

HOUSE BILL No. 2054

By Committee on Commerce and Economic Development

1-21

1 AN ACT concerning ~~the Kansas technology enterprise corporation;~~
2 ~~pertaining to certain state agencies; pertaining to the Kansas~~
3 ~~technology enterprise corporation and~~ the abolishing thereof;
4 pertaining to the transfer of the powers and duties thereof to the
5 department of commerce and the board of regents; ***pertaining to the***
6 ***membership of the Kansas bioscience authority;*** amending K.S.A. 74-
7 5001a, 74-8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8108a, 74-
8 8109, 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-
9 8401, 75-2935b, 75-3208 and 76-770 and K.S.A. 2010 Supp. 74-520a,
10 74-5005, 74-50,133, 74-50,151, 74-50,156, ~~74-8101~~, 74-8104, 74-
11 8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-99b03, 74-
12 99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and 75-2935 and
13 repealing the existing sections; also repealing K.S.A. 74-5050, **74-8101**
14 and 74-8105.

15

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

17 New Section 1. The Kansas technology enterprise corporation,
18 created by K.S.A. 74-8101 et seq., and amendments thereto, is hereby
19 abolished.

20 New Sec. 2. Except as otherwise provided in sections 5 through 7,
21 and amendments thereto, on the effective date of this act:

22 (a) All of the powers, duties and functions of the Kansas technology
23 enterprise corporation are hereby transferred to and conferred and imposed
24 upon the department of commerce and the secretary of commerce.

25 (b) The director of accounts and reports shall transfer all balances for
26 all funds or accounts thereof appropriated or reappropriated for the Kansas
27 technology enterprise corporation to the department of commerce.

28 (c) All liabilities of the Kansas technology enterprise corporation,
29 including accrued compensation or salaries of officers and employees who
30 are transferred to the department of commerce under this section shall be
31 assumed and paid by the department of commerce.

32 New Sec. 3. Except as otherwise provided in sections 5 through 7,
33 and amendments thereto, on the effective date of this act:

34 (a) The department of commerce and the secretary of commerce shall

1 be the successor in every way to the powers, duties and functions of the
2 Kansas technology enterprise corporation in which the same were vested
3 prior to the effective date of this section and that are transferred pursuant
4 to section 2, and amendments thereto. Every act performed in the exercise
5 of such transferred powers, duties and functions by or under the
6 department of commerce or the secretary of commerce pursuant to section
7 2, and amendments thereto, shall be deemed to have the same force and
8 effect as if performed by the Kansas technology enterprise corporation in
9 which such powers, duties and functions were vested prior to the effective
10 date of this section.

11 (b) Whenever the Kansas technology enterprise corporation, or words
12 of like effect, are referred to or designated by a statute, contract or other
13 document and such reference is in regard to any of the powers, duties or
14 functions transferred to the department of commerce pursuant to section 2,
15 and amendments thereto, such reference or designation shall be deemed to
16 apply to the department of commerce or the secretary of commerce as the
17 context requires.

18 (c) All rules and regulations, orders and directives of the Kansas
19 technology enterprise corporation which are in effect on the effective date
20 of this section shall continue to be effective and shall be deemed to be
21 rules and regulations, orders and directives of the department of commerce
22 or the secretary of commerce until revised, amended, revoked or nullified
23 pursuant to law.

24 (d) The secretary of commerce shall have the legal custody of all
25 records, memoranda, writings, entries, prints, representations, electronic
26 data or combinations thereof of any act, transaction, occurrence or event of
27 the Kansas technology enterprise corporation.

28 (e) The secretary of commerce shall be the continuation of the Kansas
29 technology enterprise corporation.

30 (f) (1) All officers and employees who, immediately prior to such
31 date, were engaged in the performance of powers, duties or functions of
32 the Kansas technology enterprise corporation concerning programs
33 transferred pursuant to sections 2 and 3, and amendments thereto, or who
34 become a part of the department of commerce, or the powers, duties and
35 functions of which are transferred to the department of commerce, and
36 who, in the opinion of the secretary of commerce, are necessary to perform
37 the powers, duties and functions of the department of commerce, shall be
38 transferred to, and shall become officers and employees of the department
39 of commerce.

40 (2) Officers and employees of the Kansas technology enterprise
41 corporation transferred by this act shall retain all retirement benefits and
42 leave balances and rights which had accrued or vested prior to the date of
43 transfer. The service of each such officer and employee so transferred shall

1 be deemed to have been continuous. All transfers, layoffs or abolition of
2 classified service positions under the Kansas civil service act shall be
3 made in accordance with the civil service laws and any rules and
4 regulations adopted thereunder. Nothing in this act shall affect the
5 classified status of any transferred person employed by the Kansas
6 technology enterprise corporation.

7 New Sec. 4. (a) When any conflict arises as to the disposition of any
8 property, power, duty or function or the unexpended balance of any
9 appropriation as a result of any abolition or transfer made by or under
10 section 2, and amendments thereto, shall be resolved by the governor,
11 whose decision shall be final.

12 (b) The department of commerce shall succeed to all property,
13 property rights and records which were used for or pertain to the
14 performance of powers, duties and functions transferred to the department
15 of commerce pursuant to section 2, and amendments thereto. Any conflict
16 as to the proper disposition of property, personnel or records arising under
17 this section or sections 2 or 3, and amendments thereto, shall be
18 determined by the governor, whose decision shall be final.

19 New Sec. 5. (a) On the effective date of this act, the following
20 powers, duties and functions of the Kansas technology enterprise
21 corporation are hereby transferred to and conferred and imposed upon the
22 board of regents:

23 ~~(1) All powers, duties and functions under K.S.A. 74-8106, and~~
24 ~~amendments thereto, relating to the centers of excellence established under~~
25 ~~K.S.A. 74-8106, and amendments thereto;~~(2) all powers, duties and
26 functions under K.S.A. 74-8102 through 74-8111, and amendments
27 thereto, relating to the strategic technology and research (STAR) fund; and
28 ~~(3)~~(2) all powers, duties and functions under K.S.A. 74-8102 through
29 74-8111, and amendments thereto, relating to the experimental program to
30 stimulate competitive research (EPSCoR).

31 (b) The director of accounts and reports shall transfer all balances for
32 all funds or accounts thereof appropriated or reappropriated for the Kansas
33 technology enterprise corporation relating to the powers, duties and
34 functions transferred by this section, and amendments thereto, to the board
35 of regents.

36 (c) All liabilities of the Kansas technology enterprise corporation
37 relating to the powers, duties and functions transferred by this section, and
38 amendments thereto, including accrued compensation or salaries of
39 officers and employees who are transferred to the board of regents under
40 this section, and amendments thereto, shall be assumed and paid by the
41 board of regents.

42 New Sec. 6. On and after the effective date of this act: (a) The board
43 of regents shall be the successor in every way to the powers, duties and

1 functions of the Kansas technology enterprise corporation in which the
2 same were vested prior to the effective date of this section, and
3 amendments thereto, and that are transferred pursuant to section 5, and
4 amendments thereto. Every act performed in the exercise of such
5 transferred powers, duties and functions by or under the board of regents
6 pursuant to section 5, and amendments thereto, shall be deemed to have
7 the same force and effect as if performed by the Kansas technology
8 enterprise corporation in which such powers, duties and functions were
9 vested prior to the effective date of this section, and amendments thereto.

10 (b) Whenever the Kansas technology enterprise corporation, or words
11 of like effect, are referred to or designated by a statute, contract or other
12 document and such reference is in regard to any of the powers, duties or
13 functions transferred to the board of regents pursuant to section 5, and
14 amendments thereto, such reference or designation shall be deemed to
15 apply to the board of regents.

16 (c) All rules and regulations, orders and directives of the Kansas
17 technology enterprise corporation which relate to the powers, duties and
18 functions transferred by section 5, and amendments thereto, and which are
19 in effect on the effective date of this section, and amendments thereto,
20 shall continue to be effective and shall be deemed to be rules and
21 regulations, orders and directives of the board of regents until revised,
22 amended, revoked or nullified pursuant to law.

23 (d) The board of regents shall have the legal custody of all records,
24 memoranda, writings, entries, prints, representations, electronic data or
25 combinations thereof of any act, transaction, occurrence or event of the
26 Kansas technology enterprise corporation relating to the powers, duties
27 and functions transferred by section 5, and amendments thereto.

28 (e) The board of regents shall be the continuation of the Kansas
29 technology enterprise corporation relating to the powers, duties and
30 functions transferred by section 5, and amendments thereto.

31 (f) (1) All officers and employees who, immediately prior to such
32 date, were engaged in the performance of powers, duties or functions of
33 the Kansas technology enterprise corporation concerning programs
34 transferred pursuant to section 5, and amendments thereto, or who become
35 a part of the board of regents, or the powers, duties and functions of which
36 are transferred to the board of regents, and who, in the opinion of the
37 board of regents, are necessary to perform the powers, duties and functions
38 of the board of regents, shall be transferred to, and shall become officers
39 and employees of the board of regents.

40 (2) Officers and employees of the Kansas technology enterprise
41 corporation transferred by this act shall retain all retirement benefits and
42 leave balances and rights which had accrued or vested prior to the date of
43 transfer. The service of each such officer and employee so transferred shall

1 be deemed to have been continuous. All transfers, layoffs or abolition of
2 classified service positions under the Kansas civil service act shall be
3 made in accordance with the civil service laws and any rules and
4 regulations adopted thereunder. Nothing in this act shall affect the
5 classified status of any transferred person employed by the Kansas
6 technology enterprise corporation.

7 New Sec. 7. (a) When any conflict arises as to the disposition of any
8 property, power, duty or function or the unexpended balance of any
9 appropriation as a result of any abolition or transfer made by or under
10 section 5, and amendments thereto, shall be resolved by the governor,
11 whose decision shall be final.

12 (b) The board of regents shall succeed to all property, property rights
13 and records which were used for or pertain to the performance of powers,
14 duties and functions transferred to the board of regents pursuant to section
15 5, and amendments thereto. Any conflict as to the proper disposition of
16 property, personnel or records arising under this section or sections 5 or 6,
17 and amendments thereto, shall be determined by the governor, whose
18 decision shall be final.

19 New Sec. 8. (a) No suit, action or other proceeding, judicial or
20 administrative, lawfully commenced, or which could have been
21 commenced, by or against any state agency or program mentioned in
22 sections 2 through 7, and amendments thereto, or by or against any officer
23 of the state in such officer's official capacity or in relation to the discharge
24 of such officer's official duties, shall abate by reason of the governmental
25 reorganization effected under the provisions of sections 2 through 7, and
26 amendments thereto. The court may allow any such suit, action or other
27 proceeding to be maintained by or against the successor of any such state
28 agency or any officer affected.

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

32 ***New Sec. 9. New Sections 1 through 8, inclusive, shall become***
33 ***effective on July 1, 2011.***

34 ***Sec. ~~9~~ 10. From and after July 1, 2011, K.S.A. 2010 Supp. 74-520a***
35 ***is hereby amended to read as follows: 74-520a. (a) On and after March 15,***
36 ***1995, the Kansas state fair board is hereby established. The Kansas state***
37 ***fair board shall consist of the following members:***

38 (1) The secretary of agriculture or the successor of the secretary of
39 agriculture, or the secretary's designee;

40 (2) the secretary of commerce, or the secretary's designee;

41 (3) the director of extension of Kansas state university of agriculture
42 and applied science, or the director's designee;

43 (4) one person appointed by the governor from three persons

1 nominated by the Kansas chamber of commerce and industry;
2 (5) one person appointed by the governor from three persons
3 nominated by the travel industry association of Kansas;
4 (6) one person appointed by the governor from three persons
5 nominated by the Kansas fairs association; *and*
6 ~~(7) one person appointed by the Kansas technology enterprise~~
7 ~~corporation from among the board of directors of the Kansas technology~~
8 ~~enterprise corporation; and~~
9 (8) ~~six~~ seven people from the general public appointed by the
10 governor. Of such people appointed, one shall be from each of the five
11 extension areas, as established in subsection (e), and ~~one~~ two shall
12 represent the state at large. Directors of each extension area shall submit
13 three nominations to the governor. Such persons nominated shall be
14 actively involved in agriculture production or agribusiness.
15 (b) Of the persons initially appointed by the governor under
16 subsection (a), three shall have a term of one year, three shall have a term
17 of two years and three shall have a term of three years and until a
18 successor is appointed and qualified. Thereafter, all members shall have
19 terms of three years and until a successor is appointed and qualified.
20 (c) Any vacancy occurring on the Kansas state fair board shall be
21 filled as the original appointment was made.
22 (d) If any of the members able to appoint a designee does so, the
23 designee shall be appointed for a term of not less than one year.
24 (e) For the purpose of this section the state shall be divided into five
25 extension areas. The northwest extension area shall include the following
26 counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne,
27 Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove,
28 Trego, Ellis, Russell, Barton, Rush and Ness. The southwest extension area
29 shall include the following counties: Greeley, Wichita, Scott, Lane,
30 Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray,
31 Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark,
32 Comanche and Kiowa. The south central extension area shall include the
33 following counties: Lincoln, Ottawa, Dickinson, Ellsworth, Saline, Rice,
34 McPherson, Marion, Reno, Harvey, Butler, Kingman, Sedgwick, Cowley,
35 Sumner, Harper, Barber, Pratt and Stafford. The southeast extension area
36 shall include the following counties: Morris, Chase, Lyon, Osage,
37 Franklin, Miami, Coffey, Anderson, Linn, Bourbon, Allen, Woodson,
38 Greenwood, Elk, Wilson, Neosho, Crawford, Chautauqua, Montgomery,
39 Labette and Cherokee. The northeast extension area shall include the
40 following counties: Jewell, Republic, Washington, Marshall, Nemaha,
41 Brown, Doniphan, Mitchell, Cloud, Clay, Riley, Pottawatomie, Jackson,
42 Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas,
43 Shawnee, Wabaunsee and Geary.

1 Sec. ~~10~~ **11. From and after July 1, 2011**, K.S.A. 74-5001a is hereby
2 amended to read as follows: 74-5001a. The purpose of the department of
3 commerce shall be to develop and implement strategies to:

4 (a) Facilitate the growth, diversification and expansion of existing
5 enterprises and the creation by Kansans of new wealth-generating
6 enterprises;

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

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

13 (d) maintain and revitalize economically depressed rural areas and
14 urban neighborhoods by annually targeting scarce resources by size, sector
15 and location to communities and enterprises of particular need and
16 opportunity; and by working in close collaboration with local
17 communities;

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

20 (f) forge a supportive partnership with the standing committee on
21 commerce of the senate, the standing committee on economic
22 development of the house of representatives and the joint committee on
23 economic development, Kansas, Inc., ~~the Kansas technology enterprise~~
24 ~~corporation~~, Kansas venture capital, Inc., Kansas certified development
25 companies, Kansas small business development centers, Kansas public and
26 private educational institutions, and other appropriate private and public
27 sector organizations in achieving the economic goals of the state.

28 Sec. ~~11~~ **12. From and after July 1, 2011**, K.S.A. 2010 Supp. 74-
29 5005 is hereby amended to read as follows: 74-5005. The department shall
30 be the lead agency of the state for economic development of commerce
31 through the promotion of business, industry, trade and tourism within the
32 state. In general, but not by way of limitation, the department shall have,
33 exercise and perform the following powers and duties:

34 (a) To assume central responsibility for implementing all facets of a
35 comprehensive, long-term, economic development strategy and for
36 coordinating the efforts of both state agencies and local economic
37 development groups as they relate to that objective;

38 (b) to coordinate the implementation of the strategy with all other
39 state and local agencies and offices and state educational institutions which
40 do research work, develop materials and programs, gather statistics, or
41 which perform functions related to economic development; and such state
42 and local agencies and offices and state educational institutions shall
43 advise and cooperate with the department in the planning and

1 accomplishment of the purposes of this act;

2 (c) to advise and cooperate with all federal departments, research
3 institutions, educational institutions and agencies, quasi-public
4 professional societies, private business and agricultural organizations and
5 associations, and any other party, public or private, and to call upon such
6 parties for consultation; and assistance in their respective fields of interest,
7 to the end that all ~~up-to-date~~ *up-to-date* available technical advice,
8 information and assistance be gathered for the use of the department, the
9 governor, the legislature; and the people of this state;

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

12 (e) to conduct an effective business information service, keeping ~~up-~~
13 ~~to-date~~ *up-to-date* information on such things as manufacturing industries,
14 labor supply and economic trends in employment, income, savings and
15 purchasing power within the state, utilizing the services and information
16 available from the division of the budget of the department of
17 administration;

18 (f) to support a coordinated program of scientific and industrial
19 research with the objective of developing additional uses of the state's
20 natural resources, agriculture, agricultural products, new and better
21 industrial products and processes, and the best possible utilization of the
22 raw materials in the state; and to coordinate this responsibility with the
23 state educational institutions, with all state and federal agencies, and all
24 public and private institutions within or outside the state, all in an effort to
25 assist and encourage new industries or expansion of existing industries
26 through basic research, applied research and new development;

27 (g) to maintain and keep current all available information regarding
28 the industrial opportunities and possibilities of the state, including raw
29 materials and by-products; power and water resources; transportation
30 facilities; available markets and the marketing limitations of the state;
31 labor supply; banking and financing facilities; availability of industrial
32 sites; and the advantages the state and its particular sections have as
33 industrial locations; and such information shall be used for the
34 encouragement of new industries in the state and the expansion of existing
35 industries within the state;

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

39 (i) to establish a clearinghouse for the collection and dissemination of
40 information concerning the number and location of public and private
41 postsecondary vocational and technical education programs in areas
42 critical to economic development;

43 (j) to acquaint the people of this state with the industries within the

1 state and encourage closer cooperation between the farming, commercial
2 and industrial enterprises and the people of the state;

3 (k) to encourage and promote the traveling public to visit this state by
4 publicizing information as to the recreational, historic and natural
5 advantages of the state and its facilities for transient travel and to contract
6 with organizations for the purpose of promoting tourism within the state;
7 and the department may request other state agencies such as, but not
8 limited to, the Kansas water office, the Kansas department of wildlife and
9 parks and the department of transportation, for assistance and all such
10 agencies shall coordinate information and their respective efforts with the
11 department to most efficiently and economically carry out the purpose and
12 intent of this subsection;

13 (l) to participate in economic development and planning assistance
14 programs of the federal government to political subdivisions;

15 (m) to assist counties and cities in industrial development through the
16 establishment of industrial development corporations, including site
17 surveys, small business administration situations, and render such other
18 similar assistance as may be required; and in those instances where it is
19 deemed appropriate, to contract with and make a service charge to the
20 county or city involved for such services rendered;

21 (n) to render assistance to private enterprise on planning problems
22 and site surveys upon request and shall make a reasonable service charge
23 for such services rendered; and any moneys received for services rendered,
24 as provided in this subsection, shall be deposited in the fund and expended
25 therefrom, as provided in subsection (o);

26 (o) to make agreements with other states and with the United States
27 government, or its agencies, and to accept funds from the federal
28 government, or its agencies, or any other source for research studies,
29 investigation, planning and other purposes related to the duties of the
30 department; and any funds so received shall be remitted to the state
31 treasurer in accordance with the provisions of K.S.A. 75-4215, and
32 amendments thereto. Upon receipt of each such remittance, the state
33 treasurer shall deposit the entire amount in the state treasury to the credit
34 of a special revenue fund which is hereby created and shall be known as
35 the "economic development fund" or used in accordance with or direction
36 of the contributing federal agencies; and expenditures from such fund may
37 be made for any purpose in keeping with the responsibilities, functions and
38 authority of the department; and warrants on such fund shall be drawn in
39 the same manner as required of other state agencies upon vouchers signed
40 by the secretary;

41 (p) to do other and further acts as shall be necessary and proper in
42 fostering and promoting the industrial development and economic welfare
43 of the state;

1 (q) to organize, or cause to be organized, an advisory board or boards
2 representing interested groups, including industry, labor, agriculture,
3 scientific research, the press, the professions, industrial associations, civic
4 groups, etc.; and such board or boards shall advise with the department as
5 to its work and the department shall, as far as practicable, cooperate with
6 such board or boards, and secure the active aid thereof in the
7 accomplishment of the aims and objectives of the department;

8 (r) to perform the duties imposed under the Kansas venture capital
9 company act;

10 (s) to serve as the central agency and clearinghouse to collect and
11 disseminate ideas and information bearing on local planning problems;
12 and, in so doing, the department, upon request of the board of county
13 commissioners of any county or the governing body of any city in the
14 state, may make a study and report upon any planning problem of such
15 county or city submitted to it;

16 (t) to disseminate to the public information concerning economic
17 development programs available in the state, regardless of whether such
18 programs are administered by the department or some other agency and
19 the department shall make available audio-visual and written materials
20 describing the economic development programs to local chambers of
21 commerce, economic development organizations, banks and public
22 libraries and shall take other measures as may be necessary to effectuate
23 the purpose of this subsection; ~~and~~

24 (u) to perform the duties imposed under the individual development
25 account program act, K.S.A. 2010 Supp. 74-50,201 through 74-50,208,
26 and amendments thereto; *and*

27 *(v) except as otherwise provided by law, perform the duties and carry*
28 *out the purposes of K.S.A. ~~74-8101~~ 74-8102 through 74-8104 and 74-8107*
29 *through 74-8111, and amendments thereto.*

30 **Sec. ~~12~~ 13. From and after July 1, 2011,** K.S.A. 2010 Supp. 74-
31 50,133 is hereby amended to read as follows: 74-50,133. There is hereby
32 created within the department of commerce the "high performance
33 incentive fund" to provide matching funds for business assistance and
34 consulting services to qualified firms under the provisions of K.S.A. 74-
35 50,131, *and amendments thereto*, that are entitled to a workforce training
36 tax credit under the provisions of K.S.A. 74-50,132, *and amendments*
37 *thereto*, or have received written approval for and are participating, at the
38 time the funds are sought, in the Kansas industrial training, Kansas
39 industrial retraining or state of Kansas investments in lifelong learning
40 program, subject to appropriation of funds and program criteria, as
41 hereinafter provided. The department of commerce may provide funds to
42 qualified firms, on a matching basis, to pay up to 50% of such firm's costs
43 of acquiring consulting services provided by the mid-America

1 manufacturing technology center, or approved private consultants to assist
2 in improving the firm's management, production processes or product or
3 service quality. Qualified firms also shall receive priority consideration for
4 any other business assistance programs administered by the department of
5 commerce, ~~the Kansas technology enterprise corporation and the mid-~~
6 ~~America manufacturing technology center.~~

7 Sec. ~~13~~ 14. *From and after July 1, 2011*, K.S.A. 2010 Supp. 74-
8 50,151 is hereby amended to read as follows: 74-50,151. (a) There is
9 hereby created in the state treasury the Kansas economic opportunity
10 initiatives fund. Subject to acts of the legislature applicable thereto, the
11 moneys in the Kansas economic opportunity initiatives fund shall be used
12 only for the purposes prescribed by this section.

13 (b) All expenditures made pursuant to this act shall be made in
14 accordance with appropriations acts upon warrants of the director of
15 accounts and reports issued pursuant to vouchers approved by the
16 governor or the governor's designee. The governor may approve a warrant
17 upon certification, by the secretary of commerce, that an economic
18 emergency or unique opportunity exists which warrant funding for a
19 strategic economic intervention by such state agency or agencies to
20 address expenses involved in securing economic benefits or avoiding or
21 remedying economic losses related to:

- 22 (1) A major expansion of an existing Kansas commercial enterprise;
- 23 (2) the potential location in Kansas of the operations of a major
24 employer;
- 25 (3) the award of a significant federal or private sector grant which has
26 a financial matching requirement;
- 27 (4) the departure from Kansas or the substantial reduction of the
28 operations of a major employer; and
- 29 (5) the closure or the substantial reduction of a major federal or state
30 institution or facility.

31 (c) An intervention strategy may include financial assistance in the
32 form of grants, loans or both. The department of commerce shall adopt
33 written guidelines concerning the terms and conditions of any such loans.
34 However, all repaid funds shall be credited to the Kansas economic
35 opportunity initiatives fund. No intervention strategy approved pursuant to
36 this act shall facilitate the moving of an existing Kansas firm to another
37 location within the state unless such restriction is waived by the secretary
38 of commerce. Every intervention strategy approved pursuant to this act
39 shall identify the intended outcomes to be realized by the strategy for
40 which funding is sought.

41 (d) The department of commerce and Kansas, Inc. shall make joint
42 findings concerning the costs and benefits, on both a local and statewide
43 basis, of projects proposed pursuant to this act. Prior to allocation of any

1 funds pursuant to this act, the governor shall review the cost-benefit
2 findings performed on each project.

3 (e) The director of the budget and the director of the legislative
4 research department shall consult periodically and review the balance
5 credited to and the estimated receipts to be credited to the state economic
6 development initiatives fund during the fiscal year. During any period
7 when the legislature is not in session, upon a finding by the director of the
8 budget in consultation with the director of the legislative research
9 department that the total of the unencumbered balance and estimated
10 receipts to be credited to the state economic development initiatives fund
11 during a fiscal year are insufficient to fund the budgeted expenditures and
12 transfers from the state economic development initiatives fund for the
13 fiscal year in accordance with the provisions of appropriation acts, the
14 director of the budget shall make a certification of such finding to the
15 governor. Upon approval by the governor, the director of accounts and
16 reports shall transfer the amount of moneys from the Kansas economic
17 opportunity initiatives fund to the state economic development initiatives
18 fund that is required, in accordance with a certification by the director of
19 the budget under this subsection, to fund the budgeted expenditures and
20 transfers from the state economic development initiatives fund for the
21 fiscal year in accordance with the provisions of appropriation acts, as
22 specified by the director of the budget pursuant to such certification.

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

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

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

30 (g) A ~~five~~ *three* member panel consisting of the secretary of
31 commerce, the president of Kansas, Inc., ~~the president of the Kansas~~
32 ~~technology enterprise corporation, the private sector chairperson of the~~
33 ~~board of Kansas, Inc., and the private sector chairperson of the Kansas~~
34 ~~technology enterprise corporation~~ *and the private sector chairperson of*
35 *the board of Kansas, Inc.* shall review annually the propriety of projects
36 funded under this section. The panel shall report its findings in writing to
37 the governor, the new economy committee of the house of representatives,
38 the senate commerce committee and the joint committee on economic
39 development. The report to the new economy committee of the house of
40 representatives, the commerce committee of the senate and the joint
41 committee on economic development under this subsection shall be made
42 either (1) by the panel by publishing such report on the internet and by
43 notifying each member of the committees that the report is available and

1 providing, as part of such notice, the uniform resource locator (URL) at
2 which such report is available, or (2) by submitting copies of such report
3 on CD-ROM or other electronically readable media to such committees.

4 ~~Sec. 14.~~ **15. From and after July 1, 2011,** K.S.A. 2010 Supp. 74-
5 50,156 is hereby amended to read as follows: 74-50,156. (a) There is
6 hereby established within and as a part of the department of commerce the
7 agriculture products development division. The secretary of commerce
8 shall appoint a director of such division and such director shall be in the
9 unclassified service of the Kansas civil service act. Subject to and in
10 accordance with appropriations acts, the agriculture products development
11 division shall include: (1) All powers, duties and functions related to the
12 agricultural value added center pursuant to subsections (b) and (c); (2) all
13 powers and duties created regarding the division of markets pursuant to
14 K.S.A. 74-530, and amendments thereto, which are hereby transferred; (3)
15 all powers and duties created regarding registered trademarks pursuant to
16 K.S.A. 74-540a, and amendments thereto, which are hereby transferred;
17 (4) all powers and duties regarding the trademark fund pursuant to K.S.A.
18 74-540b, and amendments thereto, which are hereby transferred; and (5)
19 all powers and duties created regarding expenditures and moneys credited
20 to the market development fund pursuant to K.S.A. 74-540c, and
21 amendments thereto, which are hereby transferred.

22 (b) The objectives of the agricultural value added center within the
23 agriculture products development division shall include, but not be limited to,
24 providing technical assistance to existing and potential value added
25 facilities, including incubator facilities; developing a network for
26 collecting and distributing information to individuals involved in value
27 added processing in Kansas; initiating pilot plant facilities to act as
28 research and development laboratories for existing and potential small
29 scale value added processing endeavors in Kansas; providing technical
30 assistance to new agricultural value added businesses; developing and
31 promoting communication and cooperation among private businesses;
32 state government agencies and public and private colleges and universities
33 in Kansas; establishing research and development programs in
34 technologies that have value added commercial potential for food and
35 nonfood agricultural products achieving substantial and sustainable
36 continuing growth for the Kansas economy through value added products
37 from agriculture; serving as a catalyst for industrial agriculture through
38 technological innovation in order to expand economic opportunity for all
39 Kansas communities; establishing an industrial agriculture industry for the
40 state of Kansas; commercializing the developed industrial agriculture
41 technology in smaller communities and the rural areas of Kansas; and
42 developing investment grade agriculture value added technologies and
43 products.

1 (c) Subject to the provisions of appropriations acts, the functions of
2 the agricultural value added center within the agriculture products
3 development division shall include, but not be limited to, developing a
4 market referral program, matching distribution to buyers in coordination
5 with other state agencies concerned with marketing Kansas products;
6 assisting private entrepreneurs in the establishment of facilities and
7 markets for new agricultural value added endeavors; and introducing
8 coordinated programs to develop marketing skills of existing agricultural
9 value adding processors in Kansas.

10 (d) (1) It shall be the duty of the agriculture products development
11 division to perform acts and to do, or cause to be done, those things which
12 are designed to lead to the more advantageous marketing of agricultural
13 products of Kansas. For these purposes the division may:

14 (A) Investigate the subject of marketing farm products;

15 (B) promote their sales distribution and merchandising;

16 (C) furnish information and assistance to the public;

17 (D) study and recommend efficient and economical methods of
18 marketing;

19 (E) provide for such studies and research as may be deemed
20 necessary and proper;

21 (F) gather and diffuse timely and useful information concerning the
22 supply, demand, prevailing prices and commercial movement of farm
23 products including quantity in common storage and cold storage, in
24 cooperation with other public or private agencies;

25 (G) conduct market development activities and assist and coordinate
26 participation by companies, commodity organizations, trade organizations,
27 producer organizations and other interested organizations to develop new
28 markets and sales for Kansas agricultural commodities and food products;

29 (H) render assistance to any of the entities listed in subsection (G)
30 and development activities and make a reasonable service charge for such
31 services rendered by the division; and

32 (I) make agreements with other states and with the United States
33 government, or its agencies, and accept funds from the federal
34 government, or its agencies, or any other source for research studies,
35 investigation, market development and other purposes related to the duties
36 of the division.

37 (2) The department of commerce shall remit all moneys received
38 under this subsection to the state treasurer in accordance with the
39 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
40 each such remittance, the state treasurer shall deposit the entire amount in
41 the state treasury to the credit of the market development fund. All
42 expenditures from such fund shall be made for any purpose consistent with
43 this subsection and shall be made in accordance with appropriation acts

1 upon warrants of the director of accounts and reports issued pursuant to
2 vouchers approved by the secretary of commerce or a person designated
3 by the secretary.

4 (e) (1) In conjunction with any trademark registered by the
5 department of commerce, the agriculture products development division is
6 hereby authorized to:

7 (A) Promulgate policy regarding the use of any such trademark;

8 (B) print, reproduce or use the trademark in or on educational,
9 promotional or other material;

10 (C) fix, charge and collect fees for the use of the trademark provided
11 that the fees shall be fixed in an amount necessary to recover all direct
12 costs associated with the production of educational, promotional and other
13 materials associated with a trademark program; and

14 (D) enter into any contracts necessary to carry out the purposes of
15 this subsection, which contracts shall not be subject to the bidding
16 requirements of K.S.A. 75-3739, and amendments thereto.

17 (2) The secretary of commerce shall remit all moneys received under
18 this subsection to the state treasurer in accordance with the provisions of
19 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
20 remittance, the state treasurer shall deposit the entire amount in the state
21 treasury to the credit of the trademark fund. All expenditures from such
22 fund shall be made for any purpose consistent with this subsection and
23 shall be made in accordance with appropriation acts upon warrants of the
24 director of accounts and reports issued pursuant to vouchers approved by
25 the secretary of commerce or a person designated by the secretary.

26 (f) On or before February 1 of each year, the agriculture products
27 development division shall present an oral and written report to the house
28 and senate agriculture committees concerning the performance indicators,
29 performance outcomes, activities and functions of the division for the
30 previous year. Such report shall include a budget of how moneys
31 appropriated or otherwise authorized to be expended from the state general
32 fund or any special revenue fund for the agriculture products development
33 division of the department of commerce for the previous fiscal year were
34 spent and a projected budget of moneys appropriated or otherwise
35 authorized to be expended from the state general fund or any special
36 revenue fund for the agriculture products development division of the
37 department of commerce for the current fiscal year. Such report shall
38 further include the full-time equivalent number of positions financed from
39 appropriations and allocated for the agriculture products development
40 division of the department of commerce for each fiscal year. In the report
41 to the 1997 legislature, the division's report shall include a mission
42 statement for the reorganized division.

43 ~~(g) Subject to appropriation acts, the secretary of commerce shall~~

1 fulfill all contracts in existence on the effective date of this act between the
2 Kansas technology enterprise corporation and the alternative agriculture
3 research and development center.

4 ~~Sec. 15. K.S.A. 2010 Supp. 74-8101 is hereby amended to read as~~
5 ~~follows: 74-8101. (a) There is hereby created a body politic and corporate~~
6 ~~to be known as the Kansas technology enterprise corporation. The Kansas~~
7 ~~technology enterprise corporation is hereby constituted a public~~
8 ~~instrumentality and the exercise of the authority and powers conferred by~~
9 ~~this act shall be deemed and held to be the performance of an essential~~
10 ~~governmental function within the department of commerce the Kansas~~
11 ~~technology enterprise advisory board.~~

12 ~~(b) The corporation shall be governed by a board of 20 directors~~
13 ~~board shall consist of 20 members who shall be residents of this state. The~~
14 ~~board shall consist of: (1) the governor or, at the discretion of the~~
15 ~~governor, the secretary of the department of commerce.; (2) the secretary~~
16 ~~of agriculture.; (3) four directors who are members of the legislature~~
17 ~~appointed as provided in subsection (d)(1).; (4) four directors members~~
18 ~~who are appointed by legislative officers as provided in subsection (d)(2).;~~
19 ~~and (5) ten directors members appointed by the governor subject to senate~~
20 ~~confirmation as provided in K.S.A. 75-4315b, and amendments thereto.~~
21 ~~Except as provided by K.S.A. 46-2601, and amendments thereto, no~~
22 ~~person whose appointment is subject to confirmation by the senate, shall~~
23 ~~exercise any power, duty or function as a member of the board until~~
24 ~~confirmed by the senate.~~

25 ~~(c) (1) All 10 of the directors members appointed by the governor~~
26 ~~shall be persons recognized for outstanding knowledge and leadership in~~
27 ~~their fields. Six of the directors members shall be persons from the private~~
28 ~~sector and four shall be persons from the public sector. The four~~
29 ~~appointees from the public sector shall consist of one or more of the~~
30 ~~following: Senior administrators at Kansas educational institutions~~
31 ~~governed by the board of regents or engineers or scientists who have~~
32 ~~extensive experience in managing basic or applied scientific and~~
33 ~~technological research. Of the six directors members appointed from the~~
34 ~~private sector:~~

35 ~~(A) Four directors members shall be persons who represent industries~~
36 ~~of the Kansas economy including small enterprises which include, but are~~
37 ~~not limited to:~~

38 ~~(i) Resource-based industries of agriculture, oil and gas;~~

39 ~~(ii) advanced technology industries of aviation, manufacturing,~~
40 ~~information and design; and~~

41 ~~(iii) emerging industries of telecommunications, computer software,~~
42 ~~information services and research services; and~~

43 ~~(B) two directors members shall be persons who represent the private~~

1 ~~financial sector of whom one shall have experience in the area of high-risk~~
2 ~~venture investments, and the other shall have commercial banking~~
3 ~~experience in an industry of special technological importance to the~~
4 ~~Kansas economy.~~

5 ~~(2) In making appointments to the board, the governor shall give~~
6 ~~consideration to the qualifications of the persons who served as~~
7 ~~commissioners of the Kansas advanced technology commission and shall~~
8 ~~give consideration to appropriate geographical representation.~~

9 ~~(3) Of the members first appointed to the board, two directors~~
10 ~~members shall be appointed for a term of one year, two directors~~
11 ~~members shall be appointed for terms of two years, three directors~~
12 ~~members shall be appointed for terms of three years and three directors~~
13 ~~members shall be appointed for terms of four years. Except as provided by paragraph (4),~~
14 ~~successors to such directors shall be appointed for terms of four years.~~
15 ~~Each director member shall hold office for the term of appointment and~~
16 ~~until the successor has been appointed and confirmed. In the event of a~~
17 ~~vacancy, the vacancy shall be filled by the governor in the manner~~
18 ~~provided for original appointments for the remainder of the unexpired~~
19 ~~portion of the term.~~

20 ~~(4) The terms of directors members appointed pursuant to this~~
21 ~~subsection who are serving on the board on the effective date of this act~~
22 ~~shall expire on January 15, of the year in which such member's term would~~
23 ~~have expired under the provisions of this section prior to amendment by~~
24 ~~this act. Thereafter, directors members shall be appointed for terms of four~~
25 ~~years and until their successors are appointed and confirmed.~~

26 ~~(d) (1) Four directors members shall be members of the legislature as~~
27 ~~follows: The speaker of the house, the house minority leader, the president~~
28 ~~of the senate, and the senate minority leader, or legislators who are~~
29 ~~appointed to represent them and who will provide continuity by virtue of~~
30 ~~their membership on the standing committee on commerce of the senate,~~
31 ~~the standing committee on economic development of the house of~~
32 ~~representatives or the joint committee on economic development.~~
33 ~~Legislative officers designated in this subsection shall serve by virtue of~~
34 ~~office. Legislators appointed under this subsection shall serve from the~~
35 ~~dates of their appointment until the first day of the regular legislative~~
36 ~~session in odd-numbered years and are eligible for reappointment.~~

37 ~~(2) (A) Four directors members shall be appointed by legislative~~
38 ~~officers as follows: (1) One shall be appointed by the speaker of the~~
39 ~~house.; (2) one shall be appointed by the house minority leader.; (3) one~~
40 ~~shall be appointed by the president of the senate.; and (4) one shall be~~
41 ~~appointed by the senate minority leader. The members so appointed shall~~
42 ~~be persons who are recognized for outstanding knowledge and leadership~~
43 ~~in their fields, who are from the private sector and who represent industries~~

1 ~~of the Kansas economy including small enterprises which include, but are~~
2 ~~not limited to:~~

3 ~~(i) Resource-based industries of agriculture, oil and gas;~~

4 ~~(ii) advanced technology industries of aviation, manufacturing,~~
5 ~~information and design; and~~

6 ~~(iii) emerging industries of telecommunications, computer software,~~
7 ~~information services and research services.~~

8 ~~(B) Of the directors *members* first appointed by legislative officers~~
9 ~~under this subsection (d)(2), the directors *members* appointed by the~~
10 ~~speaker of the house and the president of the senate shall be appointed to a~~
11 ~~term of four years and the directors *members* appointed by the house~~
12 ~~minority leader and the senate minority leader shall be appointed to a term~~
13 ~~of two years. Successors to such directors *members* shall be appointed for~~
14 ~~terms of four years. Each director *member* shall hold office for the term of~~
15 ~~appointment and until the successor has been appointed. In the event of a~~
16 ~~vacaney, the vacaney shall be filled by the legislative officer who~~
17 ~~appointed the director *member* who created the vacaney in the manner~~
18 ~~provided for the original appointment for the remainder of the unexpired~~
19 ~~portion of the term.~~

20 ~~(e) Members of the board of directors, in their dealings with~~
21 ~~enterprises that may receive financing through the corporation *department*~~
22 ~~*of commerce*, shall declare any potential conflict of interest and abstain~~
23 ~~from voting prior to taking any actions relating to that transaction.~~

24 ~~(f) The board of directors shall conduct a national search and select a~~
25 ~~corporate president who meets a national standard of experience, ability~~
26 ~~and initiative for similar positions. The corporate president shall not be a~~
27 ~~member of the board.~~

28 ~~(g) The board of directors shall hold all board meetings within the~~
29 ~~state of Kansas.~~

30 ~~(h) *(g)* Members of the board of directors are entitled to~~
31 ~~compensation and expenses as provided in K.S.A. 75-3223, and~~
32 ~~amendments thereto.~~

33 ~~(i) *(h)* The board shall annually elect from the private sector~~
34 ~~membership one member as chairperson and one member as vice-~~
35 ~~chairperson.~~

36 ~~(j) *(i)* The board of directors shall meet at least once during each~~
37 ~~calendar quarter, and at such other times as may be provided in the rules of~~
38 ~~the corporation, upon call by the president, *upon call by* the chairperson or~~
39 ~~upon written request of a majority of the directors *members*.~~

40 ~~(k) *(j)* A majority of the board of directors shall be necessary to~~
41 ~~transact corporation *board* business, and all actions of the directors~~
42 ~~*members* shall be by a majority vote of the full number of corporate~~
43 ~~directors *members*.~~

1 ~~(l) (k) The directors members shall establish an executive committee~~
2 ~~composed of the chairperson, vice-chairperson and three additional~~
3 ~~members chosen by the chairperson from among the remaining directors~~
4 ~~members. The executive committee, in intervals between board meetings,~~
5 ~~may transact any board business that has been delegated to the executive~~
6 ~~committee. A majority of the executive committee shall be necessary to~~
7 ~~transact business and all actions of the executive committee shall be by a~~
8 ~~majority vote of the committee.~~

9 ~~(m) (l) No member of the board of directors is eligible to serve more~~
10 ~~than two terms of office.~~

11 ~~(n) (m) A member appointed to the board of directors by the governor~~
12 ~~may be removed by the governor for cause, stated in writing, after a~~
13 ~~hearing thereon.~~

14 ~~(n) All investments and grant awards to be made by the department~~
15 ~~of commerce pursuant to K.S.A. 74-8101 through 74-8104 and 74-8107~~
16 ~~through 74-8111, and amendments thereto, shall first be considered by the~~
17 ~~board. The board shall submit to the secretary of commerce a~~
18 ~~recommendation regarding each investment and grant award. The board's~~
19 ~~recommendation shall be considered by the secretary in making the final~~
20 ~~determination on such investment or grant award.~~

21 Sec. 16. **From and after July 1, 2011**, K.S.A. 74-8102 is hereby
22 amended to read as follows: 74-8102. (a) The purpose of the Kansas
23 technology enterprise corporation K.S.A. ~~74-8101 74-8102~~ through 74-
24 8104 and 74-8107 through 74-8111, and amendments thereto, is to foster
25 innovation in existing and developing businesses, especially the creation,
26 growth and expansion of Kansas enterprises in a diversified range of
27 primary sectors, which develop value-added products, processes and
28 services including, but not limited to:

29 (1) Existing resource-based industries of agriculture, oil, gas, coal
30 and helium;

31 (2) existing advanced technology industries of aviation,
32 pharmaceuticals, computers and electronics; and

33 (3) emerging industries of telecommunications, computer software,
34 information services and research services.

35 (b) The ~~corporation~~ department of commerce shall achieve the
36 purpose stated in subsection (a) of this section by:

37 (1) Financing basic research, applied research and development, and
38 technology transfer at Kansas educational institutions which meet
39 competitive standards of excellence as measured by national and
40 international peers, and which create innovative collaboration between
41 Kansas educational institutions and Kansas enterprises;

42 (2) awarding applied research matching grants to Kansas educational
43 institutions and Kansas private enterprises in order to move innovation and

1 applied research toward commercial application;

2 (3) engaging in seed-capital financing for the development and
3 implementation of innovations or new technologies for existing resource,
4 technology-based and emerging Kansas businesses; and

5 (4) providing technical referral services to such small, new, emerging
6 or mature businesses and encouraging Kansas educational institutions to
7 establish technical information data bases and industrial liaison offices
8 which are easily accessible by both private and public sector Kansas
9 organizations.

10 (c) ~~The department of commerce, Kansas, Inc. and All other~~
11 ~~interested state agencies shall cooperate with the Kansas technology-~~
12 ~~enterprise corporation department~~**department of commerce** in providing
13 information and other assistance as may be requested for the performance
14 of its duties with respect to the state's economic development strategy.

15 Sec. 17. *From and after July 1, 2011*, K.S.A. 74-8103 is hereby
16 amended to read as follows: 74-8103. As used in this act, unless the
17 context clearly requires otherwise:

18 (a) "Applied research" means those research activities occurring at
19 educational institutions and in private enterprises, which have potential
20 commercial application;

21 (b) "basic research" means research that has long range generic value
22 to an industry classification or group of companies. Basic research is
23 distinguished from applied research which has more short range present
24 value to a single company or project;

25 (c) ~~"corporation" means the Kansas technology enterprise-~~
26 ~~corporation; "board" means the Kansas technology enterprise advisory~~
27 ~~board;~~

28 (d) *"department" means the department of commerce;*

29 ~~(d)~~ (e) "educational institutions" means public and private community
30 colleges, colleges and universities in the state;

31 ~~(e)~~ (f) "enterprise" means a firm with its principal place of business in
32 Kansas which is engaged or proposes to be engaged in this state in
33 agricultural, natural resource-based or other manufacturing, research and
34 development, or the provision of technology-based services;

35 ~~(f)~~ (g) "new technology" means the development through science or
36 research of methods, processes and procedures, including but not limited
37 to those involving the utilization of agricultural products and by-products
38 and oil and gas and other mineral resources for practical application in
39 industrial and service situations;

40 ~~(g)~~ (h) "person" means any individual, partnership, corporation or
41 joint venture carrying on business or proposing to carry on business within
42 the state;

43 ~~(h)~~ (i) "product" means any product, device, technique or process,

1 which is or may be developed or marketed commercially; however,
 2 "product" does not refer to basic research but shall apply to such products,
 3 devices, techniques or processes which have advanced beyond the
 4 theoretical stage and are in a prototype or practice stage;

5 (†) (j) "qualified security" means any public or private financial
 6 arrangement, involving any note, security, debenture, evidence of
 7 indebtedness, certificate of interest or participation in any profit-sharing
 8 agreement, preorganization certificate or subscription, transferable
 9 security, investment contract, certificate of deposit for a security,
 10 certificate of interest or participation in a patent or application therefor, or
 11 in royalty or other payments under such a patent or application, or, in
 12 general, any interest or instrument commonly known as a "security" or any
 13 certificate for, receipt for, guarantee of, or option, warrant or right to
 14 subscribe to or purchase any of the foregoing to the extent allowed by law;

15 (k) "secretary" means the secretary of commerce; and

16 (†) (l) "seed capital" means financing that is provided for the
 17 development, refinement and commercialization of a product, process or
 18 innovation, whether for the startup of a new firm, the expansion or the
 19 restructuring of a small firm.

20 Sec. 18. **From and after July 1, 2011**, K.S.A. 2010 Supp. 74-8104 is
 21 hereby amended to read as follows: 74-8104. (a) The ~~corporation~~ *secretary*
 22 shall have all the powers necessary to achieve the purposes, specified in
 23 K.S.A. 74-8102, and amendments thereto, including the power to:

24 (1) ~~Make, amend and repeal bylaws, rules and regulations for the~~
 25 ~~management of its affairs~~ *Adopt rules and regulations as deemed*
 26 *necessary for the implementation of K.S.A. ~~74-8101~~ 74-8102 through 74-*
 27 *8104 and 74-8107 through 74-8111, and amendments thereto;*

28 (2) ~~sue and be sued;~~

29 (†) ~~make contracts and execute all instruments necessary or~~
 30 ~~convenient for carrying out its business~~ *the powers and duties under*
 31 *K.S.A. ~~74-8101~~ 74-8102 through 74-8104 and 74-8107 through 74-8111,*
 32 *and amendments thereto;*

33 (†) (3) acquire, own, hold, dispose of and encumber real or personal
 34 property of any nature, both tangible and intangible, or any interest
 35 therein;

36 (5) (4) enter into agreements or other transactions with any federal,
 37 state, county or municipal agency and with any individual, corporation,
 38 enterprise, association or any other entity involving applied research and
 39 technology;

40 (†) (5) acquire real property or an interest therein, by purchase or
 41 foreclosure, where such acquisition is necessary or appropriate to protect
 42 or secure any investment or loan in which the ~~corporation~~ *department* has
 43 an interest;

1 (7) (6) sell, transfer and convey any such property to a buyer, and in
2 the event such sale, transfer or conveyance cannot be effected with
3 reasonable promptness or at a reasonable price, to lease such property to a
4 tenant;

5 (8) (7) invest any funds appropriated by the state and held in reserve
6 in funds not required for immediate disbursement, in such investments that
7 may be lawful for fiduciaries in this state, and invest funds received from
8 gifts, grants, donations and other operations of the ~~corporation~~ department
9 in such investments as would be lawful for a private corporation having
10 purposes similar to the ~~corporation~~ department;

11 (9) (8) borrow money and give ~~guaranties~~ guarantees, provided that
12 the indebtedness and other obligations of the ~~corporation~~ department shall
13 be payable solely out of its own ~~resources~~ funds, and shall not constitute a
14 pledge of the full faith and credit of the state or any of its revenues;

15 (10) (9) appoint officers, consultants, agents and advisors, and
16 prescribe their duties and compensation;

17 (11) (10) appear in its own behalf before boards, commissions,
18 departments or other agencies of municipal, county or state government or
19 federal government;

20 (12) (11) procure insurance against any losses in connection with its
21 properties in such amounts from such insurers as may be necessary or
22 desirable;

23 (13) (12) consent, subject to the provisions of any contract with note-
24 holders, whenever it considers it necessary or desirable in the fulfillment
25 of the purposes of ~~this act~~ K.S.A. ~~74-8101~~ 74-8102 through 74-8104 and
26 74-8107 through 74-8111, and amendments thereto, to the modifications,
27 with respect to the rate of interest, time payment or of any installment, of
28 principal and interest or any terms of any contract or agreement of any
29 kind to which the corporation is a party;

30 (14) (13) accept any and all donations, grants, bequests and devises,
31 conditional and otherwise, of money, property, services or other things of
32 value which may be received from the United States or any agency
33 thereof, any governmental agency, or any institution, person, firm or
34 corporation, public or private, to be held, used or applied for any or all of
35 the purposes specified in ~~this act~~ K.S.A. ~~74-8101~~ 74-8102 through 74-8104
36 and 74-8107 through 74-8111, and amendments thereto, in accordance
37 with the terms and conditions of any such grant;

38 (15) (14) trade, buy or sell qualified securities, including without
39 limitation, the powers to guarantee, purchase, take, receive, subscribe for
40 or otherwise acquire, to own, hold, use or otherwise employ; to sell, lease,
41 exchange, transfer or otherwise dispose of; to mortgage, lend, pledge or
42 otherwise deal in and with, qualified securities issued by any other
43 domestic or foreign corporation, partnership, association, limited liability

1 company, or business trust, whether or not such issuer was organized or
2 caused to be organized by the ~~corporation~~ *secretary*. The ~~corporation~~
3 *secretary*, while owner of any such qualified securities, may exercise all of
4 the rights, powers and privileges of ownership, including without
5 limitation the right to vote;

6 ~~(16)~~ (15) finance, conduct or cooperate in the financing or conducting
7 of scientific, technological, business, financial or other investigations
8 which are related to or likely to lead to business and economic
9 development, involving natural resources, innovation, applied research and
10 new technology, by making and entering into contracts or other
11 appropriate arrangements, including the provisions of grants, loans and
12 other forms of assistance;

13 ~~(17)~~ (16) solicit, study and assist in the preparation of business plans
14 and proposals of new or established resource and technologically oriented
15 enterprises of special importance to the Kansas economy;

16 ~~(18)~~ (17) prepare, publish and distribute such technological studies,
17 reports, bulletins and other materials as it considers appropriate, subject
18 only to the maintenance and responsibility for confidentiality of the client
19 proprietary information, and encourage educational institutions to develop
20 and disseminate similar materials;

21 ~~(19)~~ (18) organize, conduct, sponsor or cooperate with, and assist
22 both the private sector and educational institutions in the conduct of,
23 special institutes, conferences, demonstrations and studies relating to the
24 stimulation and formulation of innovation, applied science and
25 technologically oriented enterprises and studies relating to the formulation
26 of resource and technologically oriented enterprises and industry
27 endeavors;

28 ~~(20)~~ (19) provide and pay for such advisory services and technical
29 assistance that may be necessary or desirable to carry out the purposes of
30 ~~this act K.S.A. 74-8101~~ **74-8102** through 74-8104 and 74-8107 through
31 74-8111, and amendments thereto;

32 ~~(21)~~ (20) own, possess and take license in, patents, copyrights and
33 proprietary processes and negotiate and enter into contracts and establish
34 charges for the use of such patents, copyrights and proprietary processes
35 when such patents and licenses for innovation or inventions result from
36 research sponsored by the ~~corporation~~ *department* in a private enterprise
37 or when the ~~corporation~~ *department* finances a product developed by a
38 private enterprise;

39 ~~(22)~~ (21) negotiate royalty payments to the ~~corporation~~ *department*
40 on patents and licenses for innovations or inventions arising in the course
41 of research sponsored by the ~~corporation~~ *department* at educational
42 institutions under the jurisdiction of the Kansas board of regents; such
43 negotiated royalty arrangements should reflect an appropriate sharing of

1 legal risk as well as financial return between the ~~corporation~~ *department*
2 and educational institution; such patents and licenses shall be in keeping
3 with the patent policies of the Kansas board of regents;

4 ~~(23)~~ (22) exercise any other powers necessary for the operation and
5 functioning of the ~~corporation within the purposes authorized in this act~~
6 *department within the purposes of K.S.A. ~~74-8101~~ 74-8102 through 74-*
7 *8104 and 74-8107 through 74-8111, and amendments thereto;*

8 ~~(24)~~ (23) participate with any state agency or educational institution
9 in developing specific programs and goals to assist in the development of
10 industrial innovation, applied research and new technology of special
11 importance to the Kansas economy, and monitor performance;

12 ~~(25)~~ ~~cooperate with the department of commerce regarding financial~~
13 ~~assistance programs targeted to small enterprises of special importance to~~
14 ~~the Kansas economy; and~~

15 ~~(26)~~ (24) provide resource-based, scientific and technological data
16 and information required by the governor, the legislature, or its
17 committees, and to state agencies, educational institutions and cities,
18 counties and school districts and to private citizens and groups, within the
19 limitations of the resources available to the ~~corporation~~ *department*. This
20 service shall be in addition to any services currently provided by any
21 educational institution, committee or other organization in the state; **and**

22 **(25) dispose of any direct or indirect stock or other equity or**
23 **investment asset transferred to the department pursuant to this act**
24 **except that such disposition shall be made in the best interests of the**
25 **state of Kansas and solely at the discretion of the secretary and shall not**
26 **be required otherwise.**

27 ~~(b) The corporation shall be exempt from all franchise, corporate~~
28 ~~business and income taxes levied by the state. However, this act is not~~
29 ~~intended to exempt from any such taxes, or from any taxes levied in~~
30 ~~connection with the manufacture or sale of any products or processes~~
31 ~~which are the subject of any agreement made by the corporation, or any~~
32 ~~person entering into any agreement with the corporation.~~

33 ~~(e) Documents and other materials submitted to the corporation~~
34 ~~department by Kansas businesses shall not be public records if such~~
35 ~~records are trade secrets under the uniform trade secrets act (K.S.A. 60-~~
36 ~~3320 et seq. and amendments thereto) or are determined by the corporation~~
37 ~~department to be business secrets, and shall be maintained in a secured~~
38 ~~environment by the president secretary.~~

39 ~~(d) (c) The corporation department shall not be subject to state~~
40 ~~purchasing laws.~~

41 Sec. 19. **From and after July 1, 2011**, K.S.A. 74-8106 is hereby
42 amended to read as follows: 74-8106. (a) The purpose of this section is to
43 authorize the establishment of three types of centers of excellence at

1 educational institutions: Centers of excellence for basic research, centers
2 of excellence for applied research and development, and centers of
3 excellence for technology transfer.

4 (b) Centers of excellence for basic research will primarily undertake
5 ongoing basic research with a particular focus that will have long-run
6 potential for commercial development. The centers should build on
7 institutional strengths and be in areas of research where the educational
8 institution has achieved or has true promise of attaining a standard of
9 excellence as recognized by national and international peers.

10 (1) The Kansas technology enterprise basic research fund is hereby
11 created to which shall be credited any state funds specifically so
12 designated. The fund is not to be used for applied research, technology
13 transfer, technical assistance or training except as it is incidental to the
14 basic research intended to be benefited by this section.

15 (2) ~~The corporation board of regents~~ **department of commerce** may
16 use the Kansas technology enterprise basic research fund to carry out the
17 purposes of ~~this act~~ *K.S.A. 74-8102, and amendments thereto*, by awarding
18 funds to establish new centers of excellence for basic research or to
19 increase funding to such already established centers of excellence so long
20 as those centers are determined to be primarily carrying out basic research
21 and to meet the standards of excellence required by ~~this act~~ *this section*
22 *and K.S.A. 74-8102 and amendments thereto*. Awards of funds shall be
23 made on a competitive basis, and all proposals for new centers of
24 excellence shall be subject to external peer review on the basis of scientific
25 merit which meet national standards of excellence and subsequent
26 potential for commercial application.

27 (c) Centers of excellence for applied research and development will
28 primarily undertake applied research and development with a particular
29 focus that will have long-run potential for commercial development. The
30 centers should build on institutional strengths and be in areas of research
31 where the educational institution has achieved or has true promise of
32 attaining a standard of excellence in applied research and development.

33 (1) The Kansas technology enterprise applied research and
34 development fund is hereby created to which shall be credited any state
35 funds specifically so designated. The fund is not to be used for basic
36 research, technology transfer, technical assistance or training except as it is
37 incidental to the applied research and development intended to be
38 benefited by this section.

39 (2) ~~The corporation board of regents~~ **department of commerce** may
40 use the Kansas technology enterprise applied research and development
41 fund to carry out the purposes of this act by awarding funds to establish
42 new centers of excellence for applied research and development or to
43 increase funding to such already established centers of excellence so long

1 as those centers are determined to be carrying out primarily applied
2 research and development, and to be meeting the standards of excellence
3 required by this act. Awards of funds shall be made on a competitive basis,
4 and all proposals for new centers of excellence shall be subject to external
5 peer review on the basis of scientific merit which meets national standards
6 of excellence and subsequent potential for commercial application.

7 (d) Centers of excellence for technology transfer will primarily
8 undertake ongoing transfer of technology from educational institutions to
9 Kansas business.

10 (1) The Kansas technology enterprise technology transfer fund is
11 hereby created to which shall be credited any state funds specifically so
12 designated. The fund is not to be used for basic research, applied research
13 and development, technical assistance or training except as it is incidental
14 to the technology transfer intended to be benefited by this section.

15 (2) ~~The corporation board of regents~~**department of commerce** may
16 use the Kansas technology enterprise technology transfer fund to carry out
17 the purposes of ~~this act K.S.A. 74-8102, and amendments thereto,~~
18 awarding funds to establish new centers of technology transfer or to
19 increase funding to such already established centers of excellence so long
20 as those centers are determined to be carrying out primarily technology
21 transfer.

22 (3) Awards of funds shall be made on a competitive basis and all
23 proposals for new centers of excellence shall be subject to external peer
24 review on the basis of merit which meets national standards of excellence
25 and potential for increasing the competitiveness of Kansas business.

26 (e) ~~The corporation board of regents~~**department of commerce** shall
27 award funding to centers of excellence ~~transfer~~ in accordance with
28 subsections (g) and (h).

29 (f) In carrying out its functions under this section, the ~~corporation~~
30 *board of regents* is directed to create a centers of excellence committee to
31 assist in evaluating the establishment of new centers of excellence and in
32 evaluating increases in funding for already established centers of
33 excellence. The membership of the centers of excellence committee may
34 include ~~both directors and staff members of the corporation~~ *employees of*
35 *the board of regents***department of commerce**, and other persons drawn
36 from sources other than the ~~corporation who meet standards similar to~~
37 ~~those applying to the board of directors and board of regents~~**department**
38 **of commerce** who are recognized by their peers for outstanding
39 knowledge and leadership in their fields.

40 (g) ~~The corporation board of regents~~**department of commerce** shall
41 award funding for new centers and increased funding for established
42 centers only after:

43 (1) Developing, adopting and publishing the criteria it shall use when

1 evaluating centers of excellence;

2 (2) developing a level of core funding for each center of excellence;
3 and

4 (3) receiving the recommendation of the centers of excellence
5 committee which will review proposals for new or established centers of
6 excellence containing:

7 (A) Documentation that not less than 50% of the center's funding
8 above the established level of core funding will be matched by sources
9 other than the ~~corporation board of regents~~**department of commerce**;
10 machinery or equipment may be considered as part of the matching funds,
11 but must be accompanied by a statement that the center of excellence has
12 received the machinery or equipment, it is state of the art; and either

13 (i) verifying that the machinery or equipment is donated and has only
14 been used in testing to insure quality control, or used by a wholesaler or
15 retailer for demonstration purposes only; or

16 (ii) detailing the price paid by the center of excellence, with an
17 invoice showing the amount paid for the equipment;

18 (B) a description of a potential for future benefit to industry;

19 (C) an itemized operations budget; and

20 (D) other information that may be required by the ~~board of~~
21 **regentsdepartment of commerce**.

22 (h) The ~~board of regents~~**department of commerce** shall approve
23 proposals to establish new centers of excellence after the ~~board of regents~~
24 **department of commerce** finds, based upon the proposal submitted,
25 external peer reviews, and such additional investigation as the staff of the
26 ~~corporation shall make and incorporate in its minutes~~ **board of regents**
27 **department of commerce** shall make that:

28 (1) The proposed center of excellence has the potential to stimulate
29 economic growth by bringing together educational institutions and
30 businesses in partnerships to focus on basic research, applied research and
31 development, and technology transfer;

32 (2) the center has the long-run potential for benefit to existing and
33 new businesses through innovation and development of new technology;
34 and

35 (3) approval of the proposal will not create or foster unnecessary
36 duplication of programs, particularly at the graduate level of instruction.

37 (i) Each existing Kansas center of excellence is eligible for annual
38 support from the ~~corporation board of regents~~**department of commerce**
39 according to the same terms and conditions as provided in this ~~act~~ *section*
40 for new centers except that an external peer review to determine under
41 what provision of this ~~statute~~ *section* and by what terms continuing
42 funding is appropriate shall be conducted annually during the first three
43 years after the center of excellence is established and shall be conducted

1 biennially thereafter. In the years between external peer reviews
 2 conducted on a biennial basis, the ~~corporation board of regents~~
 3 **department of commerce** shall conduct internal reviews to determine
 4 under what provision of this statute and under what terms continuing
 5 funding is appropriate.

6 (j) ~~Any commercialized research that results from the funding of a~~
 7 ~~center of excellence shall be subject to negotiations under provisions of~~
 8 ~~(21) and (22) of subsection (a) of K.S.A. 74-8104 and amendments~~
 9 ~~thereto.~~ **The board of regents department of commerce** may require any
 10 educational institution where a center of excellence is located to oversee
 11 the operation of such center of excellence.

12 (k) *Kansas, Inc.* shall annually transmit to the governor and the
 13 legislature a report, based on information received from the board of
 14 regents, describing the funding and expenditures of each center of
 15 excellence for the preceding year, including the purposes for which such
 16 expenditures were made.

17 Sec. 20. **From and after July 1, 2011**, K.S.A. 74-8107 is hereby
 18 amended to read as follows: 74-8107. (a) The Kansas technology
 19 enterprise applied research matching grant fund is hereby created, to which
 20 shall be credited any state funds specifically so designated.

21 (b) The ~~corporation~~ *secretary* may use the Kansas technology
 22 enterprise applied research fund to carry out the purposes of this act by
 23 awarding competitive applied research grants to educational institutions
 24 and private enterprises of special importance to the Kansas economy. The
 25 fund is not to be used for pure research technology transfer technical
 26 assistance or training but only for actual applied research.

27 (c) The ~~board~~ *secretary* shall award grants only after:

28 (1) Developing, adopting and publishing the criteria it shall use when
 29 evaluating research proposals; and

30 (2) reviewing applied research proposals which present:

31 (A) Documentation, if the proposal is from an educational institution,
 32 that not less than 60% of the total direct cost of the proposed project will
 33 be provided by sources other than the corporation; machinery or
 34 equipment may be considered as part of the matching funds for the
 35 research, but must be accompanied by a statement:

36 (i) That the educational institution has received the machinery or
 37 equipment and it is state of the art; and either

38 (ii) verifying that the equipment or machinery is donated and has only
 39 been used in testing to insure quality control, or used by a wholesaler or
 40 retailer for demonstration purposes only; or

41 (iii) detailing the price paid by the educational institution, with an
 42 invoice showing the amount paid for the machinery or equipment;

43 (B) documentation, if the proposal is from a private enterprise, that

1 not less than 60% of the total direct cost of the proposed project will be
2 provided by sources other than the ~~corporation~~ *department* or through in-
3 kind services provided through the private enterprise as evaluated by the
4 ~~board or review committee~~ *secretary*;

5 (C) a description of the future commercial application and the
6 industrial sectors that will likely benefit by the applied research project
7 and the potential for job creation;

8 (D) an itemized research budget, time line and research methodology;

9 (E) a recommendation from the sponsoring educational institution or
10 business enterprise; and

11 (F) other information that may be required by the board.

12 (d) The ~~board~~ *secretary* shall approve such applied research proposals
13 after the ~~board~~ *secretary* finds, based upon the proposal submitted and
14 such additional investigation as the staff of the ~~corporation~~ *department*
15 shall make ~~and incorporate in its minutes~~, that:

16 (1) The proposed project is research that leads to innovation, new
17 knowledge or technology and is not training or technical assistance for
18 business firms;

19 (2) the proposed applied research project will expand that field's
20 technological base within the state;

21 (3) the project will enhance employment opportunities within Kansas;
22 and

23 (4) the project is technically sound and will produce a measurable
24 result.

25 (e) The ~~board of directors~~ *secretary* shall create an applied research
26 committee to assist in evaluating potential applied research projects. The
27 membership of this applied research committee may include ~~both directors~~
28 ~~and staff members of the corporation~~ *employees of the department*, and
29 other persons drawn from sources other than ~~the corporation who meet~~
30 ~~standards similar to those applying to the board of directors and~~
31 ~~department~~ who are recognized by their peers for outstanding knowledge
32 and leadership in their fields.

33 (f) Any commercialized research that results from ~~a corporation~~ *an*
34 applied research grant shall be subject to ~~provisions paragraphs (21) and~~
35 ~~(22) (20) and (21)~~ of subsection (a) of K.S.A. 74-8104, *and amendments*
36 *thereto*.

37 Sec. 21. ***From and after July 1, 2011***, K.S.A. 74-8108 is hereby
38 amended to read as follows: 74-8108. (a) The ~~corporation~~ *secretary* is
39 directed to develop a small business innovation research (SBIR) matching
40 grant program which meets the highest current standards for state
41 matching grants to federal phase I SBIR program. Prior to establishing the
42 SBIR matching grant program, the ~~corporation~~ *secretary* shall conduct a
43 survey and analysis of the most effective SBIR matching grant programs

1 existing in other states.

2 (b) The ~~corporation~~ *secretary* is hereby directed to establish a small
3 business innovation research bridge financing fund. Such fund shall
4 provide grants, loans, royalty or equity investment to firms that have
5 previously received federal phase I SBIR moneys and that have applied for
6 a phase II SBIR grant.

7 Sec. 22. ***From and after July 1, 2011***, K.S.A. 74-8108a is hereby
8 amended to read as follows: 74-8108a. Five years from the effective date
9 of this act, the ~~corporation~~ *secretary* shall conduct a review of the small
10 business innovation research bridge financing program and report the
11 results of the review to the legislature. Such review shall determine the
12 extent to which the program has achieved the following outcomes:

- 13 (a) Increased the number of phase II SBIR grant proposals;
14 (b) increased the percentage of phase II SBIR grants awarded to
15 researchers in the state;
16 (c) stimulated subsequent investments by industry venture capital and
17 other federal sources;
18 (d) encouraged development of industry partners with researchers;
19 and
20 (e) encouraged development of business or commercialization plans
21 for new technology.

22 Sec. 23. ***From and after July 1, 2011***, K.S.A. 74-8109 is hereby
23 amended to read as follows: 74-8109. (a) There is hereby created the
24 technology enterprise seed-capital fund to which shall be credited any state
25 funds specifically so designated. The ~~corporation~~ *secretary* may credit the
26 fund with unrestricted appropriations, gifts, donations or grants received
27 from any source and with payments on loans made from the fund.

28 (b) The ~~corporation~~ *secretary* may use the Kansas technology
29 enterprise seed-capital fund as follows:

30 (1) To carry out the purposes of ~~this act~~ K.S.A. ~~74-8101~~ **74-8102**
31 *through 74-8104 and 74-8107 through 74-8111, and amendments thereto,*
32 *through investments in qualified securities and through the forms of*
33 *financial assistance authorized by this act* K.S.A. ~~74-8101~~ **74-8102** *through*
34 *74-8104 and 74-8107 through 74-8111, and amendments thereto,*
35 including:

- 36 (A) Loans, loans convertible to equity, and equity;
37 (B) leaseholds;
38 (C) management or consultant service agreements;
39 (D) loans with warrants attached that are beneficially owned by the
40 ~~corporation~~ *department*;
41 (E) loans with warrants attached that are beneficially owned by a
42 party other than the ~~corporation~~ *department*; and
43 (F) any other contractual arrangement in which the ~~corporation~~

1 *department* is providing scientific and technological services to any
2 federal, state, county or municipal agency, or to any individual,
3 corporation, enterprise, association or any other entity involving science
4 and technology. The ~~corporation~~ *secretary*, in connection with the
5 provision of any form of financial assistance, may enter into royalty
6 agreements with an enterprise.

7 (2) To pay all or a portion of the ~~corporation's~~ *department's* operating
8 expenses from revenues generated by seed-capital fund investments, which
9 shall be an amount sufficient to allow the ~~corporation~~ *department* to
10 undertake and efficiently manage its responsibilities.

11 (3) To invest in such other investments as are lawful for Kansas
12 fiduciaries.

13 (c) The ~~corporation~~ *secretary* may use the Kansas technology
14 enterprise seed-capital fund to purchase qualified securities issued by
15 enterprises as a part of a resource and technology project for the purpose
16 of raising the initial capital for such projects subject to the conditions set
17 forth in this section.

18 (d) The ~~corporation~~ *secretary* may use the fund to make low-interest
19 or zero-interest loans to business incubator facilities in exchange for
20 royalties from future gross sales generated by enterprises created in the
21 incubator.

22 (e) The ~~corporation~~ *secretary* shall purchase qualified securities
23 issued by an enterprise as a part of a resource and technology project only
24 after:

25 (1) Receipt of an application from the enterprise which contains:

26 (A) A business plan including a description of the enterprise and its
27 management, product and market;

28 (B) a statement of the amount, timing and projected use of the capital
29 required;

30 (C) a statement of the potential economic impact of the enterprise,
31 including the number, location and types of jobs expected to be created;
32 and

33 (D) such other information as the ~~corporation board of directors~~
34 *secretary* shall request.

35 (2) Approval of the investment by the ~~corporation~~ *department* may be
36 made after the ~~board of directors~~ *secretary* finds, based upon the
37 application submitted by the enterprise and such additional investigation as
38 the staff of the ~~corporation~~ shall make and incorporate in its minutes,
39 *department shall make* that:

40 (A) The proceeds of the investment will be used only to cover the
41 seed-capital needs of the enterprise except as authorized by this section;

42 (B) the enterprise has a reasonable chance of success;

43 (C) the ~~corporation's~~ *department's* participation is instrumental to the

1 success of the enterprise and its retention within the state because funding
2 otherwise available for the enterprise is not available on commercially
3 reasonable terms;

4 (D) the enterprise has the reasonable potential to create a substantial
5 amount of employment within the state;

6 (E) the entrepreneur and other founders of the enterprise have already
7 made or are contractually committed to make a substantial financial and
8 time commitment to the enterprise;

9 (F) the securities to be purchased are qualified securities;

10 (G) there is a reasonable possibility that the ~~corporation~~ *department*
11 will recoup at least its initial investment; and

12 (H) binding commitments have been made to the ~~corporation~~
13 *department* by the enterprise for adequate reporting of financial data to the
14 ~~corporation~~ *department*, which shall include a requirement for an annual
15 report, or if required by the board, an annual audit of the financial and
16 operational records of the enterprise, and for such control on the part of the
17 ~~corporation as the board of directors~~ *department of the secretary* shall
18 consider prudent over the management of the enterprise, so as to protect
19 the investment of the ~~corporation~~ *department*, including in the discretion
20 of the ~~board~~ *secretary* and without limitation, right of access to financial
21 and other records of the enterprise.

22 (f) The ~~board of directors~~ *secretary* shall create an investment
23 committee to assist in evaluating potential investments in qualified
24 securities. The membership of this investment committee may include
25 both directors and staff members of the ~~corporation~~ *department*, and other
26 persons drawn from sources other than the ~~corporation who meet standards~~
27 ~~similar to those applying to the board of directors and~~ *department* who are
28 recognized by their peers for outstanding knowledge and leadership in
29 their fields, all of whom shall serve at the pleasure of the ~~board~~ *secretary*.

30 (g) The ~~corporation~~ *secretary* shall not make investments in qualified
31 securities issued by enterprises in excess of the amount necessary to own
32 more than 49% of qualified securities in any one enterprise at the time of
33 the purchase by the ~~corporation~~ *department*, after giving effect to the
34 conversion of all outstanding convertible qualified securities of the
35 enterprise except that in the event of severe financial difficulty of the
36 enterprise, threatening, in the judgment of the ~~board of directors~~ *secretary*,
37 the investment of the ~~corporation~~ *department* therein, a greater percentage
38 of such securities may be owned by the ~~corporation~~ *department*.

39 Sec. 24. ***From and after July 1, 2011***, K.S.A. 74-8110 is hereby
40 amended to read as follows: 74-8110. (a) The ~~Kansas technology~~
41 ~~enterprise corporation~~ *secretary* shall establish a clearinghouse to provide
42 technology transfer and technical referral services and shall fund
43 educational institutions to establish technical information data bases and

1 industrial liaison offices which are easily accessible by both private and
2 public sector organizations.

3 (b) The ~~corporation~~ *secretary* shall provide to private enterprises and
4 individuals, services which include, but are not limited to:

5 (1) Disseminating such research and technical information as is
6 available to the ~~corporation~~ *department*;

7 (2) referring clients to researchers or laboratories for the purpose of
8 testing and evaluating new products, processes or innovations;

9 (3) assisting persons developing innovations or new technology in
10 locating enterprises or entrepreneurs that may be interested in applying
11 such innovations or new technologies; and

12 (4) providing managerial assistance to enterprises requesting such
13 assistance, but particularly to those small enterprises of special importance
14 to the Kansas economy.

15 (c) The ~~corporation~~ *secretary* shall encourage business enterprises to
16 use such technology transfer and technical support services as provided by
17 educational institutions and especially the state's small business
18 development centers.

19 Sec. 25. ***From and after July 1, 2011***, K.S.A. 74-8111 is hereby
20 amended to read as follows: 74-8111. (a) The ~~corporation~~ *secretary* shall
21 publish an annual report which shall include an audit in accordance with
22 generally accepted accounting principles as of June 30 of each year, and
23 present the report to the governor, the legislature and Kansas, Inc., setting
24 forth in detail the operations and transactions conducted by it pursuant to
25 ~~this act K.S.A. 74-8101~~ ***74-8102*** through 74-8104 and 74-8107 through
26 74-8111, and *amendments thereto*, or to other legislation. The annual
27 report shall specifically account for the ways in which the ~~purpose of the~~
28 ~~corporation~~ *purposes* and the programs described in ~~this act K.S.A. 74-~~
29 ~~8101~~ ***74-8102*** through 74-8104 and 74-8107 through 74-8111, and
30 *amendments thereto*, have been carried out, and the recommendations shall
31 specifically note what changes in the activities of the ~~corporation-~~
32 *department* and the programs it administers, and of state government are
33 necessary to better address the purposes described in ~~this act K.S.A. 74-~~
34 ~~8101~~ ***74-8102*** through 74-8104 and 74-8107 through 74-8111, and
35 *amendments thereto*. The ~~corporation~~ *secretary* shall distribute its annual
36 report by such means that will make it widely available to those innovative
37 enterprises of special importance to the Kansas economy.

38 (b) The ~~corporation~~ *secretary* shall annually review and prepare a
39 report showing how ~~and~~ and at what level other states fund the programs
40 provided for under ~~this act K.S.A. 74-8101~~ ***74-8102*** through 74-8104 and
41 74-8107 through 74-8111, and *amendments thereto*. The ~~corporation-~~
42 *secretary* shall recommend an appropriate funding level for Kansas which
43 will make these programs nationally competitive with those of other states.

1 The corporation's *secretary's* findings and recommendations shall be
2 submitted to the governor and the legislature.

3 (c) The ~~corporation~~ *secretary* shall adopt a threshold funding level for
4 each of the programs provided for under ~~this act K.S.A. 74-8101~~ **74-8102**
5 *through 74-8104 and 74-8107 through 74-8111, and amendments thereto.*
6 The threshold amount shall provide for funding that is great enough to
7 have a significant impact and carry out the intent of ~~this act K.S.A. 74-~~
8 ~~8101~~ **74-8102** *through 74-8104 and 74-8107 through 74-8111, and*
9 *amendments thereto.* If the appropriation to fund these programs falls
10 below the threshold, then no funding shall be provided by the ~~corporation~~
11 *department* to the program funded below threshold level.

12 (d) The corporation shall be subject to an audit by the legislative
13 division of post audit.

14 Sec. 26. ***From and after July 1, 2011,*** K.S.A. 2010 Supp. 74-8131 is
15 hereby amended to read as follows: 74-8131. (a) The purpose of the
16 Kansas angel investor tax credit act is to facilitate the availability of equity
17 investment in businesses in the early stages of commercial development
18 and to assist in the creation and expansion of Kansas businesses, which are
19 job and wealth creating enterprises, by granting tax credits against the
20 Kansas income tax liability of investors investing in these businesses. The
21 Kansas angel investor tax credit act shall be administered by the ~~Kansas~~
22 ~~technology enterprise corporation (KTEC)~~ *secretary* with the primary goal
23 of encouraging individuals to provide seed-capital financing for emerging,
24 Kansas businesses engaged in the development, implementation and
25 commercialization of innovative technologies, products and services.

26 (b) ~~This act K.S.A. 2010 Supp. 74-8131 through 74-8137, and~~
27 ~~amendments thereto,~~ shall be known and may be cited as the Kansas angel
28 investor tax credit act.

29 Sec. 27. ***From and after July 1, 2011,*** K.S.A. 2010 Supp. 74-8132 is
30 hereby amended to read as follows: 74-8132. As used in this act:

31 (a) "Angel investor" and "investor" mean an accredited investor who
32 is a natural person or an owner of a permitted entity investor, who is of
33 high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the
34 effective date of this act, and who seeks high returns through private
35 investments in start-up companies and may seek active involvement in
36 business, such as consulting and mentoring the entrepreneur. For the
37 purposes of this act, a person who serves as an executive, officer,
38 employee, vendor or independent contractor of the business in which an
39 otherwise qualified cash investment is made is not an angel investor and
40 such person shall not qualify for the issuance of tax credits for such
41 investment;

42 (b) "Bioscience business" means what is reflected in K.S.A. 2010
43 Supp. 74-99b83, and amendments thereto;

1 (c) "cash investment" means money or money equivalent in
2 consideration for qualified securities;

3 (d) ~~"KTEC" means the Kansas technology enterprise corporation, a~~
4 ~~public instrumentality created pursuant to K.S.A. 74-8101, and~~
5 ~~amendments thereto~~ "department" means the department of commerce;

6 (e) "Kansas business" means any business owned by an individual,
7 any partnership, association or corporation domiciled in Kansas, or any
8 corporation, even if a wholly owned subsidiary of a foreign corporation,
9 that does business primarily in Kansas or does substantially all of such
10 businesses' production in Kansas;

11 (f) "owner" means any natural person who is, directly or indirectly, a
12 partner, stockholder or member in a permitted entity investor;

13 (g) "permitted entity investor" means (A) any general partnership,
14 limited partnership, corporation that has in effect a valid election to be
15 taxed as an S corporation under the United States internal revenue code, or
16 a limited liability company that has elected to be taxed as a partnership
17 under the United States internal revenue code and (B) that was established
18 and is operated for the sole purpose of making investments in other
19 entities;

20 (h) "qualified Kansas business" means the Kansas businesses that are
21 approved and certified as qualified Kansas businesses as provided in
22 K.S.A. 2010 Supp. 74-8134, and amendments thereto; ~~and~~

23 (i) "qualified securities" means a cash investment through any one or
24 more forms of financial assistance as provided in this subsection that have
25 been approved in form and substance by ~~KTEC~~ *the secretary*. Such forms
26 of financial assistance are: (1) Any form of equity, such as: (A) A general
27 or limited, partnership interest; (B) common stock; (C) preferred stock,
28 with or without voting rights, without regard to seniority position, and
29 whether or not convertible into common stock; or (D) any form of
30 subordinate or convertible debt, or both, with warrants or other means of
31 equity conversion attached; or

32 (2) a debt instrument, such as a note or debenture that is secured or
33 unsecured, subordinated to the general creditors of the debtor and requires
34 no payments of principal, other than principal payments required to be
35 made out of any future profits of the debtor, for at least a seven-year period
36 after commencement of such debt instrument's term; *and*

37 (j) *"secretary" means the secretary of commerce.*

38 Sec. 28. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-8133 is
39 hereby amended to read as follows: 74-8133. (a) A credit against the tax
40 imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on
41 the Kansas taxable income of an angel investor and against the tax
42 imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for
43 a cash investment in the qualified securities of a qualified Kansas business.

1 The credit shall be in a total amount equal to 50% of such investors' cash
2 investment in any qualified Kansas business, subject to the limitations set
3 forth in subsection (b). This tax credit may be used in its entirety in the
4 taxable year in which the cash investment is made except that no tax credit
5 shall be allowed in a year prior to January 1, 2005. If the amount by which
6 that portion of the credit allowed by this section exceeds the investors'
7 liability in any one taxable year, beginning in the year 2005, the remaining
8 portion of the credit may be carried forward until the total amount of the
9 credit is used. If the investor is a permitted entity investor, the credit
10 provided by this section shall be claimed by the owners of the permitted
11 entity investor in proportion to their ownership share of the permitted
12 entity investor.

13 (b) The secretary of revenue shall not allow tax credits of more than
14 \$50,000 for a single Kansas business or a total of \$250,000 in tax credits
15 for a single year per investor who is a natural person or owner of a
16 permitted entity investor. No tax credits authorized by this act shall be
17 allowed for any cash investments in qualified securities for any year after
18 the year 2016. The total amount of tax credits which may be allowed under
19 this section shall not exceed \$4,000,000 during the tax year 2007 and
20 \$6,000,000 for tax year 2008 and each tax year thereafter, except that for
21 tax year 2011, the total amount of tax credits which may be allowed under
22 this section shall not exceed \$5,000,000. The balance of unissued tax
23 credits may be carried over for issuance in future years until 2016.

24 (c) A cash investment in a qualified security shall be deemed to have
25 been made on the date of acquisition of the qualified security, as such date
26 is determined in accordance with the provisions of the internal revenue
27 code.

28 (d) No investor shall claim a credit under this section for cash
29 investments in Kansas venture capital, inc. No Kansas venture capital
30 company shall qualify for the tax credit for an investment in a fund created
31 by articles 81, 82, 83 or 84 of chapter 74 of the Kansas Statutes Annotated.

32 (e) Any investor who has not owed any Kansas income tax under the
33 provisions of article 32, chapter 79 of the Kansas Statutes Annotated for
34 the immediate past three taxable years, who does not reasonably believe
35 that it will owe any such tax for the current taxable year and who makes a
36 cash investment in a qualified security of a qualified Kansas business shall
37 be deemed to acquire an interest in the nature of a transferable credit
38 limited to an amount equal to 50% of this cash investment. This interest
39 may be transferred to any natural person of net worth, as defined in 17
40 C.F.R. 230.501(a) as in effect on the effective date of this act whether or
41 not such person is then an investor and be claimed by the transferee as a
42 credit against the transferee's Kansas income tax liability beginning in the
43 year provided in subsection (a). No person shall be entitled to a refund for

1 the interest created under this section. Only the full credit for any one
2 investment may be transferred and this interest may only be transferred
3 one time. A credit acquired by transfer shall be subject to the limitations
4 prescribed in this section. Documentation of any credit acquired by
5 transfer shall be provided by the investor in the manner required by the
6 director of taxation.

7 (f) The reasonable costs of the administration of this act, the review of
8 applications for certification as qualified Kansas businesses and the
9 issuance of tax credits authorized by this act shall be reimbursed through
10 fees paid by the qualified Kansas businesses and the investors or the
11 transferees of investors, according to a reasonable fee schedule adopted by
12 the ~~corporation~~ *secretary by rules and regulations in accordance with the*
13 *rules and regulations filing act.*

14 Sec. 29. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-8134 is
15 hereby amended to read as follows: 74-8134. (a) Before an angel investor
16 may be entitled to receive tax credits, as authorized by this act, such
17 investor must have made a cash investment in a qualified security of a
18 qualified Kansas business. This business must have been approved by
19 ~~KTEC~~ *the secretary* as a qualified Kansas business prior to the date on
20 which the cash investment was made. To be designated as a qualified
21 Kansas business, a business must make application to ~~KTEC~~ *the secretary*
22 in accordance with the provisions of this section.

23 (b) Such application to ~~KTEC~~ shall be in form and substance as
24 required by ~~KTEC~~ *the secretary*, but shall include at least the following:

25 (1) The name of the business and certified copies of the
26 organizational documents of the business;

27 (2) a business plan, including a description of the business and the
28 management, product, market and financial plan of business;

29 (3) a statement of the business innovative and proprietary technology,
30 product or service;

31 (4) a statement of the potential economic impact of the enterprise,
32 including the number, location and types of jobs expected to be created;

33 (5) a description of the qualified securities to be issued, the
34 consideration to be paid for the qualified securities, the amount of any tax
35 credits requested and the earliest year in which the tax credits may be
36 redeemed;

37 (6) a statement of the amount, timing and projected use of the
38 proceeds to be raised from the proposed sale of qualified securities; and

39 (7) such other information as ~~KTEC~~ *the secretary* may request, such
40 as the names, addresses and taxpayer identification numbers of all
41 investors who may qualify for the tax credit. Such list of investors who
42 may qualify for the tax credits shall be amended as new qualified
43 securities are sold or as any information on the list shall change.

1 (c) No business shall be designated as a qualified Kansas business
2 unless such business meets all of the following criteria:

3 (1) The business must not have had annual gross revenues of more
4 than \$5,000,000 in the most recent tax year of the business;

5 (2) businesses that are not bioscience businesses must have been in
6 operation for less than five years; bioscience businesses must have been in
7 operation for less than 10 years;

8 (3) all else equal, first consideration will be given to animal health
9 companies;

10 (4) the business must not have ownership interests including, but not
11 limited to, common or preferred shares of stock that can be traded by the
12 public via a stock exchange, electronic exchange, bulletin board or other
13 public market place on or before the date that a qualifying investment is
14 made;

15 (5) the business must not be engaged primarily in any one or more of
16 the following enterprises: (A) Any service provider set forth in K.S.A. 17-
17 2707, and amendments thereto; (B) the business of banking, savings and
18 loan or lending institutions, credit or finance, or financial brokerage or
19 investments; (C) the provision of professional services, such as legal,
20 accounting or engineering services; (D) governmental, charitable, religious
21 or trade organizations; (E) the ownership, development, brokerage, sales or
22 leasing of real estate; (F) insurance; (G) construction or construction
23 management or contracting; (H) business consulting or brokerage; (I) any
24 business engaged primarily as a passive business, having irregular or
25 noncontinuous operations, or deriving substantially all of the income of the
26 business from passive investments that generate interest, dividends,
27 royalties, or capital gains, or any business arrangements the effect of
28 which is to immunize an investor from risk of loss; (J) any Kansas
29 certified capital formation company; (K) any activity that is in violation of
30 the law; and (L) any business raising money primarily to purchase real
31 estate, land or fixtures; and

32 (6) the business must satisfy all other requirements of this act.

33 (d) Notwithstanding the requirements of subsection (c), a business
34 may be considered as a qualified Kansas business under the provisions of
35 this act if such business falls within a standard industrial classification
36 code.

37 (e) The portions of documents and other materials submitted to
38 ~~KTEC~~ *the secretary* that contain trade secrets shall be kept confidential
39 and shall be maintained in a secured environment by the ~~president of~~
40 ~~KTEC~~ *secretary*. For the purposes of this act, such portions of documents
41 and other materials means any customer lists, any formula, compound,
42 production data or compilation of information certain individuals within a
43 commercial concern using such portions of documents and other material

1 means to fabricate, produce or compound an article of trade, or, any
2 service having commercial value, which gives the user an opportunity to
3 obtain a business advantage over competitors who do not know or use
4 such service.

5 (f) A qualified Kansas business shall have the burden of proof to
6 demonstrate to ~~KTEC~~ *the secretary* the qualifications of the business under
7 this section and shall have the obligation to notify ~~KTEC~~ *the secretary* in a
8 timely manner of any changes in the qualifications of the business or in the
9 eligibility of investors to claim a tax credit for cash investment in a
10 qualified security.

11 Sec. 30. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-8135 is
12 hereby amended to read as follows: 74-8135. (a) The designation of a
13 business as a qualified Kansas business shall be made by ~~KTEC~~ *the*
14 *secretary*, and such designation must be renewed annually. A business shall
15 be so designated if ~~KTEC~~ *the secretary* determines, based upon the
16 application submitted by the business and any additional investigation the
17 staff of ~~KTEC~~ *the department* shall make, that the following criteria have
18 been or shall be satisfied:

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

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

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

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

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

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

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

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

11 Sec. 31. *From and after July 1, 2011*, K.S.A. 2010 Supp. 74-8136 is
12 hereby amended to read as follows: 74-8136. (a) Tax credits for qualified
13 Kansas businesses are a limited resource of the state for which ~~KTEC~~ *the*
14 *secretary* is designated as the administrator. The purpose of such tax
15 credits is to facilitate the availability of equity investment in businesses in
16 the early stages of commercial development and to assist in the creation
17 and expansion of Kansas businesses which are job and wealth creating
18 enterprises. To achieve this purpose and to optimize the use of the limited
19 resources of the state, ~~KTEC~~ *the secretary* is authorized to issue tax credits
20 to qualified investors in qualified Kansas businesses. Such tax credits shall
21 be awarded to those qualified Kansas businesses which, as determined by
22 ~~KTEC~~ *the secretary*, are most likely to provide the greatest economic
23 benefit to the state. ~~KTEC~~ *The secretary* may issue whole or partial tax
24 credits based on an assessment of the qualified businesses. ~~KTEC~~ *The*
25 *secretary* may consider numerous factors in such assessment, including,
26 but not limited to, the quality and experience of the management team, the
27 size of the estimated market opportunity, the risk from current or future
28 competition, the ability to defend intellectual property, the quality and
29 utility of the business model and the quality and reasonableness of
30 financial projections for the business.

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

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

15 (d) The secretary ~~of commerce~~ shall provide the information
16 specified in subsection (c) to the department of revenue on an annual basis.
17 The secretary ~~of commerce~~ shall conduct an annual review of the activities
18 undertaken pursuant to this act to ensure that tax credits issued pursuant to
19 this act are issued in compliance with the provisions of this act or rules and
20 regulations promulgated by the department ~~of commerce~~ or KTEC with
21 respect to this act. ~~The reasonable costs of the annual review shall be paid~~
22 ~~by KTEC according to a reasonable fee schedule adopted by the secretary~~
23 ~~of commerce.~~

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

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

34 (g) At the end of the 120-day period, if the qualified Kansas business
35 is still not in substantial compliance, the secretary ~~of commerce~~ shall send
36 a notice of loss of designation to the business, ~~KTEC~~, the secretary of the
37 department of revenue and to all known investors in the business. Loss of
38 designation of a qualified Kansas business shall preclude the issuance of
39 any additional tax credits with respect to this business and ~~KTEC~~ *the*
40 *secretary* shall not approve the application of such business as a qualified
41 Kansas business. Upon loss of the designation as a qualified Kansas
42 business or if a business loses its designation as a qualified Kansas
43 business under this act by moving its operations outside Kansas within 10

1 years after receiving financial assistance under this act, such business shall
2 repay such financial assistance to ~~KTEC~~ *the department*, in an amount
3 determined by ~~KTEC~~ *the secretary*. Each qualified Kansas business that
4 loses such designation shall enter into a repayment agreement with ~~KTEC~~
5 *the secretary* specifying the terms of such repayment obligation.

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

8 (i) ~~The department of commerce and KTEC may prepare and adopt~~
9 ~~procedures concerning the performance of the duties placed upon each~~
10 ~~respective entity by this act. The secretary shall adopt rules and~~
11 ~~regulations in accordance with the rules and regulations filing act~~
12 ~~necessary to implement the provisions of K.S.A. 2010 Supp. 74-8131~~
13 ~~through 74-8136, and amendments thereto.~~

14 Sec. 32. **From and after July 1, 2011**, K.S.A. 74-8316 is hereby
15 amended to read as follows: 74-8316. (a) The ~~Kansas technology~~
16 ~~enterprise corporation~~ *secretary* is hereby authorized to facilitate the
17 establishment of a technology-based venture-capital fund in which the
18 ~~corporation~~ *department* may invest only moneys from the economic
19 development initiatives fund specifically so allocated. The ~~corporation~~
20 ~~may credit also~~ *department may also credit* the fund with gifts, donations
21 or grants received from any source other than state government and with
22 proceeds from the fund. Investments in the fund shall qualify for the
23 income tax credit allowed pursuant to K.S.A. 74-8304, and amendments
24 thereto.

25 (b) The technology-based venture-capital fund may invest the assets
26 as follows:

27 (1) To carry out the purposes of this act through investments in
28 qualified securities and through the forms of financial assistance
29 authorized by this act, including:

30 (A) Loans, loans convertible to equity, and equity;
31 (B) leaseholds;
32 (C) management or consultant service agreements;
33 (D) loans with warrants attached that are beneficially owned by the
34 fund;

35 (E) loans with warrants attached that are beneficially owned by a
36 party other than the fund; and

37 (F) the fund, in connection with the provision of any form of financial
38 assistance, may enter into royalty agreements with an enterprise.

39 (2) To invest in such other investments as are lawful for Kansas
40 fiduciaries pursuant to K.S.A. ~~2002 Supp.~~ 58-24a02 and amendments
41 thereto.

42 (c) Distributions received by the corporation may be reinvested in any
43 fund consistent with the purposes of this act.

1 (d) The ~~corporation~~ *secretary* may invest only in a fund whose
2 investment guidelines permit the fund's purchase of qualified securities
3 issued by an enterprise as a part of a resource and technology project
4 subject to the following:

5 (1) Receipt of an application from the enterprise which contains:

6 (A) A business plan including a description of the enterprise and its
7 management, product and market;

8 (B) a statement of the amount, timing and projected use of the capital
9 required;

10 (C) a statement of the potential economic impact of the enterprise,
11 including the number, location and types of jobs expected to be created;
12 and

13 (D) such other information as the fund manager or the fund's board of
14 directors shall request.

15 (2) Approval of the investment by the fund may be made after the
16 fund manager or the fund's board of directors finds, based upon the
17 application submitted by the enterprise and such additional investigation as
18 the fund manager or the fund's board of directors shall make and
19 incorporate in its minutes, that:

20 (A) The proceeds of the investment will be used only to cover the
21 venture-capital needs of the enterprise except as authorized by this section;

22 (B) the enterprise has a reasonable possibility of success;

23 (C) the fund's participation is instrumental to the success of the
24 enterprise because funding otherwise available for the enterprise is not
25 available on commercially feasible terms;

26 (D) the enterprise has the reasonable potential to create a substantial
27 amount of employment within the state;

28 (E) the entrepreneur and other founders of the enterprise have already
29 made or are contractually committed to make a substantial financial and
30 time commitment to the enterprise;

31 (F) the securities to be purchased are qualified securities;

32 (G) there is a reasonable possibility that the fund will recoup at least
33 its initial investment; and

34 (H) binding commitments have been made to the fund by the
35 enterprise for adequate reporting of financial data to the fund, which shall
36 include a requirement for an annual report, or if required by the fund
37 manager, an annual audit of the financial and operational records of the
38 enterprise, and for such control on the part of the fund as the fund manager
39 shall consider prudent over the management of the enterprise, so as to
40 protect the investment of the fund, including in the discretion of the fund
41 manager and without limitation, the right of access to financial and other
42 records of the enterprise.

43 (e) All investments made pursuant to this section shall be evaluated

1 by the fund's investment committee and the fund shall be audited annually
2 by an independent auditing firm.

3 (f) The fund shall not make investments in qualified securities issued
4 by enterprises in excess of the amount necessary to own more than 49% of
5 the qualified securities in any one enterprise at the time of the purchase by
6 the fund, after giving effect to the conversion of all outstanding convertible
7 qualified securities of the enterprise, except that in the event of severe
8 financial difficulty of the enterprise, threatening, in the judgment of the
9 fund manager, the investment of the fund therein, a greater percentage of
10 such securities may be owned by the fund.

11 (g) At least 75% of the total investment of the fund must be in Kansas
12 businesses.

13 Sec. 33. ***From and after July 1, 2011***, K.S.A. 74-8317 is hereby
14 amended to read as follows: 74-8317. The ~~corporation~~ *secretary* shall
15 transmit annually to the governor, the standing committee on commerce of
16 the senate, the standing committee on economic development of the house
17 of representatives, the joint committee on economic development and
18 Kansas, Inc.:

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

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

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

24 (2) The total investments made annually by the fund in Kansas
25 businesses.

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

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

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

32 Sec. 34. ***From and after July 1, 2011***, K.S.A. 74-8318 is hereby
33 amended to read as follows: 74-8318. ~~No enterprise shall be eligible to~~
34 ~~receive investment pursuant to this act if an officer, employee or member~~
35 ~~of the board of directors of the corporation, the fund or any other entity in~~
36 ~~which the corporation has a majority interest has a substantial interest in~~
37 ~~the corporation. No enterprise shall be eligible to receive investment~~
38 ~~pursuant to this act if the secretary or any employee of the department, or~~
39 ~~any officer, employee or member of the board of directors of either the~~
40 ~~fund or any other entity which has a substantial interest in the enterprise.~~
41 *For the purposes of this section, the term "substantial interest" shall have*
42 *the meaning ascribed to it in K.S.A. 46-229, and amendments thereto.*

43 Sec. 35. ***From and after July 1, 2011***, K.S.A. 74-8319 is hereby

1 amended to read as follows: 74-8319. For purposes of this act:

2 (a) ~~"Corporation" means the Kansas technology enterprise~~
3 ~~corporation~~ "Department" means the department of commerce;

4 (b) "fund" means any venture-capital fund whether organized as a
5 corporation, partnership, limited partnership, limited liability company or
6 other business entity, as well as any separately organized entity, which
7 manages any such fund;

8 (c) "fund manager" means any person or persons, approved by the
9 ~~corporation~~ secretary, legally responsible for the investment and
10 management of a fund's assets pursuant to statute or contract; and

11 (d) "secretary" means the secretary of commerce.

12 Sec. 36. **From and after July 1, 2011**, K.S.A. 74-8401 is hereby
13 amended to read as follows: 74-8401. (a) There shall be allowed as a credit
14 against the tax imposed by the Kansas income tax act on the Kansas
15 taxable income of a taxpayer and against the tax imposed by K.S.A. 40-
16 252, and amendments thereto, on insurance companies for cash investment
17 in a certified local seed capital pool an amount equal to 25% of such
18 taxpayer's cash investment in any such pool in the taxable year in which
19 such investment is made and the taxable years following such taxable year
20 until the total amount of the credit is used. The amount by which that
21 portion of the credit allowed by this section exceeds the taxpayer's liability
22 in any one taxable year may be carried forward until the total amount of
23 the credit is used. If the taxpayer is a corporation having an election in
24 effect under subchapter S of the federal internal revenue code or a
25 partnership, the credit provided by this section shall be claimed by the
26 shareholders of such corporation or the partners of such partnership in the
27 same manner as such shareholders or partners account for their
28 proportionate shares of the income or loss of the corporation or
29 partnership.

30 (b) The total amount of credits allowable pursuant to this section and
31 credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and
32 amendments thereto, shall be attributable to not more than \$50,000,000 of
33 cash investments in Kansas venture capital companies, Kansas Venture
34 Capital, Inc. and local seed capital pools. With respect to the additional
35 amount of cash investments made eligible for tax credits by this act,
36 \$10,000,000 of such amount shall be dedicated and reserved until
37 December 31, 1990, for cash investments in a seed capital fund or funds in
38 which the ~~Kansas technology enterprise corporation, or its subsidiaries,~~
39 ~~department of commerce~~ is an investor. The \$50,000,000 amount of cash
40 investments now eligible for the tax credits allowed pursuant to this
41 section and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments
42 thereto, shall be reduced to the extent that the total amount of cash
43 investments received by such seed capital fund or funds before January 1,

1 1991, is less than \$10,000,000. However, any such credits which were not
2 claimed for investments made prior to January 1, 1991, may be allowed to
3 a taxpayer for cash investment made in Kansas Venture Capital, Inc.
4 pursuant to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to
5 exceed \$2,595,236 of the \$10,000,000 reserved under this subsection for
6 investment in seed capital funds in which the ~~Kansas technology enterprise~~
7 ~~corporation or its subsidiaries~~ *department of commerce* was an investor. A
8 taxpayer may also be allowed a credit for cash investment made pursuant
9 to K.S.A. 74-8304, and amendments thereto not to exceed \$6,012,345 of
10 the \$10,000,000 reserved under this subsection if such taxpayer first
11 purchases the entire interest of the ~~Kansas technology enterprise~~
12 ~~corporation or its subsidiaries~~ *department of commerce* in Kansas venture
13 capital companies established prior to January 1, 1991. However, no
14 credit shall be allowed for cash investment which results in the purchase of
15 the interest of the Kansas technology enterprise corporation or its
16 subsidiaries in Kansas venture capital companies established prior to
17 January 1, 1991.

18 (c) As used in this section, (1) "local seed capital pool" means money
19 invested in a fund established to provide funding for use by small
20 businesses for any one or more of the following purposes: (A)
21 Development of a prototype product or process; (B) a marketing study to
22 determine the feasibility of a new product or process; or (C) a business
23 plan for the development and production of a new product or process; and

24 (2) "Kansas business" means any small business owned by an
25 individual, any partnership, association or corporation domiciled in
26 Kansas, or any corporation, even if a wholly owned subsidiary of a foreign
27 corporation, that does business primarily in Kansas or does substantially
28 all of its production in Kansas.

29 (d) No credit from income tax liability shall be allowed for cash
30 investment in a local seed capital pool unless: (1) The amount of private
31 cash investment therein is \$200,000 or more; (2) the moneys necessary to
32 administer and operate the pool are funded from sources other than the
33 private and public cash investments; and (3) funds invested by the local
34 seed capital pool shall be invested at 100% in Kansas businesses.

35 (e) Public funds may be invested in a local seed capital pool except
36 that each dollar of public funds, other than that which may be used to
37 administer and operate a pool, shall be matched by not less than \$2 of
38 private cash investment. Public funds shall have a senior position to any
39 private cash investment and may receive a lower rate of return than that
40 allowable for a private cash investment.

41 (f) The provisions of this section, and amendments thereto, shall be
42 applicable to all taxable years commencing after December 31, 1986.

43 Sec. 37. *From and after July 1, 2011*, K.S.A. 2010 Supp. 74-99b03

1 is hereby amended to read as follows: 74-99b03. As used in the bioscience
2 authority act, and amendments thereto, the following words and phrases
3 shall have the following meanings unless a different meaning clearly
4 appears from the content:

5 (a) "Authority" means the Kansas bioscience authority created by this
6 act.

7 (b) "Authority employee" means an employee of the authority who
8 performs services for the authority and whose salary is paid in whole or in
9 part by the authority. An authority employee will not be considered to be a
10 state employee, as such term is defined in this act or in any other statute or
11 regulation.

12 (c) "Bioscience" means the use of compositions, methods and
13 organisms in cellular and molecular research, development and
14 manufacturing processes for such diverse areas as pharmaceuticals,
15 medical therapeutics, medical diagnostics, medical devices, medical
16 instruments, biochemistry, microbiology, veterinary medicine, plant
17 biology, agriculture and industrial, environmental, and homeland security
18 applications of bioscience, and future developments in the biosciences.
19 Bioscience includes biotechnology and life sciences.

20 (d) "Bioscience company" means a corporation, limited liability
21 company, S corporation, partnership, registered limited liability
22 partnership, foundation, association, nonprofit entity, sole proprietorship,
23 business trust, person, group, or other entity that is engaged in the business
24 of bioscience in the state and has business operations in the state,
25 including, without limitation, research, development, or production
26 directed towards developing or providing bioscience products or processes
27 for specific commercial or public purposes and are identified by the
28 following NAICS codes: 325411, 325412, 325413, 325414, 325193,
29 325199, 325311, 32532, 334516, 339111, 339112, 339113, 334510,
30 334517, 339115, 621511, 621512, 54171, 54138, 54194.

31 (e) "Bioscience development project" means an approved project to
32 implement a project plan in a bioscience development district.

33 (f) "Bioscience research" means any investigation for the
34 advancement of scientific or technological knowledge of bioscience and
35 any activity that seeks to utilize, synthesize, or apply existing knowledge,
36 information or resources to the resolution of a specific problem, question
37 or issue of bioscience.

38 (g) "Bioscience research institutions" means all universities and
39 colleges located in the state of Kansas conducting bioscience research.

40 (h) "Biotechnology" means those fields focusing on technological
41 developments in such areas as molecular biology, genetic engineering,
42 genomics, proteomics, physiomics, nanotechnology, biodefense,
43 biocomputing and bioinformatics.

1 (i) "Board" means the board of directors of the authority created by
2 this act.

3 (j) "Bonds" has the same meaning as in K.S.A. 74-8902, and
4 amendments thereto.

5 (k) "Bioscience development and investment fund" means the fund
6 created by K.S.A. 2010 Supp. 74-99b34, and amendments thereto.

7 (l) "Eminent scholar" means world-class, distinguished and
8 established investigators recognized nationally for their research,
9 achievements and ability to garner significant federal funding on an annual
10 basis. Eminent scholars are recognized for their scientific knowledge and
11 entrepreneurial spirit to enhance the innovative research that leads to
12 economic gains. Eminent scholars are either members of or likely
13 candidates for the national academy of sciences or other prominent
14 national academic science organizations.

15 ~~(m) "Kansas technology enterprise corporation" or "KTEC" means~~
16 ~~the Kansas technology enterprise corporation created under K.S.A. 74-~~
17 ~~8101, and amendments thereto.~~

18 ~~(n)~~ (m) "Life sciences" means the areas of medical sciences,
19 pharmaceutical sciences, biological sciences, zoology, botany, horticulture,
20 ecology, toxicology, organic chemistry, physical chemistry, physiology and
21 any future advances associated with life sciences.

22 ~~(o)~~ (n) "NAICS" means the north American industry classification
23 system.

24 ~~(p)~~ (o) "NISTAC" means the national institute for strategic
25 technology acquisition and commercialization.

26 ~~(q)~~ (p) "President" means the chief executive officer of the authority.

27 ~~(r)~~ (q) "Principal operation" means the operation of the authority
28 requiring at least 75% of the total number of employees at all times.

29 ~~(s)~~ (r) "Qualified company" means a Kansas company conducting
30 bioscience research and development that may be granted a funding
31 voucher.

32 ~~(t)~~ (s) "Rising star scholar" means up-and-coming distinguished
33 investigators growing in their national reputations in their fields, who are
34 active and demonstrate leadership in their associated professional
35 societies, and who attract significant federal research grant support. Rising
36 star scholars would be likely candidates for the national academy of
37 sciences or other prominent national academic science organizations in the
38 future.

39 ~~(u)~~ (t) "State" means the state of Kansas.

40 ~~(v)~~ (u) "State employee" means a person employed by the state of
41 Kansas whether or not a classified or unclassified employee in the state
42 personnel system. Authority employees shall not be considered state
43 employees, as such term is defined in this act or in any other statute or rule

1 and regulation.

2 ~~(w)~~ (v) "State universities" includes state educational institutions as
3 defined in K.S.A. 76-711, and amendments thereto, and the municipal
4 university as defined in K.S.A. 74-3201b, and amendments thereto.

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

10 ~~(y)~~ (x) "Technology transfer" means, without limitation, assisting
11 with filing patent applications, executing licenses, paying maintenance
12 fees and managing the finance, production, sales and marketing of
13 bioscience intellectual property.

14 ~~(z)~~ (y) "This act" means the bioscience authority act.

15 ~~(aa)~~(z) Notwithstanding any other provision of this act, the terms
16 "bioscience," "biotechnology" and "life sciences" shall not be construed to
17 include:

18 (1) Induced abortion in humans, performed after the date of
19 enactment of this act, or the use of cells or tissues derived therefrom; or

20 (2) any research the federal funding of which would be contrary to
21 federal laws that are in effect on the date of enactment of this act.

22 Sec. 38. K.S.A. 2010 Supp. 74-99b04 is hereby amended to read as
23 follows: 74-99b04. (a) There is hereby established a body politic and
24 corporate, with corporate succession, to be known as the Kansas
25 bioscience authority. The authority shall be an independent instrumentality
26 of the state. Its exercise of the rights, powers and privileges conferred by
27 this act shall be deemed and held to be the performance of an essential
28 governmental function.

29 (b) In order to accelerate any and all synergy and opportunities for the
30 growth of the authority, the authority shall be headquartered and establish
31 its principal operation in the county in the state with the highest number of
32 bioscience employees associated with bioscience companies as of the
33 effective date of this act. The exact location of the authority's headquarters
34 and principal operations in such county shall be at the discretion of the
35 authority's board.

36 (c) The authority shall be governed by an eleven-member board. One
37 member of the board shall be an agricultural expert who is recognized for
38 outstanding knowledge and leadership in the field of bioscience. Eight of
39 the members of the board shall be representatives of the general public
40 who are recognized for outstanding knowledge and leadership in the fields
41 of finance, business, bioscience research, plant biotechnology, basic
42 research, health care, legal affairs, bioscience manufacturing or product
43 commercialization, education or government. Of the nine voting members,

1 five must be residents of the state. The other two members of the board
2 shall be nonvoting members with research expertise representing state
3 universities and shall be appointed by the Kansas board of regents.
4 Nonvoting members shall serve at the pleasure of the board of regents.

5 (d) Of the nine voting members who will be appointed to the
6 authority's first board, two shall be appointed by the governor for a term of
7 office of four years, two shall be appointed by the speaker of the house of
8 representatives, one of which shall be the agricultural expert as authorized
9 in subsection (c), for a term of office of three years, two shall be appointed
10 by the president of the senate for a term of office of three years, one shall
11 be appointed by the minority leader of the house of representatives for a
12 term of office of two years, one shall be appointed by the minority leader
13 of the senate for a term of office of two years, and one ~~shall be appointed~~
14 ~~by the Kansas technology enterprise corporation secretary of commerce for~~
15 ~~a term of office of one year~~ **member shall be the secretary of commerce.**
16 Members of the first board shall be appointed by August 1, 2004. No more
17 than three voting members shall be appointed from any one congressional
18 district. All voting members of the board shall be subject to senate
19 confirmation as provided in K.S.A. 75-4315b, and amendments thereto.
20 Any member of the board whose nomination is subject to confirmation
21 during a regular session of the legislature shall be deemed terminated
22 when the senate rejects the nomination. No such termination shall affect
23 the validity of any action taken by such member of the board before such
24 termination.

25 (e) Terms of voting members appointed pursuant to this section shall
26 expire on March 15.

27 (f) After the expiration of the terms of the authority's first board, or
28 whenever a vacancy occurs or is announced regarding a voting member or
29 members of the board, such voting member or members shall be appointed
30 as described in subsections (c) and (d), except that such members shall be
31 appointed for terms of four years each. In the event of a vacancy the
32 appointment shall be for the remainder of the unexpired portion of the
33 term. Each member of the board shall hold office for the term of
34 appointment and until a successor has been confirmed. Any member of the
35 board is eligible for reappointment, but members of the board shall not be
36 eligible to serve more than three consecutive four-year terms.

37 (g) Except for appointments of nonvoting members, each
38 appointment shall be forwarded to the senate for confirmation as provided
39 in K.S.A. 75-4315b, and amendments thereto. Except as provided by
40 K.S.A. 2010 Supp. 46-2601, and amendments thereto, no person appointed
41 to the board shall exercise any power, duty or function as a member of the
42 board until confirmed by the senate. In case of a vacancy when the senate
43 is not in session, the appointing entity may make a temporary appointment

1 to the board until the next meeting of the senate. Any person who is
2 temporarily appointed by the appointing entity to the board shall have all
3 of the powers, duties and functions as a member of the board during such
4 temporary appointment.

5 (h) The board annually shall elect a voting member as chairperson
6 and at least one other as vice-chairperson. The board also shall elect a
7 secretary and treasurer for terms to be determined by the board. The board
8 may elect the same person to serve as both secretary and treasurer. The
9 board shall establish an executive committee, nominating committee and
10 other standing or special committees, and prescribe their duties and
11 powers. Any executive committee of the board may exercise all such
12 powers and duties of the board as the board may delegate.

13 (i) Members of the board are entitled to compensation and expenses
14 as provided in K.S.A. 75-3223, and amendments thereto. Members of the
15 board attending board meetings or subcommittee meetings authorized by
16 the board, shall be paid mileage and all other applicable expenses,
17 provided such expenses are consistent with policies established from time-
18 to-time by the board and as required by subsection ~~(h)~~ (j).

19 (j) No part of the funds of the authority shall inure to the benefit of,
20 or be distributed to, its employees, officers or members of the board,
21 except that the authority may make reasonable payments for expenses
22 incurred on its behalf relating to any of its lawful purposes and the
23 authority shall be authorized and empowered to pay reasonable
24 compensation for services rendered to or for its benefit relating to any of
25 its lawful purposes, including to pay its employees reasonable
26 compensation.

27 (k) Any member of the board other than a nonvoting member may be
28 removed by an affirmative vote by six members of the board for
29 malfeasance or misfeasance in office, regularly failing to attend meetings,
30 or for any cause which renders the member incapable of or unfit to
31 discharge the duties of director.

32 (l) The board shall meet at least four times per year and at such other
33 times as it deems appropriate, or upon call by the president or the
34 chairperson, or upon written request of a majority of the directors of the
35 board. The board may adopt, repeal and amend such rules, procedures and
36 bylaws, not contrary to law or inconsistent with this act, as it deems
37 expedient for its own governance and for the governance and management
38 of the authority. A majority of the total voting membership of the board
39 shall constitute a quorum for meetings. The board may act by a majority of
40 those at any meeting where a quorum is present, except upon such issues
41 as the board may determine shall require a vote of six members of the
42 board for approval. The board shall meet for the initial meeting upon call
43 by the member of the board appointed by the ~~Kansas technology enterprise~~

1 ~~corporation~~ *secretary of commerce*, who shall act as temporary chairperson
2 until officers of the board are elected pursuant to subsection ~~(i)~~ *(h)*.

3 (m) The board shall appoint a president who shall serve at the
4 pleasure of the board. The president shall serve as the chief executive
5 officer of the authority. The president's salary shall be set by the board.
6 The board may negotiate and enter into an employment agreement with the
7 individual selected as president of the authority, which may provide for
8 compensation allowances, benefits and expenses as may be included in
9 such agreement. The president shall direct and supervise administrative
10 affairs and the general management of the authority.

11 (n) The board may provide supplemental benefits to the president and
12 other authority employees designated by the board in addition to the
13 benefits provided under this act.

14 (o) The authority shall continue until terminated by law, except that
15 no such law shall take effect so long as the authority has debts or
16 obligations outstanding, unless adequate provision has been made for the
17 payment or retirement of such debts or obligations. Upon any such
18 dissolution of the authority, all property, funds and assets thereof shall be
19 vested in the state, bioscience research institutions or both as designated
20 by the board, or any other public institute or private enterprise engaged in
21 the business of bioscience, or any combination thereof, as designated by
22 the board and approved by act of the legislature.

23 Sec. 39. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-99b09
24 is hereby amended to read as follows: 74-99b09. (a) The authority shall
25 have all of the powers necessary to carry out the purposes and provisions
26 of this act, including, without limitation, the following powers to:

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

29 (2) have the duties, privileges, immunities, rights, liabilities and
30 disabilities of a body politic and corporate and independent instrumentality
31 of the state;

32 (3) have perpetual existence and succession;

33 (4) adopt, have and use a seal and to alter the same at its pleasure;

34 (5) sue and be sued in its own name;

35 (6) work with bioscience research institutions to identify and recruit
36 eminent scholars and rising star scholars who shall become employed by
37 bioscience research institutions or the authority, or both, to perform
38 bioscience research, development and commercialization at bioscience
39 research institutions or at authority facilities, or both;

40 (7) transfer funds to bioscience research institutions in amounts to be
41 determined by the board for the purpose of attracting and then
42 supplementing the compensation of eminent scholars and rising star
43 scholars;

1 (8) work with and collaborate with bioscience research institutions to
2 determine the types of bioscience research that will be conducted by
3 eminent scholars and rising star scholars;

4 (9) work with bioscience research institutions to determine the types
5 of facilities that may be constructed at bioscience research institutions or at
6 authority premises, or elsewhere, for eminent scholars and rising star
7 scholars to perform bioscience research and development;

8 (10) employ personnel to assist or complement the research of
9 eminent scholars and rising star scholars;

10 (11) establish policies and procedures to facilitate integrated
11 bioscience research activities by the authority and bioscience research
12 institutions;

13 (12) make and execute contracts, guarantees or any other instruments
14 and agreements necessary or convenient for the exercise of its powers and
15 functions including, without limitation, to make and execute contracts with
16 bioscience enterprises, including start-up companies, other public and
17 private persons and entities, health care businesses, state universities and
18 colleges, and to incur liabilities and secure the obligations of any entity or
19 individual;

20 (13) partner with the bioscience research institutions to provide
21 matching funds for federal grants;

22 (14) borrow money and to pledge all or any part of the authority's
23 assets therefore;

24 (15) purchase, lease, trade, exchange or otherwise acquire, maintain,
25 hold, improve, mortgage, sell and dispose of personal property, whether
26 tangible or intangible, and any interest therein; and to purchase, lease,
27 trade, exchange or otherwise acquire real property or any interest therein,
28 and to maintain, hold, improve, mortgage, sell, lease and otherwise
29 transfer such real property to the universities, colleges, public institutions
30 and private enterprises in the state, so long as such transactions do not
31 conflict with the mission of the authority as specified in this act;

32 (16) own, acquire, construct, renovate, equip, improve, operate,
33 maintain, sell or lease any land, buildings or facilities in the state that can
34 be used in researching, developing, sponsoring or commercializing
35 bioscience in the state including, without limitation, a state-of-the-art
36 facility, laboratory or commercial wet lab space incubator to be used by
37 the authority, and also to be made available for use by bioscience research
38 institutions or Kansas companies conducting bioscience research and
39 development for bioscience research, commercialization and technology
40 transfer of bioscience products, processes and other intellectual property in
41 accordance with the provisions of this act;

42 (17) incur or assume indebtedness to, and enter into contracts with
43 the Kansas development finance authority, which is authorized to borrow

1 money, issue bonds and provide financing for the authority;

2 (18) develop policies and procedures generally applicable to the
3 procurement of goods, services and construction, based upon sound
4 business practices;

5 (19) solicit, study and assist in the preparation of business plans and
6 proposals of new or established businesses to advance the biosciences in
7 the state;

8 (20) own and possess patents, copyrights, trademarks and proprietary
9 technology and to enter into contracts for the purposes of commercializing
10 and establishing charges for the use of such patents, copyrights,
11 trademarks and proprietary technology involving bioscience;

12 (21) contract for and to accept any gifts, grants and loans of funds,
13 property or any other aid in any form from the federal government, the
14 state, any state agency or any other source, or any combination thereof,
15 and to comply with the provisions of the terms and conditions thereof;

16 (22) acquire space, equipment, services, supplies and insurance
17 necessary to carry out the purposes of this act;

18 (23) deposit any moneys of the authority in any banking institution
19 within or without the state or in any depository authorized to receive such
20 deposits, one or more persons to act as custodians of the moneys of the
21 authority;

22 (24) procure such insurance, participate in such insurance plans or
23 provide such self-insurance or both as it deems necessary or convenient to
24 carry out the purposes and provisions of this act; the purchase of
25 insurance, participation in an insurance plan or creation of a self-insurance
26 fund by the authority shall not be deemed as a waiver or relinquishment of
27 any sovereign immunity to which the authority or its officers, directors,
28 employees or agents are otherwise entitled;

29 (25) appoint, supervise and set the salary and compensation of the
30 president, who shall be appointed by and serve at the pleasure of the
31 board;

32 (26) fix, revise, charge and collect rates, rentals, fees and other
33 charges for the services or facilities furnished by or on behalf of the
34 authority, and to establish policies and procedures regarding any such
35 service rendered for the use, occupancy or operation of any such facility;
36 such charges and policies and procedures not to be subject to supervision
37 or regulation by any commission, board, bureau or agency of the state; and

38 (27) do any and all things necessary or convenient to carry out the
39 authority's purposes and exercise the powers given in this act.

40 (b) The authority may create, own in whole or in part, or otherwise
41 acquire or dispose of any entity organized for a purpose related to or in
42 support of the mission of the authority.

43 (c) The authority may participate in joint ventures and collaborate

1 with any taxpayer, governmental body or agency, insurer, university and
2 college of the state, or any other entity to facilitate any activities or
3 programs consistent with the purpose and intent of this act.

4 (d) (1) The authority may create a nonprofit entity or entities for the
5 purpose of soliciting, accepting and administering grants, outright gifts and
6 bequests, endowment gifts and bequests, and gifts and bequests in trust,
7 which entity or entities shall not engage in trust business. The nonprofit
8 entity created in this subsection may expend such funds through grants or
9 loans to further the purpose of bioscience authority activities including, but
10 not limited to, issuing grants to high schools for the purpose of creating
11 bioscience academies and to Kansas universities and colleges for the
12 purpose of increasing the number of students majoring in bioscience,
13 science education and math education. The authority may set requirements
14 for curricula, teaching credentials and any other items and procedures
15 incidental to establishing the grant programs.

16 (2) Grants made pursuant to this subsection shall be based on
17 requirements established by the nonprofit entity and may include, but not
18 be limited to, requirements for eligibility, grant applications,
19 organizational characteristics and standards for eligibility and
20 accountability as are deemed advisable by the nonprofit entity.

21 (3) The authority may not create any political action committee or
22 contribute to any political action committee.

23 (e) In carrying out any activities authorized by this act, the authority
24 may provide appropriate assistance, including the making of loans and
25 providing time of employees, to any taxpayer, governmental body or
26 agency, insurer, university and college of the state, or any other entity,
27 whether or not any such taxpayer, governmental body or agency, insurer,
28 university and college of the state, or any other entity is owned or
29 controlled in whole or in part, directly or indirectly, by the authority.

30 (f) Notwithstanding any provision of law to the contrary, the authority
31 may, ~~on an independent basis for itself or from time to time through a~~
32 ~~contractual relationship with KTEC,~~ invest the funds received from gifts,
33 grants, donations and other operations of the authority in such investments
34 as would be lawful for a private corporation having purposes similar to the
35 authority including preseed, seed capital and venture capital funds whose
36 purpose is to commercialize bioscience intellectual property, and in any
37 obligations or securities as authorized by the board. Prior to making any
38 investments, the board shall adopt written investment guidelines.

39 (g) Except as provided in this act, all moneys earned or received by
40 the authority, including all funds derived from the commercialization of
41 bioscience products by the authority, or any affiliate or subsidiary thereof,
42 or from the Kansas bioscience development and investment fund, shall
43 belong exclusively to the authority.

1 (h) In accordance with subsection (i) below, the authority shall direct
2 and manage the commercialization of bioscience intellectual property
3 created by eminent scholars and rising star scholars who are employed by
4 bioscience research institutions or the authority or both. Prior to the
5 authority providing any financial support or funding to the bioscience
6 research institutions, the authority and the bioscience research institutions
7 must enter into an agreement that will govern each party's respective duties
8 and responsibilities with respect to technology transfer and
9 commercialization of any such bioscience intellectual property. Such
10 agreements between the authority and the bioscience research institutions
11 shall address the sharing of revenue from any such bioscience intellectual
12 property, the technology transfer of such bioscience intellectual property,
13 patent application filing and maintenance fees, assumption of risks and the
14 terms of ownership of such bioscience intellectual property. The authority
15 and the bioscience research institutions shall have authority to freely
16 negotiate. If conflicts arise, all terms and provisions of such agreement
17 shall prevail and govern over any policy of a bioscience research
18 institution or the Kansas board of regents.

19 (i) ~~During the first five years after the effective date of this act, the~~
20 ~~authority may contract with KTEC, which will be able to subcontract with~~
21 ~~appropriate third parties as it deems necessary and appropriate, including,~~
22 ~~without limitation, NISTAC, for the initial commercialization efforts for~~
23 ~~bioscience intellectual property, including, without limitation, corporate~~
24 ~~patent donations. The contract between the authority and KTEC must be~~
25 ~~negotiated between the authority and KTEC and will set forth the rights~~
26 ~~and responsibilities of each party, including the financial terms, payment~~
27 ~~of funds for personnel, assumptions of risks, technology transfer and terms~~
28 ~~of ownership and licensure of such bioscience intellectual property. The~~
29 ~~contract between the authority and KTEC must also set forth the~~
30 ~~authority's right, if any, to sell, license, contribute or provide its contractual~~
31 ~~share of bioscience intellectual property to any third party, or provide~~
32 ~~services, facilities or assistance to any third party, for a fee, for an~~
33 ~~ownership interest in the third party, or other consideration, so as to~~
34 ~~commercialize bioscience technology. After the five-year period from the~~
35 ~~effective date of this act, the authority may independently commercialize~~
36 ~~or enter into contracts with third parties for the commercialization of~~
37 ~~bioscience intellectual property and for technology transfer. The authority~~
38 ~~will take steps to reasonably ensure that it does not duplicate existing~~
39 ~~commercialization efforts already located in the state and recognizes the~~
40 ~~important role KTEC plays in the state. After the five-year period from the~~
41 ~~effective date of this act, the authority may sell, license, contribute or~~
42 ~~provide bioscience intellectual property to any third party, or provide~~
43 ~~services, facilities or assistance to any third party, for a fee, for an~~

1 ownership interest in the third party, or other consideration, so as to
2 commercialize bioscience technology. The authority may take all such
3 actions necessary to commercialize any technology in which the authority
4 has an interest.

5 ~~(j) For the five-year period following the effective date of this act, the~~
6 ~~authority may transfer funds to KTEC for the operation and management~~
7 ~~of authority-owned facilities, including, without limitation, funds for~~
8 ~~KTEC to employ the personnel necessary to assist the authority, the exact~~
9 ~~amount of such transfer to be negotiated between the authority and KTEC.~~
10 ~~After consulting with and in accordance with recommendations by the~~
11 ~~board, KTEC may use such funds to identify, recruit and employ personnel~~
12 ~~who will perform management and other services at such authority-owned~~
13 ~~facilities.~~

14 ~~(k) During the five-year period after the effective date of this act, the~~
15 ~~authority shall contract with KTEC at least once a year for KTEC to~~
16 ~~submit a report to the board identifying all patents secured, licenses~~
17 ~~granted, the number of eminent scholars and rising star scholars in the~~
18 ~~state, a complete accounting of interests in technology sold, transferred,~~
19 ~~licensed or otherwise disposed of, including, without limitation, the names~~
20 ~~of buyers, the buyers' location, the date the technology was transferred,~~
21 ~~revenue generated by the transfer of such technology, and any other~~
22 ~~information that the board deems appropriate. After the five-year period~~
23 ~~from the effective date of this act, on at least an annual basis, the authority~~
24 ~~shall conduct, either independently or through a contract with a third party,~~
25 ~~including KTEC if chosen by the authority, a report of the foregoing~~
26 ~~information to be submitted to the board.~~

27 ~~(l)~~—The authority shall prepare an annual report to the legislature and
28 the governor on all distributions from the bioscience development and
29 investment fund, and income, investment and income tax credits and
30 exemptions attributed to bioscience authority activity. The authority with
31 assistance from the department of revenue shall prepare an annual report
32 summarizing the growth of bioscience research and industry in Kansas.

33 ~~(m)~~ (k) The authority shall be subject to review by Kansas, Inc. In the
34 review, Kansas, Inc. shall evaluate and report on the effectiveness of the
35 activities of the bioscience authority in the manner provided in K.S.A. 74-
36 8010, and amendments thereto.

37 Sec. 40. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-99b63
38 is hereby amended to read as follows: 74-99b63. As used in the bioscience
39 research and development voucher program act, and amendments thereto,
40 the following words and phrases have the following meanings unless a
41 different meaning clearly appears from the content:

42 (a) "Authority" means the Kansas bioscience authority as created by
43 K.S.A. 2010 Supp. 74-99b04, and amendments thereto.

1 (b) "Bioscience" means, without limitation, the use of compositions,
2 methods and organisms in cellular and molecular research, development
3 and manufacturing processes for such diverse areas as pharmaceuticals,
4 medical therapeutics, medical diagnostics, medical devices, medical
5 instruments, biochemistry, microbiology, veterinary medicine, plant
6 biology, agriculture, industrial, environmental and homeland security
7 applications of bioscience and future developments in the biosciences.
8 Bioscience includes biotechnology and life sciences.

9 (c) "Bioscience research" means any investigation for the
10 advancement of scientific or technological knowledge of bioscience and
11 any activity that seeks to utilize, synthesize, or apply existing knowledge,
12 information or resources to the resolution of a specific problem, question
13 or issue of bioscience.

14 (d) "Bioscience research institutions" means all universities and
15 colleges located in the state of Kansas conducting bioscience research.

16 (e) "Biotechnology" means, without limitation, those fields focusing
17 on technological developments in such areas as molecular biology, genetic
18 engineering, genomics, proteomics, physiomics, nanotechnology,
19 biodefense, biocomputing, bioinformatics and future developments
20 associated with biotechnology.

21 ~~(f) "KTEC" means the Kansas technology enterprise corporation~~
22 ~~created by K.S.A. 74-8101 et seq., and amendments thereto.~~

23 ~~(g)~~ "Life sciences" means the areas of medical sciences,
24 pharmaceutical sciences, biological sciences, zoology, botany, horticulture,
25 ecology, toxicology, organic chemistry, physical chemistry, physiology and
26 any future advances associated with life sciences.

27 ~~(h)~~(g) "Qualified company" means a Kansas company conducting
28 bioscience research and development that may be granted a funding
29 voucher.

30 ~~(i)~~ (h) "State" means the state of Kansas.

31 ~~(j)~~ (i) "This act" means the bioscience research and development
32 voucher program act.

33 Sec. 41. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-99b66
34 is hereby amended to read as follows: 74-99b66. (a) ~~On terms mutually~~
35 ~~acceptable to the authority and KTEC the authority may contract with~~
36 ~~KTEC, to~~ *The authority shall* review applications and to certify whether an
37 applicant is a qualified company.

38 ~~(b) On terms mutually acceptable to the authority and KTEC, the~~
39 ~~authority may contract with KTEC to~~ *The authority shall* develop
40 application criteria and an application process subject to the following
41 limitations. The proposed bioscience research and development project
42 must be likely to:

43 (1) Produce a measurable result and be technically sound;

- 1 (2) lead to innovative technology or new knowledge;
- 2 (3) lead to commercially successful products, processes or services;
- 3 (4) stimulate economic growth; or
- 4 (5) enhance employment opportunities within the state.
- 5 (c) As part of the application process, the applicant shall provide the
- 6 following information to the authority:
 - 7 (1) Verification that the applicant is a Kansas company conducting
 - 8 bioscience research and development;
 - 9 (2) a technical research plan that is sufficient for outside expert
 - 10 review;
 - 11 (3) a detailed financial analysis that includes the commitment of
 - 12 resources by the applicant and others;
 - 13 (4) sufficient detail concerning proposed project partners, type and
 - 14 amount of work to be performed by each partner and expected product or
 - 15 service with estimated costs to be reflected in the negotiated contract or
 - 16 agreement; and
 - 17 (5) a statement of the economic development potential of the project.
- 18 (d) Before providing the qualified company with a certificate
- 19 authorizing voucher funding from the authority ~~through KTEC~~, the
- 20 authority may negotiate with the qualified company the ownership of
- 21 patents, copyrights, trademarks, proprietary technology and any other
- 22 intellectual property rights, royalties and equity relating to the bioscience
- 23 research and development project on behalf of the research and
- 24 development voucher fund for the purpose of reinvesting and sustaining a
- 25 continuous fund to carry out the provisions of this act.
- 26 Sec. 42. ***From and after July 1, 2011***, K.S.A. 2010 Supp. 74-99c03 is
- 27 hereby amended to read as follows: 74-99c03. (a) There is hereby created
- 28 a body politic and corporate to be known as the Kansas center for
- 29 entrepreneurship. The secretary of commerce, after consulting with the
- 30 board of directors, shall enter into a contractual agreement for the
- 31 operation of the center. The center's exercise of all the rights, powers and
- 32 privileges conferred by this act and shall be deemed and held to be the
- 33 performance of an essential government function.
- 34 (b) The center shall be governed by a board of ~~H10~~ directors. The
- 35 board of directors shall be appointed by the secretary of commerce and
- 36 shall be comprised of individuals who have demonstrated entrepreneurial
- 37 success, including one member from each of the following organizations:
 - 38 (1) Three at-large entrepreneurs,
 - 39 (2) An agricultural entrepreneur knowledgeable in biosciences,
 - 40 (3) banking industry,
 - 41 (4) travel/tourism industry,
 - 42 (5) enterprise facilitation,
 - 43 (6) Kansas chamber of commerce and industry,

1 (7) Kansas small business development centers, *and*

2 (8) ~~Kansas technology enterprise corporation and~~

3 ~~(9) national federation of independent businesses.~~

4 (c) (1) Members shall serve for a term of four years and until such
5 members' successors are appointed, except that, of the members first
6 appointed, three shall serve for a term of two years, three shall serve for a
7 term of three years and two shall serve for a term of four years.

8 (2) In case of a vacancy by a member, a successor shall be appointed
9 in like manner and subject to the same qualifications and conditions as the
10 original appointment of the member creating the vacancy and shall serve
11 the remainder of the unexpired portion of the term.

12 (d) The secretary of commerce shall organize and schedule the first
13 meeting of the board, at which time the board shall choose a chairperson
14 and may appoint committees from its members as necessary.

15 (e) The board of directors shall meet at least four times a year and at
16 such other times as it deems appropriate or upon call of the chairperson or
17 upon the written request of a majority of the members of the board.

18 (f) Members of the board of directors attending board meetings or
19 committee meetings thereof authorized by the center, shall be paid
20 amounts provided in subsection (e) of K.S.A. 75-3223, and amendments
21 thereto.

22 (g) Members of the board of directors, in their dealings with
23 enterprises that may receive financing through the corporation, shall
24 declare any potential conflict of interest and abstain from voting prior to
25 taking any actions relating to that transaction.

26 (h) The board of directors shall hold all board meetings within the
27 state of Kansas.

28 (i) Members of the board of directors may serve multiple terms.

29 (j) A member appointed to the board of directors may be removed by
30 the secretary for cause, stated in writing, after a hearing thereon.

31 (k) A majority of the total voting membership of the board shall
32 constitute a quorum for meetings. The board may act by a majority of
33 those at any meeting where a quorum of the board is present.

34 (l) Before assuming office, each person appointed as a member of the
35 board of directors shall complete and file with the office of the secretary of
36 state a statement containing the information required in a statement of
37 substantial interest pursuant to K.S.A. 46-247, and amendments thereto;

38 (m) The board of directors shall:

39 (1) Consult with and make a recommendation to the secretary
40 concerning the awarding of the contract for the Kansas center for
41 entrepreneurship;

42 (2) make recommendations to the Kansas center for entrepreneurship
43 regarding its policies and procedures;

1 (3) review and evaluate the Kansas center for entrepreneurs'
2 annual report in light of this act's purpose, policy and procedures and
3 current economic conditions, and, report its conclusions and
4 recommendations to the secretary and the center;

5 (4) advise the secretary regarding any matter of impropriety involving
6 the Kansas center for entrepreneurship of which it becomes aware; and

7 (5) carry out any other advisory or oversight function the secretary
8 deems necessary to fulfill and further the purpose and intent of this act.

9 Sec. 43. *From and after July 1, 2011*, K.S.A. 2010 Supp. 75-2935 is
10 hereby amended to read as follows: 75-2935. The civil service of the state
11 of Kansas is hereby divided into the unclassified and the classified
12 services.

13 (1) The unclassified service comprises positions held by state officers
14 or employees who are:

15 (a) Chosen by election or appointment to fill an elective office;

16 (b) members of boards and commissions, heads of departments
17 required by law to be appointed by the governor or by other elective
18 officers, and the executive or administrative heads of offices, departments,
19 divisions and institutions specifically established by law;

20 (c) except as otherwise provided under this section, one personal
21 secretary to each elective officer of this state, and in addition thereto, 10
22 deputies, clerks or employees designated by such elective officer;

23 (d) all employees in the office of the governor;

24 (e) officers and employees of the senate and house of representatives
25 of the legislature and of the legislative coordinating council and all officers
26 and employees of the office of revisor of statutes, of the legislative
27 research department, of the division of legislative administrative services,
28 of the division of post audit and the legislative counsel;

29 (f) chancellor, president, deans, administrative officers, student health
30 service physicians, pharmacists, teaching and research personnel, health
31 care employees and student employees in the institutions under the state
32 board of regents, the executive officer of the board of regents and the
33 executive officer's employees other than clerical employees, and, at the
34 discretion of the state board of regents, directors or administrative officers
35 of departments and divisions of the institution and county extension
36 agents, except that this subsection (1)(f) shall not be construed to include
37 the custodial, clerical or maintenance employees, or any employees
38 performing duties in connection with the business operations of any such
39 institution, except administrative officers and directors; as used in this
40 subsection (1)(f), "health care employees" means employees of the
41 university of Kansas medical center who provide health care services at
42 the university of Kansas medical center and who are medical technicians
43 or technologists or respiratory therapists, who are licensed professional

- 1 nurses or licensed practical nurses, or who are in job classes which are
2 designated for this purpose by the chancellor of the university of Kansas
3 upon a finding by the chancellor that such designation is required for the
4 university of Kansas medical center to recruit or retain personnel for
5 positions in the designated job classes; and employees of any institution
6 under the state board of regents who are medical technologists;
- 7 (g) operations, maintenance and security personnel employed to
8 implement agreements entered into by the adjutant general and the federal
9 national guard bureau, and officers and enlisted persons in the national
10 guard and the naval militia;
- 11 (h) persons engaged in public work for the state but employed by
12 contractors when the performance of such contract is authorized by the
13 legislature or other competent authority;
- 14 (i) persons temporarily employed or designated by the legislature or
15 by a legislative committee or commission or other competent authority to
16 make or conduct a special inquiry, investigation, examination or
17 installation;
- 18 (j) officers and employees in the office of the attorney general and
19 special counsel to state departments appointed by the attorney general,
20 except that officers and employees of the division of the Kansas bureau of
21 investigation shall be in the classified or unclassified service as provided
22 in K.S.A. 75-711, and amendments thereto;
- 23 (k) all employees of courts;
- 24 (l) client, patient and inmate help in any state facility or institution;
- 25 (m) all attorneys for boards, commissions and departments;
- 26 (n) the secretary and assistant secretary of the Kansas state historical
27 society;
- 28 (o) physician specialists, dentists, dental hygienists, pharmacists,
29 medical technologists and long term care workers employed by the
30 department of social and rehabilitation services;
- 31 (p) physician specialists, dentists and medical technologists employed
32 by any board, commission or department or by any institution under the
33 jurisdiction thereof;
- 34 (q) student employees enrolled in public institutions of higher
35 learning;
- 36 (r) administrative officers, directors and teaching personnel of the
37 state board of education and the state department of education and of any
38 institution under the supervision and control of the state board of
39 education, except that this subsection (1)(r) shall not be construed to
40 include the custodial, clerical or maintenance employees, or any
41 employees performing duties in connection with the business operations of
42 any such institution, except administrative officers and directors;
- 43 (s) all officers and employees in the office of the secretary of state;

1 (t) one personal secretary and one special assistant to the following:
2 The secretary of administration, the secretary of aging, the secretary of
3 agriculture, the secretary of commerce, the secretary of corrections, the
4 secretary of health and environment, the superintendent of the Kansas
5 highway patrol, the secretary of labor, the secretary of revenue, the
6 secretary of social and rehabilitation services, the secretary of
7 transportation, the secretary of wildlife and parks and the commissioner of
8 juvenile justice;

9 (u) one personal secretary and one special assistant to the chancellor
10 and presidents of institutions under the state board of regents;

11 (v) one personal secretary and one special assistant to the executive
12 vice chancellor of the university of Kansas medical center;

13 (w) one public information officer and one chief attorney for the
14 following: The department of administration, the department on aging, the
15 department of agriculture, the department of commerce, the department of
16 corrections, the department of health and environment, the department of
17 labor, the department of revenue, the department of social and
18 rehabilitation services, the department of transportation, the Kansas
19 department of wildlife and parks and the commissioner of juvenile justice;

20 (x) civil service examination monitors;

21 (y) one executive director, one general counsel and one director of
22 public affairs and consumer protection in the office of the state corporation
23 commission;

24 (z) specifically designated by law as being in the unclassified service;

25 (aa) all officers and employees of Kansas, Inc. ~~and the Kansas~~
26 ~~technology enterprise corporation;~~

27 (bb) any position that is classified as a position in the information
28 resource manager job class series, that is the chief position responsible for
29 all information resources management for a state agency, and that becomes
30 vacant on or after the effective date of this act. Nothing in this section shall
31 affect the classified status of any employee in the classified service who is
32 employed on the date immediately preceding the effective date of this act
33 in any position that is a classified position in the information resource
34 manager job class series and the unclassified status as prescribed by this
35 subsection shall apply only to a person appointed to any such position on
36 or after the effective date of this act that is the chief position responsible
37 for all information resources management for a state agency; and

38 (cc) positions at state institutions of higher education that have been
39 converted to unclassified positions pursuant to K.S.A. 2010 Supp. 76-
40 715a, and amendments thereto.

41 (2) The classified service comprises all positions now existing or
42 hereafter created which are not included in the unclassified service.
43 Appointments in the classified service shall be made according to merit

1 and fitness from eligible pools which so far as practicable shall be
2 competitive. No person shall be appointed, promoted, reduced or
3 discharged as an officer, clerk, employee or laborer in the classified
4 service in any manner or by any means other than those prescribed in the
5 Kansas civil service act and the rules adopted in accordance therewith.

6 (3) For positions involving unskilled, or semiskilled duties, the
7 secretary of administration, as provided by law, shall establish rules and
8 regulations concerning certifications, appointments, layoffs and
9 reemployment which may be different from the rules and regulations
10 established concerning these processes for other positions in the classified
11 service.

12 (4) Officers authorized by law to make appointments to positions in
13 the unclassified service, and appointing officers of departments or
14 institutions whose employees are exempt from the provisions of the
15 Kansas civil service act because of the constitutional status of such
16 departments or institutions shall be permitted to make appointments from
17 appropriate pools of eligibles maintained by the division of personnel
18 services.

19 Sec. 44. *From and after July 1, 2011*, K.S.A. 75-2935b is hereby
20 amended to read as follows: 75-2935b. Salaries and other compensation of
21 all persons who are within the unclassified service of the Kansas civil
22 service act, and which salaries and other compensation are not fixed by
23 statute, shall be subject to the approval of the governor and such salaries or
24 other compensation shall not be paid until approved by the governor. The
25 provisions of this section shall not apply to the salaries and other
26 compensation of any officer or employee when such salary or other
27 compensation is specifically prescribed by law, nor to officers and
28 employees of elected state officials, officers and employees under the
29 jurisdiction of the state board of regents, the executive secretary and other
30 employees of the Kansas public employees retirement system that are in
31 the unclassified service as specified under K.S.A. 74-4908, and
32 amendments thereto, officers and employees of Kansas, Inc. ~~and the~~
33 ~~Kansas technology enterprise corporation~~, officers and employees under
34 the jurisdiction of the supreme court, legislative officers and employees or
35 officers and employees of any agency performing functions and duties
36 primarily for the legislative branch.

37 Sec. 45. *From and after July 1, 2011*, K.S.A. 75-3208 is hereby
38 amended to read as follows: 75-3208. (a) Except as provided in subsection
39 (e) or (f) or as otherwise authorized or provided by statute, no claim for
40 expenses for any trip made beyond the borders of the state by any
41 appointive state officer or employee shall be paid by the state unless the
42 trip has been approved as provided by this section.

43 (b) Except as otherwise prescribed by a majority of the justices of the

1 supreme court, authority to grant written approval for any such trip by an
2 officer or employee of the judicial branch, or any agency thereof, is vested
3 in the judicial administrator or the judicial administrator's designee.

4 (c) Except as otherwise authorized or provided by statute, authority to
5 grant approval for any such trip by a legislator or an officer or employee of
6 an agency of the legislative branch is vested with the legislative
7 coordinating council or an individual authorized by the legislative
8 coordinating council to grant written approval in the case of any such trip
9 by an officer or employee of an agency of the legislative branch.

10 (d) Except as otherwise prescribed by the officer, board or
11 commission that appointed an agency head, authority to grant written
12 approval for any such trip by an officer or employee of the executive
13 branch is vested in such officer's or employee's agency head or the agency
14 head's designee.

15 (e) In cases involving such a trip by an agency head or by appointive
16 members of a board, commission or similar body that appoints an agency
17 head, no approval shall be required unless the appointing authority of the
18 agency head or the members of the board, commission or similar body, as
19 the case may be, requires such approval by the appointing authority.

20 (f) Such approval shall not be required for the payment of any claim
21 for expenses 50% or more of which are paid from moneys received from
22 ~~the Kansas technology enterprise corporation~~, federal agencies or other
23 external sources.

24 (g) As used in this section, "agency head" means the chief
25 administrative officer of a state agency or state institution.

26 Sec. 46. ***From and after July 1, 2011***, K.S.A. 76-770 is hereby
27 amended to read as follows: 76-770. (a) Each contract entered into by a
28 state educational institution for the acquisition of goods or services for a
29 research and development activity shall be exempt from the provisions of
30 K.S.A. 75-3739 through 75-3744, and amendments thereto if the contract
31 is financed 50% or more by moneys received from ~~the Kansas technology~~
32 ~~enterprise corporation~~, federal agencies or other external sources.

33 (b) Nothing contained in article 32 of chapter 75 of the Kansas
34 Statutes Annotated shall be construed to limit or prescribe the conduct of
35 any in-state or out-of-state travel or to limit expense allowances for such
36 travel which is undertaken for and funded as a part of any research and
37 development activity of a state educational institution if such expense is
38 funded 50% or more by moneys received from ~~the Kansas technology~~
39 ~~enterprise corporation~~, federal agencies or other external sources. The
40 provisions of K.S.A. 75-3208, and amendments thereto shall not apply to
41 any such travel.

42 (c) As used in this section:

43 (1) "Research and development activity" means any center of

1 excellence at a state educational institution, any research or development
2 project or activity at the state educational institution funded under a
3 research matching grant program of the ~~Kansas technology enterprise~~
4 ~~corporation~~ *department of commerce*, or any other sponsored research
5 project at a state educational institution; and

6 (2) "state educational institution" means a state educational institution
7 as defined by K.S.A. 76-711, and amendments thereto.

8 **Sec. 47. *From and after July 1, 2011***, K.S.A. 74-5001a, 74-5050, 74-
9 8102, 74-8103, 74-8105, 74-8106, 74-8107, 74-8108, 74-8108a, 74-8109,
10 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-
11 2935b, 75-3208 and 76-770 and K.S.A. 2010 Supp. 74-520a, 74-5005, 74-
12 50,133, 74-50,151, 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-
13 8133, 74-8134, 74-8135, 74-8136, 74-99b03, ~~74-99b04~~, 74-99b09, 74-
14 99b63, 74-99b66, 74-99c03 and 75-2935 are hereby repealed.

15 ***Sec. 48. K.S.A. 2010 Supp 74-99b04 is hereby repealed.***

16 ~~Sec. 48.~~ **49.** This act shall take effect and be in force from and after
17 its publication in the ~~statute book~~ ***Kansas register***.

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