section are hereby incorporated by reference for all purposes thereof.

16 (xvi) For all taxable years beginning after December 31, 2004,
17 amounts received by taxpayers who are or were members of the armed
18 forces of the United States, including service in the Kansas army and air
19 national guard, as a recruitment, sign up or retention bonus received by
20 such taxpayer as an incentive to join, enlist or remain in the armed services
21 of the United States, including service in the Kansas army and air national
22 guard, and amounts received for repayment of educational or student loans
23 incurred by or obligated to such taxpayer and received by such taxpayer as
24 a result of such taxpayer's service in the armed forces of the United States,
25 including service in the Kansas army and air national guard.

26 (xvii) For all taxable years beginning after December 31, 2004,
27 amounts received by taxpayers who are eligible members of the Kansas
28 army and air national guard as a reimbursement pursuant to K.S.A. 48-
29 281, and amendments thereto, and amounts received for death benefits
30 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
31 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
32 amendments thereto, to the extent that such death benefits are included in
33 federal adjusted gross income of the taxpayer.

34 (xviii) For the taxable year beginning after December 31, 2006,
35 amounts received as benefits under the federal social security act which
36 are included in federal adjusted gross income of a taxpayer with federal
37 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
38 status is single, head of household, married filing separate or married filing
39 jointly; and for all taxable years beginning after December 31, 2007,
40 amounts received as benefits under the federal social security act which
41 are included in federal adjusted gross income of a taxpayer with federal
42 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
43 status is single, head of household, married filing separate or married filing

1 jointly.

2 (xix) Amounts received by retired employees of Washburn university
3 as retirement and pension benefits under the university's retirement plan.

4 (xx) For all taxable years beginning after December 31, 2012, the
5 amount of any: (1) Net profit from business as determined under the
6 federal internal revenue code and reported from schedule C and on line 12
7 of the taxpayer's form 1040 federal individual income tax return; (2) net
8 income from rental real estate, royalties, partnerships, S corporations,
9 estates, trusts, residual interest in real estate mortgage investment conduits
10 and net farm rental as determined under the federal internal revenue code
11 and reported from schedule E and on line 17 of the taxpayer's form 1040
12 federal individual income tax return; and (3) net farm profit as determined
13 under the federal internal revenue code and reported from schedule F and
14 on line 18 of the taxpayer's form 1040 federal income tax return; all to the
15 extent included in the taxpayer's federal adjusted gross income. For
16 purposes of this subsection, references to the federal form 1040 and
17 federal schedule C, schedule E, and schedule F, shall be to such form and
18 schedules as they existed for tax year 2011 and as revised thereafter by the
19 internal revenue service.

20 (d) There shall be added to or subtracted from federal adjusted gross
21 income the taxpayer's share, as beneficiary of an estate or trust, of the
22 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
23 amendments thereto.

24 (e) The amount of modifications required to be made under this
25 section by a partner which relates to items of income, gain, loss, deduction
26 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
27 amendments thereto, to the extent that such items affect federal adjusted
28 gross income of the partner.

29 Sec. 36. K.S.A. 2012 Supp. 79-32,160a is hereby amended to read as
30 follows: 79-32,160a. (a) For taxable years commencing after December
31, 1999, *and before January 1, 2012*, any taxpayer who shall invest in a
32 qualified business facility, as defined in subsection (b) of K.S.A. 79-
33 32,154, and amendments thereto, and effective for tax years commencing
34 after December 31, 2010, *and before January 1, 2012*, located in an area
35 other than a metropolitan county as defined in either K.S.A. 2012 Supp.
36 74-50,114 or 74-50,211, and amendments thereto, and also meets the
37 definition of a business in subsection (b) of K.S.A. 74-50,114, and
38 amendments thereto, shall be allowed a credit for such investment, in an
39 amount determined under subsection (b) or (c), as the case requires,
40 against the tax imposed by the Kansas income tax act or where the
41 qualified business facility is the principal place from which the trade or
42 business of the taxpayer is directed or managed and the facility has
43 facilitated the creation of at least 20 new full-time positions, against the

1 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
2 amendments thereto, or as measured by the net income of financial
3 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
4 Statutes Annotated, *and amendments thereto*, for the taxable year during
5 which commencement of commercial operations, as defined in subsection
6 (f) of K.S.A. 79-32,154, and amendments thereto, occurs at such qualified
7 business facility. In the case of a taxpayer who meets the definition of a
8 manufacturing business in subsection (d) of K.S.A. 74-50,114, and
9 amendments thereto, no credit shall be allowed under this section unless
10 the number of qualified business facility employees, as determined under
11 subsection (d) of K.S.A. 79-32,154, and amendments thereto, engaged or
12 maintained in employment at the qualified business facility as a direct
13 result of the investment by the taxpayer for the taxable year for which the
14 credit is claimed equals or exceeds two. In the case of a taxpayer who
15 meets the definition of a nonmanufacturing business in subsection (f) of
16 K.S.A. 74-50,114, and amendments thereto, no credit shall be allowed
17 under this section unless the number of qualified business facility
18 employees, as determined under subsection (d) of K.S.A. 79-32,154, and
19 amendments thereto, engaged or maintained in employment at the
20 qualified business facility as a direct result of the investment by the
21 taxpayer for the taxable year for which the credit is claimed equals or
22 exceeds five. Where an employee performs services for the taxpayer
23 outside the qualified business facility, the employee shall be considered
24 engaged or maintained in employment at the qualified business facility if:
25 (1) The employee's service performed outside the qualified business
26 facility is incidental to the employee's service inside the qualified business
27 facility; or (2) the base of operations or, the place from which the service is
28 directed or controlled, is at the qualified business facility.

29 (b) The credit allowed by subsection (a) for any taxpayer who invests
30 in a qualified business facility which is located in a designated
31 nonmetropolitan region established under K.S.A. 74-50,116, and
32 amendments thereto, on or after the effective date of this act, shall be a
33 portion of the income tax imposed by the Kansas income tax act on the
34 taxpayer's Kansas taxable income, the premium tax or privilege fees
35 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
36 privilege tax as measured by the net income of financial institutions
37 imposed pursuant to article 11 of chapter 79 of the Kansas Statutes
38 Annotated, *and amendments thereto*, for the taxable year for which such
39 credit is allowed, but in the case where the qualified business facility
40 investment was made prior to January 1, 1996, not in excess of 50% of
41 such tax. Such portion shall be an amount equal to the sum of the
42 following:

43 (1) Two thousand five hundred dollars for each qualified business

1 facility employee determined under K.S.A. 79-32,154, and amendments
2 thereto; plus

3 (2) one thousand dollars for each \$100,000, or major fraction thereof,
4 which shall be deemed to be 51% or more, in qualified business facility
5 investment, as determined under K.S.A. 79-32,154, and amendments
6 thereto.

7 (c) The credit allowed by subsection (a) for any taxpayer who invests
8 in a qualified business facility, which is not located in a nonmetropolitan
9 region established under K.S.A. 74-50,116, and amendments thereto, and
10 effective for tax years commencing after December 31, 2010, *and before*
11 *January 1, 2012*, located in an area other than a metropolitan county as
12 defined in either K.S.A. 2012 Supp. 74-50,114 or 74-50,211, and
13 amendments thereto, and which also meets the definition of business in
14 subsection (b) of K.S.A. 74-50,114, and amendments thereto, on or after
15 the effective date of this act, shall be a portion of the income tax imposed
16 by the Kansas income tax act on the taxpayer's Kansas taxable income, the
17 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
18 amendments thereto, or the privilege tax as measured by the net income of
19 financial institutions imposed pursuant to article 11 of chapter 79 of the
20 Kansas Statutes Annotated, *and amendments thereto*, for the taxable year
21 for which such credit is allowed, but in the case where the qualified
22 business facility investment was made prior to January 1, 1996, not in
23 excess of 50% of such tax. Such portion shall be an amount equal to the
24 sum of the following:

25 (1) One thousand five hundred dollars for each qualified business
26 facility employee as determined under K.S.A. 79-32,154, and amendments
27 thereto; and

28 (2) one thousand dollars for each \$100,000, or major fraction thereof,
29 which shall be deemed to be 51% or more, in qualified business facility
30 investment as determined under K.S.A. 79-32,154, and amendments
31 thereto.

32 (d) The credit allowed by subsection (a) for each qualified business
33 facility employee and for qualified business facility investment shall be a
34 one-time credit. If the amount of the credit allowed under subsection (a)
35 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
36 Kansas taxable income, the premium tax and privilege fees imposed
37 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
38 measured by the net income of financial institutions imposed pursuant to
39 article 11 of chapter 79 of the Kansas Statutes Annotated, *and amendments*
40 *thereto*, for the taxable year, or in the case where the qualified business
41 facility investment was made prior to January 1, 1996, 50% of such tax
42 imposed upon the amount which exceeds such tax liability or such portion
43 thereof may be carried over for credit in the same manner in the

1 succeeding taxable years until the total amount of such credit is used.
2 Except that, before the credit is allowed, a taxpayer, who meets the
3 definition of a manufacturing business in subsection (d) of K.S.A. 74-
4 50,114, and amendments thereto, shall recertify annually that the net
5 increase of a minimum of two qualified business facility employees has
6 continued to be maintained and a taxpayer, who meets the definition of a
7 nonmanufacturing business in subsection (f) of K.S.A. 74-50,114, and
8 amendments thereto, shall recertify annually that the net increase of a
9 minimum of five qualified business employees has continued to be
10 maintained.

11 (e) Notwithstanding the foregoing provisions of this section, *and*
12 *except as otherwise provided in this subsection*, any taxpayer qualified and
13 certified under the provisions of K.S.A. 74-50,131, and amendments
14 thereto; which, prior to making a commitment to invest in a qualified
15 Kansas business, has filed a certificate of intent to invest in a qualified
16 business facility in a form satisfactory to the secretary of commerce; and
17 that has received written approval from the secretary of commerce for
18 participation and has participated, during the tax year for which the
19 exemption is claimed, in the Kansas industrial training, Kansas industrial
20 retraining or the state of Kansas investments in lifelong learning program
21 or is eligible for the tax credit established in K.S.A. 74-50,132, and
22 amendments thereto, shall be entitled to a credit in an amount equal to
23 10% of that portion of the qualified business facility investment which
24 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)
25 without regard to the number of qualified business facility employees
26 engaged or maintained in employment at the qualified business facility.
27 *For tax years beginning on or after January 1, 2012, for a qualified*
28 *business facility investment in Douglas, Johnson, Sedgwick, Shawnee or*
29 *Wyandotte counties, such credit shall be in an amount equal to 10% of that*
30 *portion of the qualified business facility investment which exceeds*
31 *\$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a*
32 *qualified business facility pursuant to this subsection in Douglas, Johnson,*
33 *Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and*
34 *commences investments in a qualified business facility prior to December*
35 *31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and*
36 *subsection (e) of 79-32,160a, and amendments thereto, in an amount equal*
37 *to 10% of that portion of the qualified business facility investment which*
38 *exceeds \$50,000. Timing modifications may be authorized at the discretion*
39 *of the secretary of commerce and the secretary of revenue during the*
40 *transition period. The credit allowed by this subsection shall be a one-time*
41 *credit. If the amount thereof exceeds the tax imposed by the Kansas*
42 *income tax act on the taxpayer's Kansas taxable income or the premium*
43 *tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments*

1 thereto, or the privilege tax as measured by net income of financial
2 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
3 Statutes Annotated, *and amendments thereto*, for the taxable year, the
4 amount thereof which exceeds such tax liability may be carried forward
5 for credit in the succeeding taxable year or years until the total amount of
6 the tax credit is used, except that no such tax credit shall be carried
7 forward for deduction after the 16th taxable year succeeding the taxable
8 year in which such credit initially was claimed, and no carryforward shall
9 be allowed for deduction in any succeeding taxable year unless the
10 taxpayer certifies under oath that the taxpayer continues to meet the
11 requirements of K.S.A. 74-50,131, and amendments thereto, and this act.
12 In no event shall any credit allowed under this section that expired during
13 any taxable year prior to the taxable year commencing January 1, 2011, be
14 revived under the provisions of this act.

15 (f) For tax years commencing after December 31, 2005, any taxpayer
16 claiming credits pursuant to this section, as a condition for claiming and
17 qualifying for such credits, shall provide information pursuant to K.S.A.
18 2012 Supp. 79-32,243, and amendments thereto, as part of the tax return in
19 which such credits are claimed. Such credits shall not be denied solely on
20 the basis of the contents of the information provided by the taxpayer
21 pursuant to K.S.A. 2012 Supp. 79-32,243, and amendments thereto.

22 (g) This section and K.S.A. 79-32,160b, and amendments thereto,
23 shall be part of and supplemental to the job expansion and investment
24 credit act of 1976, and amendments thereto.

25 Sec. 37. K.S.A. 2012 Supp. 2-1930a, 2-1931a, 8-1,161, 8-1,161a, 12-
26 4106, as amended by section 1 of 2013 House Bill No. 2041, 12-4106, as
27 amended by section 8 of 2013 Senate Substitute for House Bill No. 2034,
28 21-5109, 21-5109a, 21-5302, as amended by section 6 of 2013 Senate Bill
29 No. 16, 21-5302, as amended by section 12 of 2013 Senate Substitute for
30 House Bill No. 2034, 21-5808, 21-5808a, 21-5904, 21-5904a, 21-5924,
31 21-5924a, 21-6302, as amended by section 4 of 2013 Senate Substitute for
32 House Bill No. 2052, 21-6302, as amended by section 3 of 2013 House
33 Bill No. 2033, 21-6614, as amended by section 19 of 2013 Senate
34 Substitute for House Bill No. 2034, 21-6614, as amended by section 3 of
35 2013 Senate Bill No. 21, 22-2802, 22-2802c, 22-2908, 22-2908a, 22-3212,
36 22-3212b, 22-3717, as amended by section 27 of 2013 Senate Substitute
37 for House Bill No. 2034, 22-3717, as amended by section 6 of 2013 House
38 Bill No. 2170, 32-1438, 32-1438a, 39-709, as amended by section 1 of
39 2013 Senate Bill No. 149, 39-709, as amended by section 23 of 2013
40 Substitute for House Bill No. 2183, 39-923a, 44-706, as amended by
41 section 5 of 2013 Substitute for House Bill No. 2105, 44-706, as amended
42 by section 4 of 2013 Senate Bill No. 149, 44-709, as amended by section 3
43 of 2013 Senate Bill No. 187, 44-709, as amended by section 6 of 2013

1 Substitute for House Bill No. 2105, 45-221, as amended by section 2 of
2 2013 Senate Bill No. 81, 45-221, as amended by section 6 of 2013 Senate
3 Substitute for House Bill No. 2052, 45-221, as amended by section 1 of
4 2013 House Bill No. 2128, 45-229, as amended by section 1 of 2013
5 House Bill No. 2012, 45-229, as amended by section 1 of 2013 House Bill
6 No. 2144, 47-422, 47-422a, 47-1001g, 47-1008a, 47-1302a, 47-1701a, 47-
7 1709a, 47-1725a, 47-1804, 47-1804a, 47-1809a, 60-3107, 60-3107a, 60-
8 4104, as amended by section 41 of 2013 Senate Substitute for House Bill
9 No. 2034, 60-4104, as amended by section 8 of 2013 Senate Bill No. 16,
10 65-1685a, 65-4101, 65-4101b, 72-978, 72-978a, 74-7901, 74-7901a, 75-
11 7c05, as amended by section 7 of 2013 Senate Substitute for House Bill
12 No. 2052, 75-7c05, as amended by section 6 of 2013 Senate Bill No. 21,
13 75-3740, 75-3740d, 75-37,121, 75-37,121a, 75-4362, as amended by
14 section 5 of 2013 Senate Bill No. 149, 75-4362, as amended by section 2
15 of 2013 House Bill No. 2302, 75-5133, 75-5133b, 75-6102, 75-6102c, 75-
16 6609, 75-6609a, 79-3234, 79-3234c, 79-32,117, as amended by section 3
17 of 2013 House Substitute for Senate Bill No. 83, 79-32,117, as amended
18 by section 17 of 2013 House Bill No. 2253, 79-32,160a, 79-32,160f, 82a-
19 220a and 82a-903a are hereby repealed.

20 Sec. 38. This act shall take effect and be in force from and after its
21 publication in the statute book.