

**As Amended by House Committee**

*Session of 2011*

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

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

33 (a) The department of commerce and the secretary of commerce

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

11 (b) Whenever the Kansas technology enterprise corporation, or  
12 words of like effect, are referred to or designated by a statute, contract  
13 or other document and such reference is in regard to any of the powers,  
14 duties or functions transferred to the department of commerce pursuant  
15 to section 2, and amendments thereto, such reference or designation  
16 shall be deemed to apply to the department of commerce or the  
17 secretary of commerce as the 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  
20 date of this section shall continue to be effective and shall be deemed to  
21 be rules and regulations, orders and directives of the department of  
22 commerce or the secretary of commerce until revised, amended,  
23 revoked or nullified pursuant to law.

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

28 (e) The secretary of commerce shall be the continuation of the  
29 Kansas 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  
34 who become a part of the department of commerce, or the powers,  
35 duties and functions of which are transferred to the department of  
36 commerce, and who, in the opinion of the secretary of commerce, are  
37 necessary to perform the powers, duties and functions of the  
38 department of commerce, shall be transferred to, and shall become  
39 officers and employees of the department of commerce.

1 (2) Officers and employees of the Kansas technology enterprise  
2 corporation transferred by this act shall retain all retirement benefits  
3 and leave balances and rights which had accrued or vested prior to the  
4 date of transfer. The service of each such officer and employee so  
5 transferred shall be deemed to have been continuous. All transfers,  
6 layoffs or abolition of classified service positions under the Kansas  
7 civil service act shall be made in accordance with the civil service laws  
8 and any rules and regulations adopted thereunder. Nothing in this act  
9 shall affect the classified status of any transferred person employed by  
10 the Kansas technology enterprise corporation.

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

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

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

28 ~~(1) All powers, duties and functions under K.S.A. 74-8106, and~~  
29 ~~amendments thereto, relating to the centers of excellence established~~  
30 ~~under K.S.A. 74-8106, and amendments thereto;~~~~(2) all powers, duties~~  
31 ~~and functions under K.S.A. 74-8102 through 74-8111, and amendments~~  
32 ~~thereto, relating to the strategic technology and research (STAR) fund;~~  
33 ~~and~~

34 ~~(3)~~**(2)** all powers, duties and functions under K.S.A. 74-8102  
35 through 74-8111, and amendments thereto, relating to the experimental  
36 program to stimulate competitive research (EPSCoR).

37 (b) The director of accounts and reports shall transfer all balances  
38 for all funds or accounts thereof appropriated or reappropriated for the  
39 Kansas technology enterprise corporation relating to the powers, duties

1 and functions transferred by this section, and amendments thereto, to  
2 the board of regents.

3 (c) All liabilities of the Kansas technology enterprise corporation  
4 relating to the powers, duties and functions transferred by this section,  
5 and amendments thereto, including accrued compensation or salaries of  
6 officers and employees who are transferred to the board of regents  
7 under this section, and amendments thereto, shall be assumed and paid  
8 by the board of regents.

9 New Sec. 6. On and after the effective date of this act: (a) The  
10 board of regents shall be the successor in every way to the powers,  
11 duties and functions of the Kansas technology enterprise corporation in  
12 which the same were vested prior to the effective date of this section,  
13 and amendments thereto, and that are transferred pursuant to section 5,  
14 and amendments thereto. Every act performed in the exercise of such  
15 transferred powers, duties and functions by or under the board of  
16 regents pursuant to section 5, and amendments thereto, shall be deemed  
17 to have the same force and effect as if performed by the Kansas  
18 technology enterprise corporation in which such powers, duties and  
19 functions were vested prior to the effective date of this section, and  
20 amendments thereto.

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

27 (c) All rules and regulations, orders and directives of the Kansas  
28 technology enterprise corporation which relate to the powers, duties  
29 and functions transferred by section 5, and amendments thereto, and  
30 which are in effect on the effective date of this section, and  
31 amendments thereto, shall continue to be effective and shall be deemed  
32 to be rules and regulations, orders and directives of the board of regents  
33 until revised, amended, revoked or nullified pursuant to law.

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

39 (e) The board of regents shall be the continuation of the Kansas

1 technology enterprise corporation relating to the powers, duties and  
2 functions transferred by section 5, and amendments thereto.

3 (f) (1) All officers and employees who, immediately prior to such  
4 date, were engaged in the performance of powers, duties or functions of  
5 the Kansas technology enterprise corporation concerning programs  
6 transferred pursuant to section 5, and amendments thereto, or who  
7 become a part of the board of regents, or the powers, duties and  
8 functions of which are transferred to the board of regents, and who, in  
9 the opinion of the board of regents, are necessary to perform the  
10 powers, duties and functions of the board of regents, shall be  
11 transferred to, and shall become officers and employees of the board of  
12 regents.

13 (2) Officers and employees of the Kansas technology enterprise  
14 corporation transferred by this act shall retain all retirement benefits  
15 and leave balances and rights which had accrued or vested prior to the  
16 date of transfer. The service of each such officer and employee so  
17 transferred shall be deemed to have been continuous. All transfers,  
18 layoffs or abolition of classified service positions under the Kansas  
19 civil service act shall be made in accordance with the civil service laws  
20 and any rules and regulations adopted thereunder. Nothing in this act  
21 shall affect the classified status of any transferred person employed by  
22 the Kansas technology enterprise corporation.

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

28 (b) The board of regents shall succeed to all property, property  
29 rights and records which were used for or pertain to the performance of  
30 powers, duties and functions transferred to the board of regents  
31 pursuant to section 5, and amendments thereto. Any conflict as to the  
32 proper disposition of property, personnel or records arising under this  
33 section or sections 5 or 6, and amendments thereto, shall be determined  
34 by the governor, whose decision shall be final.

35 New Sec. 8. (a) No suit, action or other proceeding, judicial or  
36 administrative, lawfully commenced, or which could have been  
37 commenced, by or against any state agency or program mentioned in  
38 sections 2 through 7, and amendments thereto, or by or against any  
39 officer of the state in such officer's official capacity or in relation to the

1 discharge of such officer's official duties, shall abate by reason of the  
2 governmental reorganization effected under the provisions of sections 2  
3 through 7, and amendments thereto. The court may allow any such suit,  
4 action or other proceeding to be maintained by or against the successor  
5 of any such state agency or any officer affected.

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

9 Sec. 9. K.S.A. 2010 Supp. 74-520a is hereby amended to read as  
10 follows: 74-520a. (a) On and after March 15, 1995, the Kansas state  
11 fair board is hereby established. The Kansas state fair board shall  
12 consist of the following members:

13 (1) The secretary of agriculture or the successor of the secretary of  
14 agriculture, or the secretary's designee;

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

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

18 (4) one person appointed by the governor from three persons  
19 nominated by the Kansas chamber of commerce and industry;

20 (5) one person appointed by the governor from three persons  
21 nominated by the travel industry association of Kansas;

22 (6) one person appointed by the governor from three persons  
23 nominated by the Kansas fairs association; *and*

24 ~~(7) one person appointed by the Kansas technology enterprise~~  
25 ~~corporation from among the board of directors of the Kansas~~  
26 ~~technology enterprise corporation; and~~

27 ~~(8) six~~ *seven* people from the general public appointed by the  
28 governor. Of such people appointed, one shall be from each of the five  
29 extension areas, as established in subsection (e), and ~~one~~ *two* shall  
30 represent the state at large. Directors of each extension area shall  
31 submit three nominations to the governor. Such persons nominated  
32 shall be actively involved in agriculture production or agribusiness.

33 (b) Of the persons initially appointed by the governor under  
34 subsection (a), three shall have a term of one year, three shall have a  
35 term of two years and three shall have a term of three years and until a  
36 successor is appointed and qualified. Thereafter, all members shall have  
37 terms of three years and until a successor is appointed and qualified.

38 (c) Any vacancy occurring on the Kansas state fair board shall be  
39 filled as the original appointment was made.

1 (d) If any of the members able to appoint a designee does so, the  
2 designee shall be appointed for a term of not less than one year.

3 (e) For the purpose of this section the state shall be divided into  
4 five extension areas. The northwest extension area shall include the  
5 following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips,  
6 Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace,  
7 Logan, Gove, Trego, Ellis, Russell, Barton, Rush and Ness. The  
8 southwest extension area shall include the following counties: Greeley,  
9 Wichita, Scott, Lane, Pawnee, Hodgeman, Finney, Kearny, Hamilton,  
10 Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens,  
11 Seward, Meade, Clark, Comanche and Kiowa. The south central  
12 extension area shall include the following counties: Lincoln, Ottawa,  
13 Dickinson, Ellsworth, Saline, Rice, McPherson, Marion, Reno, Harvey,  
14 Butler, Kingman, Sedgwick, Cowley, Sumner, Harper, Barber, Pratt and  
15 Stafford. The southeast extension area shall include the following  
16 counties: Morris, Chase, Lyon, Osage, Franklin, Miami, Coffey,  
17 Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Elk, Wilson,  
18 Neosho, Crawford, Chautauqua, Montgomery, Labette and Cherokee.  
19 The northeast extension area shall include the following counties:  
20 Jewell, Republic, Washington, Marshall, Nemaha, Brown, Doniphan,  
21 Mitchell, Cloud, Clay, Riley, Pottawatomie, Jackson, Atchison,  
22 Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee,  
23 Wabaunsee and Geary.

24 Sec. 10. K.S.A. 74-5001a is hereby amended to read as follows:  
25 74-5001a. The purpose of the department of commerce shall be to  
26 develop and implement strategies to:

27 (a) Facilitate the growth, diversification and expansion of existing  
28 enterprises and the creation by Kansans of new wealth-generating  
29 enterprises;

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

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

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

- 1 communities;
- 2 (e) protect and enhance the environmental quality of the state in  
3 ways consistent with dynamic economic growth; and
- 4 (f) forge a supportive partnership with the standing committee on  
5 commerce of the senate, the standing committee on economic  
6 development of the house of representatives and the joint committee on  
7 economic development, Kansas, Inc., ~~the Kansas technology enterprise~~  
8 ~~corporation~~, Kansas venture capital, Inc., Kansas certified development  
9 companies, Kansas small business development centers, Kansas public  
10 and private educational institutions, and other appropriate private and  
11 public sector organizations in achieving the economic goals of the state.
- 12 Sec. 11. K.S.A. 2010 Supp. 74-5005 is hereby amended to read as  
13 follows: 74-5005. The department shall be the lead agency of the state  
14 for economic development of commerce through the promotion of  
15 business, industry, trade and tourism within the state. In general, but not  
16 by way of limitation, the department shall have, exercise and perform  
17 the following powers and duties:
- 18 (a) To assume central responsibility for implementing all facets of  
19 a comprehensive, long-term, economic development strategy and for  
20 coordinating the efforts of both state agencies and local economic  
21 development groups as they relate to that objective;
- 22 (b) to coordinate the implementation of the strategy with all other  
23 state and local agencies and offices and state educational institutions  
24 which do research work, develop materials and programs, gather  
25 statistics, or which perform functions related to economic development;  
26 and such state and local agencies and offices and state educational  
27 institutions shall advise and cooperate with the department in the  
28 planning and accomplishment of the purposes of this act;
- 29 (c) to advise and cooperate with all federal departments, research  
30 institutions, educational institutions and agencies, quasi-public  
31 professional societies, private business and agricultural organizations  
32 and associations, and any other party, public or private, and to call upon  
33 such parties for consultation; and assistance in their respective fields of  
34 interest, to the end that all ~~up-to-date~~ *up-to-date* available technical  
35 advice, information and assistance be gathered for the use of the  
36 department, the governor, the legislature; and the people of this state;
- 37 (d) to enter into agreements necessary to carry out the purposes of  
38 this act;
- 39 (e) to conduct an effective business information service, keeping



- 1 ~~up-to-date~~ *up-to-date* information on such things as manufacturing  
2 industries, labor supply and economic trends in employment, income,  
3 savings and purchasing power within the state, utilizing the services  
4 and information available from the division of the budget of the  
5 department of administration;
- 6 (f) to support a coordinated program of scientific and industrial  
7 research with the objective of developing additional uses of the state's  
8 natural resources, agriculture, agricultural products, new and better  
9 industrial products and processes, and the best possible utilization of  
10 the raw materials in the state; and to coordinate this responsibility with  
11 the state educational institutions, with all state and federal agencies,  
12 and all public and private institutions within or outside the state, all in  
13 an effort to assist and encourage new industries or expansion of  
14 existing industries through basic research, applied research and new  
15 development;
- 16 (g) to maintain and keep current all available information  
17 regarding the industrial opportunities and possibilities of the state,  
18 including raw materials and by-products; power and water resources;  
19 transportation facilities; available markets and the marketing limitations  
20 of the state; labor supply; banking and financing facilities; availability  
21 of industrial sites; and the advantages the state and its particular  
22 sections have as industrial locations; and such information shall be used  
23 for the encouragement of new industries in the state and the expansion  
24 of existing industries within the state;
- 25 (h) to publicize information and the economic advantages of the  
26 state which make it a desirable place for commercial and industrial  
27 operations and as a good place in which to live;
- 28 (i) to establish a clearinghouse for the collection and dissemination  
29 of information concerning the number and location of public and  
30 private postsecondary vocational and technical education programs in  
31 areas critical to economic development;
- 32 (j) to acquaint the people of this state with the industries within the  
33 state and encourage closer cooperation between the farming,  
34 commercial and industrial enterprises and the people of the state;
- 35 (k) to encourage and promote the traveling public to visit this state  
36 by publicizing information as to the recreational, historic and natural  
37 advantages of the state and its facilities for transient travel and to  
38 contract with organizations for the purpose of promoting tourism within  
39 the state; and the department may request other state agencies such as,

1 but not limited to, the Kansas water office, the Kansas department of  
2 wildlife and parks and the department of transportation, for assistance  
3 and all such agencies shall coordinate information and their respective  
4 efforts with the department to most efficiently and economically carry  
5 out the purpose and intent of this subsection;

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

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

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

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

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

37 (q) to organize, or cause to be organized, an advisory board or  
38 boards representing interested groups, including industry, labor,  
39 agriculture, scientific research, the press, the professions, industrial

1 associations, civic groups, etc.; and such board or boards shall advise  
2 with the department as to its work and the department shall, as far as  
3 practicable, cooperate with such board or boards, and secure the active  
4 aid thereof in the accomplishment of the aims and objectives of the  
5 department;

6 (r) to perform the duties imposed under the Kansas venture capital  
7 company act;

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

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

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

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

28 Sec. 12. K.S.A. 2010 Supp. 74-50,133 is hereby amended to read  
29 as follows: 74-50,133. There is hereby created within the department of  
30 commerce the "high performance incentive fund" to provide matching  
31 funds for business assistance and consulting services to qualified firms  
32 under the provisions of K.S.A. 74-50,131, *and amendments thereto*,  
33 that are entitled to a workforce training tax credit under the provisions  
34 of K.S.A. 74-50,132, *and amendments thereto*, or have received written  
35 approval for and are participating, at the time the funds are sought, in  
36 the Kansas industrial training, Kansas industrial retraining or state of  
37 Kansas investments in lifelong learning program, subject to  
38 appropriation of funds and program criteria, as hereinafter provided.  
39 The department of commerce may provide funds to qualified firms, on

1 a matching basis, to pay up to 50% of such firm's costs of acquiring  
2 consulting services provided by the mid-America manufacturing  
3 technology center, or approved private consultants to assist in  
4 improving the firm's management, production processes or product or  
5 service quality. Qualified firms also shall receive priority consideration  
6 for any other business assistance programs administered by the  
7 department of commerce, ~~the Kansas technology enterprise corporation~~  
8 ~~and the mid-America manufacturing technology center.~~

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

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

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

26 (2) the potential location in Kansas of the operations of a major  
27 employer;

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

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

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

34 (c) An intervention strategy may include financial assistance in the  
35 form of grants, loans or both. The department of commerce shall adopt  
36 written guidelines concerning the terms and conditions of any such  
37 loans. However, all repaid funds shall be credited to the Kansas  
38 economic opportunity initiatives fund. No intervention strategy  
39 approved pursuant to this act shall facilitate the moving of an existing

1 Kansas firm to another location within the state unless such restriction  
2 is waived by the secretary of commerce. Every intervention strategy  
3 approved pursuant to this act shall identify the intended outcomes to be  
4 realized by the strategy for which funding is sought.

5 (d) The department of commerce and Kansas, Inc. shall make joint  
6 findings concerning the costs and benefits, on both a local and  
7 statewide basis, of projects proposed pursuant to this act. Prior to  
8 allocation of any funds pursuant to this act, the governor shall review  
9 the cost-benefit findings performed on each project.

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

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

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

36 (2) the net earnings rate for the pooled money investment portfolio  
37 for the preceding month.

38 (g) A ~~five~~ *three* member panel consisting of the secretary of  
39 commerce, the president of Kansas, Inc., ~~the president of the Kansas~~

1 ~~technology enterprise corporation, the private sector chairperson of the~~  
2 ~~board of Kansas, Inc., and the private sector chairperson of the Kansas~~  
3 ~~technology enterprise corporation and the private sector chairperson of~~  
4 *the board of Kansas, Inc.* shall review annually the propriety of projects  
5 funded under this section. The panel shall report its findings in writing  
6 to the governor, the new economy committee of the house of  
7 representatives, the senate commerce committee and the joint  
8 committee on economic development. The report to the new economy  
9 committee of the house of representatives, the commerce committee of  
10 the senate and the joint committee on economic development under this  
11 subsection shall be made either (1) by the panel by publishing such  
12 report on the internet and by notifying each member of the committees  
13 that the report is available and providing, as part of such notice, the  
14 uniform resource locator (URL) at which such report is available, or (2)  
15 by submitting copies of such report on CD-ROM or other electronically  
16 readable media to such committees.

17 Sec. 14. K.S.A. 2010 Supp. 74-50,156 is hereby amended to read  
18 as follows: 74-50,156. (a) There is hereby established within and as a  
19 part of the department of commerce the agriculture products  
20 development division. The secretary of commerce shall appoint a  
21 director of such division and such director shall be in the unclassified  
22 service of the Kansas civil service act. Subject to and in accordance  
23 with appropriations acts, the agriculture products development division  
24 shall include: (1) All powers, duties and functions related to the  
25 agricultural value added center pursuant to subsections (b) and (c); (2)  
26 all powers and duties created regarding the division of markets  
27 pursuant to K.S.A. 74-530, and amendments thereto, which are hereby  
28 transferred; (3) all powers and duties created regarding registered  
29 trademarks pursuant to K.S.A. 74-540a, and amendments thereto,  
30 which are hereby transferred; (4) all powers and duties regarding the  
31 trademark fund pursuant to K.S.A. 74-540b, and amendments thereto,  
32 which are hereby transferred; and (5) all powers and duties created  
33 regarding expenditures and moneys credited to the market development  
34 fund pursuant to K.S.A. 74-540c, and amendments thereto, which are  
35 hereby transferred.

36 (b) The objectives of the agricultural value added center within the  
37 agriculture products development division shall include, but not be  
38 limited to, providing technical assistance to existing and potential value  
39 added facilities, including incubator facilities; developing a network for

1 collecting and distributing information to individuals involved in value  
2 added processing in Kansas; initiating pilot plant facilities to act as  
3 research and development laboratories for existing and potential small  
4 scale value added processing endeavors in Kansas; providing technical  
5 assistance to new agricultural value added businesses; developing and  
6 promoting communication and cooperation among private businesses;  
7 state government agencies and public and private colleges and  
8 universities in Kansas; establishing research and development  
9 programs in technologies that have value added commercial potential  
10 for food and nonfood agricultural products achieving substantial and  
11 sustainable continuing growth for the Kansas economy through value  
12 added products from agriculture; serving as a catalyst for industrial  
13 agriculture through technological innovation in order to expand  
14 economic opportunity for all Kansas communities; establishing an  
15 industrial agriculture industry for the state of Kansas; commercializing  
16 the developed industrial agriculture technology in smaller communities  
17 and the rural areas of Kansas; and developing investment grade  
18 agriculture value added technologies and products.

19 (c) Subject to the provisions of appropriations acts, the functions  
20 of the agricultural value added center within the agriculture products  
21 development division shall include, but not be limited to, developing a  
22 market referral program, matching distribution to buyers in  
23 coordination with other state agencies concerned with marketing  
24 Kansas products; assisting private entrepreneurs in the establishment of  
25 facilities and markets for new agricultural value added endeavors; and  
26 introducing coordinated programs to develop marketing skills of  
27 existing agricultural value adding processors in Kansas.

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

- 32 (A) Investigate the subject of marketing farm products;
- 33 (B) promote their sales distribution and merchandising;
- 34 (C) furnish information and assistance to the public;
- 35 (D) study and recommend efficient and economical methods of  
36 marketing;
- 37 (E) provide for such studies and research as may be deemed  
38 necessary and proper;
- 39 (F) gather and diffuse timely and useful information concerning

1 the supply, demand, prevailing prices and commercial movement of  
2 farm products including quantity in common storage and cold storage,  
3 in cooperation with other public or private agencies;

4 (G) conduct market development activities and assist and  
5 coordinate participation by companies, commodity organizations, trade  
6 organizations, producer organizations and other interested organizations  
7 to develop new markets and sales for Kansas agricultural commodities  
8 and food products;

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

12 (I) make agreements with other states and with the United States  
13 government, or its agencies, and accept funds from the federal  
14 government, or its agencies, or any other source for research studies,  
15 investigation, market development and other purposes related to the  
16 duties of the division.

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

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

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

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

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

38 (D) enter into any contracts necessary to carry out the purposes of  
39 this subsection, which contracts shall not be subject to the bidding



1 requirements of K.S.A. 75-3739, and amendments thereto.

2 (2) The secretary of commerce shall remit all moneys received  
3 under this subsection to the state treasurer in accordance with the  
4 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
5 of each such remittance, the state treasurer shall deposit the entire  
6 amount in the state treasury to the credit of the trademark fund. All  
7 expenditures from such fund shall be made for any purpose consistent  
8 with this subsection and shall be made in accordance with  
9 appropriation acts upon warrants of the director of accounts and reports  
10 issued pursuant to vouchers approved by the secretary of commerce or  
11 a person designated by the secretary.

12 (f) On or before February 1 of each year, the agriculture products  
13 development division shall present an oral and written report to the  
14 house and senate agriculture committees concerning the performance  
15 indicators, performance outcomes, activities and functions of the  
16 division for the previous year. Such report shall include a budget of  
17 how moneys appropriated or otherwise authorized to be expended from  
18 the state general fund or any special revenue fund for the agriculture  
19 products development division of the department of commerce for the  
20 previous fiscal year were spent and a projected budget of moneys  
21 appropriated or otherwise authorized to be expended from the state  
22 general fund or any special revenue fund for the agriculture products  
23 development division of the department of commerce for the current  
24 fiscal year. Such report shall further include the full-time equivalent  
25 number of positions financed from appropriations and allocated for the  
26 agriculture products development division of the department of  
27 commerce for each fiscal year. In the report to the 1997 legislature, the  
28 division's report shall include a mission statement for the reorganized  
29 division.

30 ~~(g) Subject to appropriation acts, the secretary of commerce shall~~  
31 ~~fulfill all contracts in existence on the effective date of this act between~~  
32 ~~the Kansas technology enterprise corporation and the alternative~~  
33 ~~agriculture research and development center.~~

34 Sec. 15. K.S.A. 2010 Supp. 74-8101 is hereby amended to read as  
35 follows: 74-8101. (a) There is hereby created a ~~body politic and~~  
36 ~~corporate to be known as the Kansas technology enterprise corporation.~~  
37 ~~The Kansas technology enterprise corporation is hereby constituted a~~  
38 ~~public instrumentality and the exercise of the authority and powers~~  
39 ~~conferred by this act shall be deemed and held to be the performance of~~

1 ~~an essential governmental function~~ *within the department of commerce*  
2 *the Kansas technology enterprise advisory board.*

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

16 (c) (1) All 10 of the ~~directors~~ *members* appointed by the governor  
17 shall be persons recognized for outstanding knowledge and leadership  
18 in their fields. Six of the ~~directors~~ *members* shall be persons from the  
19 private sector and four shall be persons from the public sector. The four  
20 appointees from the public sector shall consist of one or more of the  
21 following: Senior administrators at Kansas educational institutions  
22 governed by the board of regents or engineers or scientists who have  
23 extensive experience in managing basic or applied scientific and  
24 technological research. Of the six ~~directors~~ *members* appointed from  
25 the private sector:

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

- 29 (i) Resource-based industries of agriculture, oil and gas;  
30 (ii) advanced technology industries of aviation, manufacturing,  
31 information and design; and  
32 (iii) emerging industries of telecommunications, computer  
33 software, information services and research services; and

34 (B) two ~~directors~~ *members* shall be persons who represent the  
35 private financial sector of whom one shall have experience in the area  
36 of high-risk venture investments, and the other shall have commercial  
37 banking experience in an industry of special technological importance  
38 to the Kansas economy.

39 (2) In making appointments to the board, the governor shall give

1 consideration to the qualifications of the persons who served as  
2 commissioners of the Kansas advanced technology commission and  
3 shall give consideration to appropriate geographical representation.

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

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

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

34 (2) (A) Four ~~directors~~ *members* shall be appointed by legislative  
35 officers as follows: (1) One shall be appointed by the speaker of the  
36 house; (2) one shall be appointed by the house minority leader; (3)  
37 one shall be appointed by the president of the senate; and (4) one shall  
38 be appointed by the senate minority leader. The members so appointed  
39 shall be persons who are recognized for outstanding knowledge and

1 leadership in their fields, who are from the private sector and who  
2 represent industries of the Kansas economy including small enterprises  
3 which include, but are not limited to:

- 4 (i) Resource-based industries of agriculture, oil and gas;
- 5 (ii) advanced technology industries of aviation, manufacturing,  
6 information and design; and
- 7 (iii) emerging industries of telecommunications, computer  
8 software, information services and research services.

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

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

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

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

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

35 (i) (h) The board shall annually elect from the private sector  
36 membership one member as chairperson and one member as vice-  
37 chairperson.

38 (j) (i) The board of ~~directors~~ shall meet at least once during each  
39 calendar quarter, and at such other times as ~~may be provided in the~~

1 ~~rules of the corporation, upon call by the president, upon call by the~~  
2 ~~chairperson or upon written request of a majority of the directors-~~  
3 ~~members.~~

4 ~~(k) (j)~~ A majority of the board of directors shall be necessary to  
5 transact ~~corporation~~ board business, and all actions of the directors-  
6 ~~members~~ shall be by a majority vote of the full number of ~~corporate~~  
7 ~~directors members.~~

8 ~~(h) (k)~~ The ~~directors members~~ shall establish an executive  
9 committee composed of the chairperson, vice-chairperson and three  
10 additional members chosen by the chairperson from among the  
11 remaining ~~directors members~~. The executive committee, in intervals  
12 between board meetings, may transact any board business that has been  
13 delegated to the executive committee. A majority of the executive  
14 committee shall be necessary to transact business and all actions of the  
15 executive committee shall be by a majority vote of the committee.

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

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

21 *(n) All investments and grant awards to be made by the*  
22 *department of commerce pursuant to K.S.A. 74-8101 through 74-8104*  
23 *and 74-8107 through 74-8111, and amendments thereto, shall first be*  
24 *considered by the board. The board shall submit to the secretary of*  
25 *commerce a recommendation regarding each investment and grant*  
26 *award. The board's recommendation shall be considered by the*  
27 *secretary in making the final determination on such investment or*  
28 *grant award.*

29 Sec. 16. K.S.A. 74-8102 is hereby amended to read as follows: 74-  
30 8102. (a) The purpose of ~~the Kansas technology enterprise corporation~~  
31 *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111, and*  
32 *amendments thereto*, is to foster innovation in existing and developing  
33 businesses, especially the creation, growth and expansion of Kansas  
34 enterprises in a diversified range of primary sectors, which develop  
35 value-added products, processes and services including, but not limited  
36 to:

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

39 (2) existing advanced technology industries of aviation,

1 pharmaceuticals, computers and electronics; and  
2 (3) emerging industries of telecommunications, computer  
3 software, information services and research services.  
4 (b) ~~The corporation~~ *department of commerce* shall achieve the  
5 purpose stated in subsection (a) of this section by:  
6 (1) Financing basic research, applied research and development,  
7 and technology transfer at Kansas educational institutions which meet  
8 competitive standards of excellence as measured by national and  
9 international peers, and which create innovative collaboration between  
10 Kansas educational institutions and Kansas enterprises;  
11 (2) awarding applied research matching grants to Kansas  
12 educational institutions and Kansas private enterprises in order to move  
13 innovation and applied research toward commercial application;  
14 (3) engaging in seed-capital financing for the development and  
15 implementation of innovations or new technologies for existing  
16 resource, technology-based and emerging Kansas businesses; and  
17 (4) providing technical referral services to such small, new,  
18 emerging or mature businesses and encouraging Kansas educational  
19 institutions to establish technical information data bases and industrial  
20 liaison offices which are easily accessible by both private and public  
21 sector Kansas organizations.  
22 (c) ~~The department of commerce, Kansas, Inc. and~~ All other  
23 interested state agencies shall cooperate with the ~~Kansas technology~~  
24 ~~enterprise corporation~~ ~~department~~ **department** *of commerce* in providing  
25 information and other assistance as may be requested for the  
26 performance of its duties with respect to the state's economic  
27 development strategy.  
28 Sec. 17. K.S.A. 74-8103 is hereby amended to read as follows: 74-  
29 8103. As used in this act, unless the context clearly requires otherwise:  
30 (a) "Applied research" means those research activities occurring at  
31 educational institutions and in private enterprises, which have potential  
32 commercial application;  
33 (b) "basic research" means research that has long range generic  
34 value to an industry classification or group of companies. Basic  
35 research is distinguished from applied research which has more short  
36 range present value to a single company or project;  
37 (c) ~~"corporation" means the Kansas technology enterprise~~  
38 ~~corporation;~~ *"board" means the Kansas technology enterprise advisory*  
39 *board;*

- 1       (d) *"department" means the department of commerce;*  
2       ~~(d)~~ (e) "educational institutions" means public and private  
3 community colleges, colleges and universities in the state;  
4       ~~(e)~~ (f) "enterprise" means a firm with its principal place of  
5 business in Kansas which is engaged or proposes to be engaged in this  
6 state in agricultural, natural resource-based or other manufacturing,  
7 research and development, or the provision of technology-based  
8 services;  
9       ~~(f)~~ (g) "new technology" means the development through science  
10 or research of methods, processes and procedures, including but not  
11 limited to those involving the utilization of agricultural products and  
12 by-products and oil and gas and other mineral resources for practical  
13 application in industrial and service situations;  
14       ~~(g)~~ (h) "person" means any individual, partnership, corporation or  
15 joint venture carrying on business or proposing to carry on business  
16 within the state;  
17       ~~(h)~~ (i) "product" means any product, device, technique or process,  
18 which is or may be developed or marketed commercially; however,  
19 "product" does not refer to basic research but shall apply to such  
20 products, devices, techniques or processes which have advanced  
21 beyond the theoretical stage and are in a prototype or practice stage;  
22       ~~(i)~~ (j) "qualified security" means any public or private financial  
23 arrangement, involving any note, security, debenture, evidence of  
24 indebtedness, certificate of interest or participation in any profit-sharing  
25 agreement, preorganization certificate or subscription, transferable  
26 security, investment contract, certificate of deposit for a security,  
27 certificate of interest or participation in a patent or application therefor,  
28 or in royalty or other payments under such a patent or application, or, in  
29 general, any interest or instrument commonly known as a "security" or  
30 any certificate for, receipt for, guarantee of, or option, warrant or right  
31 to subscribe to or purchase any of the foregoing to the extent allowed  
32 by law;  
33       (k) *"secretary" means the secretary of commerce; and*  
34       ~~(j)~~ (l) "seed capital" means financing that is provided for the  
35 development, refinement and commercialization of a product, process  
36 or innovation, whether for the startup of a new firm, the expansion or  
37 the restructuring of a small firm.  
38       Sec. 18. K.S.A. 2010 Supp. 74-8104 is hereby amended to read as  
39 follows: 74-8104. (a) The ~~corporation~~ *secretary* shall have all the

1 powers necessary to achieve the purposes, specified in K.S.A. 74-8102,  
2 and amendments thereto, including the power to:

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

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

8 ~~(3)~~ *make contracts and execute all instruments necessary or*  
9 *convenient for carrying out its business* *the powers and duties under*  
10 *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111, and*  
11 *amendments thereto;*

12 ~~(4)~~ *(3) acquire, own, hold, dispose of and encumber real or*  
13 *personal property of any nature, both tangible and intangible, or any*  
14 *interest therein;*

15 ~~(5)~~ *(4) enter into agreements or other transactions with any*  
16 *federal, state, county or municipal agency and with any individual,*  
17 *corporation, enterprise, association or any other entity involving*  
18 *applied research and technology;*

19 ~~(6)~~ *(5) acquire real property or an interest therein, by purchase or*  
20 *foreclosure, where such acquisition is necessary or appropriate to*  
21 *protect or secure any investment or loan in which the* ~~corporation-~~  
22 *department has an interest;*

23 ~~(7)~~ *(6) sell, transfer and convey any such property to a buyer, and*  
24 *in the event such sale, transfer or conveyance cannot be effected with*  
25 *reasonable promptness or at a reasonable price, to lease such property*  
26 *to a tenant;*

27 ~~(8)~~ *(7) invest any funds appropriated by the state and held in*  
28 *reserve in funds not required for immediate disbursement, in such*  
29 *investments that may be lawful for fiduciaries in this state, and invest*  
30 *funds received from gifts, grants, donations and other operations of the*  
31 ~~corporation~~ *department in such investments as would be lawful for a*  
32 *private corporation having purposes similar to the* ~~corporation-~~  
33 *department;*

34 ~~(9)~~ *(8) borrow money and give* ~~guaranties~~ *guarantees, provided*  
35 *that the indebtedness and other obligations of the* ~~corporation-~~  
36 *department shall be payable solely out of its own* ~~resources~~ *funds, and*  
37 *shall not constitute a pledge of the full faith and credit of the state or*  
38 *any of its revenues;*

39 ~~(10)~~ *(9) appoint officers, consultants, agents and advisors, and*



1 prescribe their duties and compensation;  
2 ~~(11)~~ (10) appear in its own behalf before boards, commissions,  
3 departments or other agencies of municipal, county or state government  
4 or federal government;  
5 ~~(12)~~ (11) procure insurance against any losses in connection with  
6 its properties in such amounts from such insurers as may be necessary  
7 or desirable;  
8 ~~(13)~~ (12) consent, subject to the provisions of any contract with  
9 note-holders, whenever it considers it necessary or desirable in the  
10 fulfillment of the purposes of ~~this act~~ *K.S.A. 74-8101 through 74-8104*  
11 *and 74-8107 through 74-8111, and amendments thereto*, to the  
12 modifications, with respect to the rate of interest, time payment or of  
13 any installment, of principal and interest or any terms of any contract or  
14 agreement of any kind to which the corporation is a party;  
15 ~~(14)~~ (13) accept any and all donations, grants, bequests and  
16 devises, conditional and otherwise, of money, property, services or  
17 other things of value which may be received from the United States or  
18 any agency thereof, any governmental agency, or any institution,  
19 person, firm or corporation, public or private, to be held, used or  
20 applied for any or all of the purposes specified in ~~this act~~ *K.S.A. 74-*  
21 *8101 through 74-8104 and 74-8107 through 74-8111, and amendments*  
22 *thereto*, in accordance with the terms and conditions of any such grant;  
23 ~~(15)~~ (14) trade, buy or sell qualified securities, including without  
24 limitation, the powers to guarantee, purchase, take, receive, subscribe  
25 for or otherwise acquire, to own, hold, use or otherwise employ; to sell,  
26 lease, exchange, transfer or otherwise dispose of; to mortgage, lend,  
27 pledge or otherwise deal in and with, qualified securities issued by any  
28 other domestic or foreign corporation, partnership, association, limited  
29 liability company, or business trust, whether or not such issuer was  
30 organized or caused to be organized by the ~~corporation~~ *secretary*. The  
31 ~~corporation~~ *secretary*, while owner of any such qualified securities,  
32 may exercise all of the rights, powers and privileges of ownership,  
33 including without limitation the right to vote;  
34 ~~(16)~~ (15) finance, conduct or cooperate in the financing or  
35 conducting of scientific, technological, business, financial or other  
36 investigations which are related to or likely to lead to business and  
37 economic development, involving natural resources, innovation,  
38 applied research and new technology, by making and entering into  
39 contracts or other appropriate arrangements, including the provisions of

1 grants, loans and other forms of assistance;  
2 ~~(17)~~ (16) solicit, study and assist in the preparation of business  
3 plans and proposals of new or established resource and technologically  
4 oriented enterprises of special importance to the Kansas economy;  
5 ~~(18)~~ (17) prepare, publish and distribute such technological  
6 studies, reports, bulletins and other materials as it considers  
7 appropriate, subject only to the maintenance and responsibility for  
8 confidentiality of the client proprietary information, and encourage  
9 educational institutions to develop and disseminate similar materials;  
10 ~~(19)~~ (18) organize, conduct, sponsor or cooperate with, and assist  
11 both the private sector and educational institutions in the conduct of,  
12 special institutes, conferences, demonstrations and studies relating to  
13 the stimulation and formulation of innovation, applied science and  
14 technologically oriented enterprises and studies relating to the  
15 formulation of resource and technologically oriented enterprises and  
16 industry endeavors;  
17 ~~(20)~~ (19) provide and pay for such advisory services and technical  
18 assistance that may be necessary or desirable to carry out the purposes  
19 of ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-*  
20 *8111, and amendments thereto;*  
21 ~~(21)~~ (20) own, possess and take license in, patents, copyrights and  
22 proprietary processes and negotiate and enter into contracts and  
23 establish charges for the use of such patents, copyrights and proprietary  
24 processes when such patents and licenses for innovation or inventions  
25 result from research sponsored by the ~~corporation~~ *department* in a  
26 private enterprise or when the ~~corporation~~ *department* finances a  
27 product developed by a private enterprise;  
28 ~~(22)~~ (21) negotiate royalty payments to the ~~corporation~~  
29 *department* on patents and licenses for innovations or inventions  
30 arising in the course of research sponsored by the ~~corporation~~  
31 *department* at educational institutions under the jurisdiction of the  
32 Kansas board of regents; such negotiated royalty arrangements should  
33 reflect an appropriate sharing of legal risk as well as financial return  
34 between the ~~corporation~~ *department* and educational institution; such  
35 patents and licenses shall be in keeping with the patent policies of the  
36 Kansas board of regents;  
37 ~~(23)~~ (22) exercise any other powers necessary for the operation  
38 and functioning of the ~~corporation~~ *within the purposes authorized in*  
39 ~~this act~~ *department within the purposes of K.S.A. 74-8101 through 74-*

1 8104 and 74-8107 through 74-8111, and amendments thereto;  
2 ~~(24)~~ (23) participate with any state agency or educational  
3 institution in developing specific programs and goals to assist in the  
4 development of industrial innovation, applied research and new  
5 technology of special importance to the Kansas economy, and monitor  
6 performance;  
7 ~~(25) cooperate with the department of commerce regarding~~  
8 ~~financial assistance programs targeted to small enterprises of special~~  
9 ~~importance to the Kansas economy; and~~  
10 ~~(26)~~ (24) provide resource-based, scientific and technological data  
11 and information required by the governor, the legislature, or its  
12 committees, and to state agencies, educational institutions and cities,  
13 counties and school districts and to private citizens and groups, within  
14 the limitations of the resources available to the ~~corporation~~ department.  
15 This service shall be in addition to any services currently provided by  
16 any educational institution, committee or other organization in the state.  
17 (b) ~~The corporation shall be exempt from all franchise, corporate~~  
18 ~~business and income taxes levied by the state. However, this act is not~~  
19 ~~intended to exempt from any such taxes, or from any taxes levied in~~  
20 ~~connection with the manufacture or sale of any products or processes~~  
21 ~~which are the subject of any agreement made by the corporation, or any~~  
22 ~~person entering into any agreement with the corporation.~~  
23 (c) Documents and other materials submitted to the ~~corporation~~  
24 ~~department~~ by Kansas businesses shall not be public records if such  
25 records are trade secrets under the uniform trade secrets act (K.S.A. 60-  
26 3320 et seq. and amendments thereto) or are determined by the  
27 ~~corporation~~ department to be business secrets, and shall be maintained  
28 in a secured environment by the ~~president~~ secretary.  
29 ~~(d) (c) The corporation department shall not be subject to state~~  
30 ~~purchasing laws.~~  
31 Sec. 19. K.S.A. 74-8106 is hereby amended to read as follows: 74-  
32 8106. (a) The purpose of this section is to authorize the establishment  
33 of three types of centers of excellence at educational institutions:  
34 Centers of excellence for basic research, centers of excellence for  
35 applied research and development, and centers of excellence for  
36 technology transfer.  
37 (b) Centers of excellence for basic research will primarily  
38 undertake ongoing basic research with a particular focus that will have  
39 long-run potential for commercial development. The centers should

1 build on institutional strengths and be in areas of research where the  
2 educational institution has achieved or has true promise of attaining a  
3 standard of excellence as recognized by national and international  
4 peers.

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~standards similar to those applying to the board of directors and board~~  
2 ~~of regents~~**department of commerce** who are recognized by their peers  
3 for outstanding knowledge and leadership in their fields.

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

7 (1) Developing, adopting and publishing the criteria it shall use  
8 when evaluating centers of excellence;

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

11 (3) receiving the recommendation of the centers of excellence  
12 committee which will review proposals for new or established centers  
13 of excellence containing:

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

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

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

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

27 (C) an itemized operations budget; and

28 (D) other information that may be required by the ~~board of~~  
29 ~~regents~~**department of commerce**.

30 (h) The ~~board of regents~~**department of commerce** shall approve  
31 proposals to establish new centers of excellence after the ~~board of~~  
32 ~~regents~~**department of commerce** finds, based upon the proposal  
33 submitted, external peer reviews, and such additional investigation as  
34 the staff of the ~~corporation shall make and incorporate in its minutes~~  
35 ~~board of regents~~**department of commerce** shall make that:

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

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

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

7 (i) Each existing Kansas center of excellence is eligible for annual  
8 support from the ~~corporation board of regents~~**department of**  
9 **commerce** according to the same terms and conditions as provided in  
10 this ~~act~~ *section* for new centers except that an external peer review to  
11 determine under what provision of this ~~statute~~ *section* and by what  
12 terms continuing funding is appropriate shall be conducted annually  
13 during the first three years after the center of excellence is established  
14 and shall be conducted biennially thereafter. In the years between  
15 external peer reviews conducted on a biennial basis, the ~~corporation~~  
16 ~~board of regents~~ **department of commerce** shall conduct internal  
17 reviews to determine under what provision of this statute and under  
18 what terms continuing funding is appropriate.

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

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

30 Sec. 20. K.S.A. 74-8107 is hereby amended to read as follows: 74-  
31 8107. (a) The Kansas technology enterprise applied research matching  
32 grant fund is hereby created, to which shall be credited any state funds  
33 specifically so designated.

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

- 1 (c) The ~~board~~ *secretary* shall award grants only after:
- 2 (1) Developing, adopting and publishing the criteria it shall use
- 3 when evaluating research proposals; and
- 4 (2) reviewing applied research proposals which present:
- 5 (A) Documentation, if the proposal is from an educational
- 6 institution, that not less than 60% of the total direct cost of the
- 7 proposed project will be provided by sources other than the
- 8 corporation; machinery or equipment may be considered as part of the
- 9 matching funds for the research, but must be accompanied by a
- 10 statement:
- 11 (i) That the educational institution has received the machinery or
- 12 equipment and it is state of the art; and either
- 13 (ii) verifying that the equipment or machinery is donated and has
- 14 only been used in testing to insure quality control, or used by a
- 15 wholesaler or retailer for demonstration purposes only; or
- 16 (iii) detailing the price paid by the educational institution, with an
- 17 invoice showing the amount paid for the machinery or equipment;
- 18 (B) documentation, if the proposal is from a private enterprise,
- 19 that not less than 60% of the total direct cost of the proposed project
- 20 will be provided by sources other than the ~~corporation~~ *department* or
- 21 through in-kind services provided through the private enterprise as
- 22 evaluated by the ~~board or review committee~~ *secretary*;
- 23 (C) a description of the future commercial application and the
- 24 industrial sectors that will likely benefit by the applied research project
- 25 and the potential for job creation;
- 26 (D) an itemized research budget, time line and research
- 27 methodology;
- 28 (E) a recommendation from the sponsoring educational institution
- 29 or business enterprise; and
- 30 (F) other information that may be required by the board.
- 31 (d) The ~~board~~ *secretary* shall approve such applied research
- 32 proposals after the ~~board~~ *secretary* finds, based upon the proposal
- 33 submitted and such additional investigation as the staff of the
- 34 ~~corporation~~ *department* shall make and incorporate in its minutes, that:
- 35 (1) The proposed project is research that leads to innovation, new
- 36 knowledge or technology and is not training or technical assistance for
- 37 business firms;
- 38 (2) the proposed applied research project will expand that field's
- 39 technological base within the state;



1 (3) the project will enhance employment opportunities within  
2 Kansas; and

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

5 (e) The ~~board of directors~~ *secretary* shall create an applied  
6 research committee to assist in evaluating potential applied research  
7 projects. The membership of this applied research committee may  
8 include ~~both directors and staff members of the corporation~~ *employees*  
9 *of the department*, and other persons drawn from sources other than ~~the~~  
10 ~~corporation who meet standards similar to those applying to the board~~  
11 ~~of directors and department~~ who are recognized by their peers for  
12 outstanding knowledge and leadership in their fields.

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

17 Sec. 21. K.S.A. 74-8108 is hereby amended to read as follows: 74-  
18 8108. (a) The ~~corporation~~ *secretary* is directed to develop a small  
19 business innovation research (SBIR) matching grant program which  
20 meets the highest current standards for state matching grants to federal  
21 phase I SBIR program. Prior to establishing the SBIR matching grant  
22 program, the ~~corporation~~ *secretary* shall conduct a survey and analysis  
23 of the most effective SBIR matching grant programs existing in other  
24 states.

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

30 Sec. 22. K.S.A. 74-8108a is hereby amended to read as follows:  
31 74-8108a. Five years from the effective date of this act, the ~~corporation~~  
32 *secretary* shall conduct a review of the small business innovation  
33 research bridge financing program and report the results of the review  
34 to the legislature. Such review shall determine the extent to which the  
35 program has achieved the following outcomes:

36 (a) Increased the number of phase II SBIR grant proposals;

37 (b) increased the percentage of phase II SBIR grants awarded to  
38 researchers in the state;

39 (c) stimulated subsequent investments by industry venture capital

- 1 and other federal sources;
- 2 (d) encouraged development of industry partners with researchers;
- 3 and
- 4 (e) encouraged development of business or commercialization
- 5 plans for new technology.
- 6 Sec. 23. K.S.A. 74-8109 is hereby amended to read as follows: 74-
- 7 8109. (a) There is hereby created the technology enterprise seed-capital
- 8 fund to which shall be credited any state funds specifically so
- 9 designated. The ~~corporation~~ *secretary* may credit the fund with
- 10 unrestricted appropriations, gifts, donations or grants received from any
- 11 source and with payments on loans made from the fund.
- 12 (b) The ~~corporation~~ *secretary* may use the Kansas technology
- 13 enterprise seed-capital fund as follows:
- 14 (1) To carry out the purposes of ~~this act~~ *K.S.A. 74-8101 through*
- 15 *74-8104 and 74-8107 through 74-8111, and amendments thereto,*
- 16 through investments in qualified securities and through the forms of
- 17 financial assistance authorized by ~~this act~~ *K.S.A. 74-8101 through 74-*
- 18 *8104 and 74-8107 through 74-8111, and amendments thereto,*
- 19 including:
- 20 (A) Loans, loans convertible to equity, and equity;
- 21 (B) leaseholds;
- 22 (C) management or consultant service agreements;
- 23 (D) loans with warrants attached that are beneficially owned by
- 24 the ~~corporation~~ *department*;
- 25 (E) loans with warrants attached that are beneficially owned by a
- 26 party other than the ~~corporation~~ *department*; and
- 27 (F) any other contractual arrangement in which the ~~corporation~~
- 28 *department* is providing scientific and technological services to any
- 29 federal, state, county or municipal agency, or to any individual,
- 30 corporation, enterprise, association or any other entity involving
- 31 science and technology. The ~~corporation~~ *secretary*, in connection with
- 32 the provision of any form of financial assistance, may enter into royalty
- 33 agreements with an enterprise.
- 34 (2) To pay all or a portion of the ~~corporation's~~ *department's*
- 35 operating expenses from revenues generated by seed-capital fund
- 36 investments, which shall be an amount sufficient to allow the
- 37 ~~corporation~~ *department* to undertake and efficiently manage its
- 38 responsibilities.
- 39 (3) To invest in such other investments as are lawful for Kansas

1 fiduciaries.

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

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

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

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

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

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

19 (C) a statement of the potential economic impact of the enterprise,  
20 including the number, location and types of jobs expected to be created;  
21 and

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

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

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

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

32 (C) the ~~corporation's~~ *department's* participation is instrumental to  
33 the success of the enterprise and its retention within the state because  
34 funding otherwise available for the enterprise is not available on  
35 commercially reasonable terms;

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

38 (E) the entrepreneur and other founders of the enterprise have  
39 already made or are contractually committed to make a substantial

1 financial and time commitment to the enterprise;  
2 (F) the securities to be purchased are qualified securities;  
3 (G) there is a reasonable possibility that the ~~corporation~~  
4 ~~department~~ will recoup at least its initial investment; and  
5 (H) binding commitments have been made to the ~~corporation~~  
6 ~~department~~ by the enterprise for adequate reporting of financial data to  
7 the ~~corporation department~~, which shall include a requirement for an  
8 annual report, or if required by the board, an annual audit of the  
9 financial and operational records of the enterprise, and for such control  
10 on the part of the ~~corporation as the board of directors department of~~  
11 ~~the secretary~~ shall consider prudent over the management of the  
12 enterprise, so as to protect the investment of the ~~corporation~~  
13 ~~department~~, including in the discretion of the ~~board secretary~~ and  
14 without limitation, right of access to financial and other records of the  
15 enterprise.  
16 (f) The ~~board of directors secretary~~ shall create an investment  
17 committee to assist in evaluating potential investments in qualified  
18 securities. The membership of this investment committee may include  
19 both directors and staff members of the ~~corporation department~~, and  
20 other persons drawn from sources other than the ~~corporation who meet~~  
21 ~~standards similar to those applying to the board of directors and~~  
22 ~~department~~ who are recognized by their peers for outstanding  
23 knowledge and leadership in their fields, all of whom shall serve at the  
24 pleasure of the ~~board secretary~~.  
25 (g) The ~~corporation secretary~~ shall not make investments in  
26 qualified securities issued by enterprises in excess of the amount  
27 necessary to own more than 49% of qualified securities in any one  
28 enterprise at the time of the purchase by the ~~corporation department~~,  
29 after giving effect to the conversion of all outstanding convertible  
30 qualified securities of the enterprise except that in the event of severe  
31 financial difficulty of the enterprise, threatening, in the judgment of the  
32 ~~board of directors secretary~~, the investment of the ~~corporation~~  
33 ~~department~~ therein, a greater percentage of such securities may be  
34 owned by the ~~corporation department~~.  
35 Sec. 24. K.S.A. 74-8110 is hereby amended to read as follows: 74-  
36 8110. (a) The ~~Kansas technology enterprise corporation secretary~~ shall  
37 establish a clearinghouse to provide technology transfer and technical  
38 referral services and shall fund educational institutions to establish  
39 technical information data bases and industrial liaison offices which are

1 easily accessible by both private and public sector organizations.  
2 (b) The ~~corporation~~ *secretary* shall provide to private enterprises  
3 and individuals, services which include, but are not limited to:  
4 (1) Disseminating such research and technical information as is  
5 available to the ~~corporation~~ *department*;  
6 (2) referring clients to researchers or laboratories for the purpose  
7 of testing and evaluating new products, processes or innovations;  
8 (3) assisting persons developing innovations or new technology in  
9 locating enterprises or entrepreneurs that may be interested in applying  
10 such innovations or new technologies; and  
11 (4) providing managerial assistance to enterprises requesting such  
12 assistance, but particularly to those small enterprises of special  
13 importance to the Kansas economy.  
14 (c) The ~~corporation~~ *secretary* shall encourage business enterprises  
15 to use such technology transfer and technical support services as  
16 provided by educational institutions and especially the state's small  
17 business development centers.  
18 Sec. 25. K.S.A. 74-8111 is hereby amended to read as follows: 74-  
19 8111. (a) The ~~corporation~~ *secretary* shall publish an annual report  
20 which shall include an audit in accordance with generally accepted  
21 accounting principles as of June 30 of each year, and present the report  
22 to the governor, *the legislature and Kansas, Inc.*, setting forth in detail  
23 the operations and transactions conducted by it pursuant to ~~this act~~  
24 *K.S.A. 74-8101 through 74-8104 and 74-8107 through 74-8111, and*  
25 *amendments thereto*, or to other legislation. The annual report shall  
26 specifically account for the ways in which the ~~purpose of the~~  
27 ~~corporation~~ *purposes* and the programs described in ~~this act~~ *K.S.A. 74-*  
28 *8101 through 74-8104 and 74-8107 through 74-8111, and amendments*  
29 *thereto*, have been carried out, and the recommendations shall  
30 specifically note what changes in the activities of the ~~corporation~~  
31 *department* and the programs it administers, and of state government  
32 are necessary to better address the purposes described in ~~this act~~ *K.S.A.*  
33 *74-8101 through 74-8104 and 74-8107 through 74-8111, and*  
34 *amendments thereto*. The ~~corporation~~ *secretary* shall distribute its  
35 annual report by such means that will make it widely available to those  
36 innovative enterprises of special importance to the Kansas economy.  
37 (b) The ~~corporation~~ *secretary* shall annually review and prepare a  
38 report showing how ~~and~~ and at what level other states fund the  
39 programs provided for under ~~this act~~ *K.S.A. 74-8101 through 74-8104*

1 *and 74-8107 through 74-8111, and amendments thereto.* The  
2 ~~corporation~~ secretary shall recommend an appropriate funding level for  
3 Kansas which will make these programs nationally competitive with  
4 those of other states. The ~~corporation's~~ secretary's findings and  
5 recommendations shall be submitted to the governor and the  
6 legislature.

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

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

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

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

34 Sec. 27. K.S.A. 2010 Supp. 74-8132 is hereby amended to read as  
35 follows: 74-8132. As used in this act:

36 (a) "Angel investor" and "investor" mean an accredited investor  
37 who is a natural person or an owner of a permitted entity investor, who  
38 is of high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on  
39 the effective date of this act, and who seeks high returns through

- 1 private investments in start-up companies and may seek active  
 2 involvement in business, such as consulting and mentoring the  
 3 entrepreneur. For the purposes of this act, a person who serves as an  
 4 executive, officer, employee, vendor or independent contractor of the  
 5 business in which an otherwise qualified cash investment is made is not  
 6 an angel investor and such person shall not qualify for the issuance of  
 7 tax credits for such investment;
- 8 (b) "Bioscience business" means what is reflected in K.S.A. 2010  
 9 Supp. 74-99b83, and amendments thereto;
- 10 (c) "cash investment" means money or money equivalent in  
 11 consideration for qualified securities;
- 12 ~~(d) "KTEC" means the Kansas technology enterprise corporation,  
 13 a public instrumentality created pursuant to K.S.A. 74-8101, and  
 14 amendments thereto~~ "department" means the department of commerce;
- 15 (e) "Kansas business" means any business owned by an individual,  
 16 any partnership, association or corporation domiciled in Kansas, or any  
 17 corporation, even if a wholly owned subsidiary of a foreign  
 18 corporation, that does business primarily in Kansas or does  
 19 substantially all of such businesses' production in Kansas;
- 20 (f) "owner" means any natural person who is, directly or indirectly,  
 21 a partner, stockholder or member in a permitted entity investor;
- 22 (g) "permitted entity investor" means (A) any general partnership,  
 23 limited partnership, corporation that has in effect a valid election to be  
 24 taxed as an S corporation under the United States internal revenue  
 25 code, or a limited liability company that has elected to be taxed as a  
 26 partnership under the United States internal revenue code and (B) that  
 27 was established and is operated for the sole purpose of making  
 28 investments in other entities;
- 29 (h) "qualified Kansas business" means the Kansas businesses that  
 30 are approved and certified as qualified Kansas businesses as provided  
 31 in K.S.A. 2010 Supp. 74-8134, and amendments thereto; ~~and~~
- 32 (i) "qualified securities" means a cash investment through any one  
 33 or more forms of financial assistance as provided in this subsection that  
 34 have been approved in form and substance by ~~KTEC~~ *the secretary*.  
 35 Such forms of financial assistance are: (1) Any form of equity, such as:  
 36 (A) A general or limited, partnership interest; (B) common stock; (C)  
 37 preferred stock, with or without voting rights, without regard to  
 38 seniority position, and whether or not convertible into common stock;  
 39 or (D) any form of subordinate or convertible debt, or both, with

1 warrants or other means of equity conversion attached; or  
2 (2) a debt instrument, such as a note or debenture that is secured or  
3 unsecured, subordinated to the general creditors of the debtor and  
4 requires no payments of principal, other than principal payments  
5 required to be made out of any future profits of the debtor, for at least a  
6 seven-year period after commencement of such debt instrument's term;  
7 and  
8 (j) "*secretary*" means the secretary of commerce.  
9 Sec. 28. K.S.A. 2010 Supp. 74-8133 is hereby amended to read as  
10 follows: 74-8133. (a) A credit against the tax imposed by article 32 of  
11 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable  
12 income of an angel investor and against the tax imposed by K.S.A. 40-  
13 252, and amendments thereto, shall be allowed for a cash investment in  
14 the qualified securities of a qualified Kansas business. The credit shall  
15 be in a total amount equal to 50% of such investors' cash investment in  
16 any qualified Kansas business, subject to the limitations set forth in  
17 subsection (b). This tax credit may be used in its entirety in the taxable  
18 year in which the cash investment is made except that no tax credit  
19 shall be allowed in a year prior to January 1, 2005. If the amount by  
20 which that portion of the credit allowed by this section exceeds the  
21 investors' liability in any one taxable year, beginning in the year 2005,  
22 the remaining portion of the credit may be carried forward until the  
23 total amount of the credit is used. If the investor is a permitted entity  
24 investor, the credit provided by this section shall be claimed by the  
25 owners of the permitted entity investor in proportion to their ownership  
26 share of the permitted entity investor.  
27 (b) The secretary of revenue shall not allow tax credits of more  
28 than \$50,000 for a single Kansas business or a total of \$250,000 in tax  
29 credits for a single year per investor who is a natural person or owner  
30 of a permitted entity investor. No tax credits authorized by this act shall  
31 be allowed for any cash investments in qualified securities for any year  
32 after the year 2016. The total amount of tax credits which may be  
33 allowed under this section shall not exceed \$4,000,000 during the tax  
34 year 2007 and \$6,000,000 for tax year 2008 and each tax year  
35 thereafter, except that for tax year 2011, the total amount of tax credits  
36 which may be allowed under this section shall not exceed \$5,000,000.  
37 The balance of unissued tax credits may be carried over for issuance in  
38 future years until 2016.  
39 (c) A cash investment in a qualified security shall be deemed to



1 have been made on the date of acquisition of the qualified security, as  
2 such date is determined in accordance with the provisions of the  
3 internal revenue code.

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

9 (e) Any investor who has not owed any Kansas income tax under  
10 the provisions of article 32, chapter 79 of the Kansas Statutes  
11 Annotated for the immediate past three taxable years, who does not  
12 reasonably believe that it will owe any such tax for the current taxable  
13 year and who makes a cash investment in a qualified security of a  
14 qualified Kansas business shall be deemed to acquire an interest in the  
15 nature of a transferable credit limited to an amount equal to 50% of this  
16 cash investment. This interest may be transferred to any natural person  
17 of net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the  
18 effective date of this act whether or not such person is then an investor  
19 and be claimed by the transferee as a credit against the transferee's  
20 Kansas income tax liability beginning in the year provided in  
21 subsection (a). No person shall be entitled to a refund for the interest  
22 created under this section. Only the full credit for any one investment  
23 may be transferred and this interest may only be transferred one time. A  
24 credit acquired by transfer shall be subject to the limitations prescribed  
25 in this section. Documentation of any credit acquired by transfer shall  
26 be provided by the investor in the manner required by the director of  
27 taxation.

28 (f) The reasonable costs of the administration of this act, the  
29 review of applications for certification as qualified Kansas businesses  
30 and the issuance of tax credits authorized by this act shall be  
31 reimbursed through fees paid by the qualified Kansas businesses and  
32 the investors or the transferees of investors, according to a reasonable  
33 fee schedule adopted by the ~~corporation~~ *secretary by rules and*  
34 *regulations in accordance with the rules and regulations filing act.*

35 Sec. 29. K.S.A. 2010 Supp. 74-8134 is hereby amended to read as  
36 follows: 74-8134. (a) Before an angel investor may be entitled to  
37 receive tax credits, as authorized by this act, such investor must have  
38 made a cash investment in a qualified security of a qualified Kansas  
39 business. This business must have been approved by ~~KTEC~~ *the*

1 *secretary* as a qualified Kansas business prior to the date on which the  
2 cash investment was made. To be designated as a qualified Kansas  
3 business, a business must make application to ~~KTEC~~ *the secretary* in  
4 accordance with the provisions of this section.

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

8 (1) The name of the business and certified copies of the  
9 organizational documents of the business;

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

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

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

16 (5) a description of the qualified securities to be issued, the  
17 consideration to be paid for the qualified securities, the amount of any  
18 tax credits requested and the earliest year in which the tax credits may  
19 be redeemed;

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

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

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

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

31 (2) businesses that are not bioscience businesses must have been  
32 in operation for less than five years; bioscience businesses must have  
33 been in operation for less than 10 years;

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

36 (4) the business must not have ownership interests including, but  
37 not limited to, common or preferred shares of stock that can be traded  
38 by the public via a stock exchange, electronic exchange, bulletin board  
39 or other public market place on or before the date that a qualifying

1 investment is made;

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

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

21 (d) Notwithstanding the requirements of subsection (c), a business  
22 may be considered as a qualified Kansas business under the provisions  
23 of this act if such business falls within a standard industrial  
24 classification code.

25 (e) The portions of documents and other materials submitted to  
26 ~~KTEC~~ *the secretary* that contain trade secrets shall be kept confidential  
27 and shall be maintained in a secured environment by the ~~president of~~  
28 ~~KTEC~~ *secretary*. For the purposes of this act, such portions of  
29 documents and other materials means any customer lists, any formula,  
30 compound, production data or compilation of information certain  
31 individuals within a commercial concern using such portions of  
32 documents and other material means to fabricate, produce or compound  
33 an article of trade, or, any service having commercial value, which  
34 gives the user an opportunity to obtain a business advantage over  
35 competitors who do not know or use such service.

36 (f) A qualified Kansas business shall have the burden of proof to  
37 demonstrate to ~~KTEC~~ *the secretary* the qualifications of the business  
38 under this section and shall have the obligation to notify ~~KTEC~~ *the*  
39 *secretary* in a timely manner of any changes in the qualifications of the

1 business or in the eligibility of investors to claim a tax credit for cash  
2 investment in a qualified security.

3 Sec. 30. K.S.A. 2010 Supp. 74-8135 is hereby amended to read as  
4 follows: 74-8135. (a) The designation of a business as a qualified  
5 Kansas business shall be made by ~~KTEC~~ *the secretary*, and such  
6 designation must be renewed annually. A business shall be so  
7 designated if ~~KTEC~~ *the secretary* determines, based upon the  
8 application submitted by the business and any additional investigation  
9 the staff of ~~KTEC~~ *the department* shall make, that the following criteria  
10 have been or shall be satisfied:

- 11 (1) The business has a reasonable chance of success;
- 12 (2) the business has the reasonable potential to create measurable  
13 employment within the state;
- 14 (3) the business has an innovative and proprietary technology,  
15 product and service;
- 16 (4) the existing owners of the business and other founders have  
17 made or are committed to make a substantial financial and time  
18 commitment to the business;
- 19 (5) the securities to be issued and purchased are qualified  
20 securities; and
- 21 (6) binding commitments have been made by the business to  
22 ~~KTEC~~ *the department* for adequate reporting of financial data,  
23 including a requirement for an annual report, or, if required by the  
24 ~~board of directors of KTEC~~ *secretary*, an annual audit of the financial  
25 and operational records of the business, the right of access to the  
26 financial records of the business and the right of ~~KTEC~~ *the department*  
27 to record and publish normal and customary data and information  
28 related to the issuance of tax credits that are not otherwise determined  
29 to be trade or business secrets.

30 (b) In addition to reports by the businesses to ~~KTEC and its board~~  
31 ~~of directors,~~ ~~KTEC~~ *the department, the secretary* will also provide an  
32 annual report, on or before February 1, to the governor, to the senate  
33 committee on commerce, the house committee on economic  
34 development and tourism and the joint committee on economic  
35 development and any successor committees thereto, on the marketing  
36 and use of the angel investor tax credits. This report will include the  
37 following: The amount of tax credits used in the previous fiscal year  
38 including what percentage was claimed by individuals and what  
39 percentage was claimed by investment firms; the types of businesses

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

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

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

1 which tax credits issued pursuant to this act have been transferred by  
2 the original angel investor; and (4) any additional information as ~~KTEC~~  
3 *the secretary* may require pursuant to this act.

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

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

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

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

39 (g) At the end of the 120-day period, if the qualified Kansas

1 business is still not in substantial compliance, the secretary of  
2 ~~commerce~~ shall send a notice of loss of designation to the business,  
3 ~~KTEC~~, the secretary of the department of revenue and to all known  
4 investors in the business. Loss of designation of a qualified Kansas  
5 business shall preclude the issuance of any additional tax credits with  
6 respect to this business and ~~KTEC~~ *the secretary* shall not approve the  
7 application of such business as a qualified Kansas business. Upon loss  
8 of the designation as a qualified Kansas business or if a business loses  
9 its designation as a qualified Kansas business under this act by moving  
10 its operations outside Kansas within 10 years after receiving financial  
11 assistance under this act, such business shall repay such financial  
12 assistance to ~~KTEC~~ *the department*, in an amount determined by ~~KTEC~~  
13 *the secretary*. Each qualified Kansas business that loses such  
14 designation shall enter into a repayment agreement with ~~KTEC~~ *the*  
15 *secretary* specifying the terms of such repayment obligation.

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

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

24 Sec. 32. K.S.A. 74-8316 is hereby amended to read as follows: 74-  
25 8316. (a) The ~~Kansas technology enterprise corporation~~ *secretary* is  
26 hereby authorized to facilitate the establishment of a technology-based  
27 venture-capital fund in which the ~~corporation~~ *department* may invest  
28 only moneys from the economic development initiatives fund  
29 specifically so allocated. The ~~corporation may credit also~~ *department*  
30 *may also credit* the fund with gifts, donations or grants received from  
31 any source other than state government and with proceeds from the  
32 fund. Investments in the fund shall qualify for the income tax credit  
33 allowed pursuant to K.S.A. 74-8304, and amendments thereto.

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

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

39 (A) Loans, loans convertible to equity, and equity;

- 1 (B) leaseholds;
- 2 (C) management or consultant service agreements;
- 3 (D) loans with warrants attached that are beneficially owned by
- 4 the fund;
- 5 (E) loans with warrants attached that are beneficially owned by a
- 6 party other than the fund; and
- 7 (F) the fund, in connection with the provision of any form of
- 8 financial assistance, may enter into royalty agreements with an
- 9 enterprise.
- 10 (2) To invest in such other investments as are lawful for Kansas
- 11 fiduciaries pursuant to K.S.A. ~~2002-Supp.~~ 58-24a02 and amendments
- 12 thereto.
- 13 (c) Distributions received by the corporation may be reinvested in
- 14 any fund consistent with the purposes of this act.
- 15 (d) The ~~corporation~~ *secretary* may invest only in a fund whose
- 16 investment guidelines permit the fund's purchase of qualified securities
- 17 issued by an enterprise as a part of a resource and technology project
- 18 subject to the following:
- 19 (1) Receipt of an application from the enterprise which contains:
- 20 (A) A business plan including a description of the enterprise and
- 21 its management, product and market;
- 22 (B) a statement of the amount, timing and projected use of the
- 23 capital required;
- 24 (C) a statement of the potential economic impact of the enterprise,
- 25 including the number, location and types of jobs expected to be created;
- 26 and
- 27 (D) such other information as the fund manager or the fund's board
- 28 of directors shall request.
- 29 (2) Approval of the investment by the fund may be made after the
- 30 fund manager or the fund's board of directors finds, based upon the
- 31 application submitted by the enterprise and such additional
- 32 investigation as the fund manager or the fund's board of directors shall
- 33 make and incorporate in its minutes, that:
- 34 (A) The proceeds of the investment will be used only to cover the
- 35 venture-capital needs of the enterprise except as authorized by this
- 36 section;
- 37 (B) the enterprise has a reasonable possibility of success;
- 38 (C) the fund's participation is instrumental to the success of the
- 39 enterprise because funding otherwise available for the enterprise is not



- 1 available on commercially feasible terms;
- 2 (D) the enterprise has the reasonable potential to create a  
3 substantial amount of employment within the state;
- 4 (E) the entrepreneur and other founders of the enterprise have  
5 already made or are contractually committed to make a substantial  
6 financial and time commitment to the enterprise;
- 7 (F) the securities to be purchased are qualified securities;
- 8 (G) there is a reasonable possibility that the fund will recoup at  
9 least its initial investment; and
- 10 (H) binding commitments have been made to the fund by the  
11 enterprise for adequate reporting of financial data to the fund, which  
12 shall include a requirement for an annual report, or if required by the  
13 fund manager, an annual audit of the financial and operational records  
14 of the enterprise, and for such control on the part of the fund as the  
15 fund manager shall consider prudent over the management of the  
16 enterprise, so as to protect the investment of the fund, including in the  
17 discretion of the fund manager and without limitation, the right of  
18 access to financial and other records of the enterprise.
- 19 (e) All investments made pursuant to this section shall be  
20 evaluated by the fund's investment committee and the fund shall be  
21 audited annually by an independent auditing firm.
- 22 (f) The fund shall not make investments in qualified securities  
23 issued by enterprises in excess of the amount necessary to own more  
24 than 49% of the qualified securities in any one enterprise at the time of  
25 the purchase by the fund, after giving effect to the conversion of all  
26 outstanding convertible qualified securities of the enterprise, except  
27 that in the event of severe financial difficulty of the enterprise,  
28 threatening, in the judgment of the fund manager, the investment of the  
29 fund therein, a greater percentage of such securities may be owned by  
30 the fund.
- 31 (g) At least 75% of the total investment of the fund must be in  
32 Kansas businesses.
- 33 Sec. 33. K.S.A. 74-8317 is hereby amended to read as follows: 74-  
34 8317. The ~~corporation~~ *secretary* shall transmit annually to the governor,  
35 the standing committee on commerce of the senate, the standing  
36 committee on economic development of the house of representatives,  
37 the joint committee on economic development and Kansas, Inc.:
- 38 (a) The annual statement of the fund; and  
39 (b) a report, based upon information received by the fund

1 manager, which specifies the following:

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

4 (2) The total investments made annually by the fund in Kansas  
5 businesses.

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

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

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

13 Sec. 34. K.S.A. 74-8318 is hereby amended to read as follows: 74-  
14 8318. ~~No enterprise shall be eligible to receive investment pursuant to~~  
15 ~~this act if an officer, employee or member of the board of directors of~~  
16 ~~the corporation, the fund or any other entity in which the corporation~~  
17 ~~has a majority interest has a substantial interest in the corporation. No~~  
18 ~~enterprise shall be eligible to receive investment pursuant to this act if~~  
19 ~~the secretary or any employee of the department, or any officer,~~  
20 ~~employee or member of the board of directors of either the fund or any~~  
21 ~~other entity which has a substantial interest in the enterprise. For the~~  
22 ~~purposes of this section, the term "substantial interest" shall have the~~  
23 ~~meaning ascribed to it in K.S.A. 46-229, and amendments thereto.~~

24 Sec. 35. K.S.A. 74-8319 is hereby amended to read as follows: 74-  
25 8319. For purposes of this act:

26 (a) ~~"Corporation" means the Kansas technology enterprise-~~  
27 ~~corporation~~ "Department" means the department of commerce;

28 (b) "fund" means any venture-capital fund whether organized as a  
29 corporation, partnership, limited partnership, limited liability company  
30 or other business entity, as well as any separately organized entity,  
31 which manages any such fund;

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

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

36 Sec. 36. K.S.A. 74-8401 is hereby amended to read as follows: 74-  
37 8401. (a) There shall be allowed as a credit against the tax imposed by  
38 the Kansas income tax act on the Kansas taxable income of a taxpayer  
39 and against the tax imposed by K.S.A. 40-252, and amendments

1 thereto, on insurance companies for cash investment in a certified local  
2 seed capital pool an amount equal to 25% of such taxpayer's cash  
3 investment in any such pool in the taxable year in which such  
4 investment is made and the taxable years following such taxable year  
5 until the total amount of the credit is used. The amount by which that  
6 portion of the credit allowed by this section exceeds the taxpayer's  
7 liability in any one taxable year may be carried forward until the total  
8 amount of the credit is used. If the taxpayer is a corporation having an  
9 election in effect under subchapter S of the federal internal revenue  
10 code or a partnership, the credit provided by this section shall be  
11 claimed by the shareholders of such corporation or the partners of such  
12 partnership in the same manner as such shareholders or partners  
13 account for their proportionate shares of the income or loss of the  
14 corporation or partnership.

15 (b) The total amount of credits allowable pursuant to this section  
16 and credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-  
17 8304, and amendments thereto, shall be attributable to not more than  
18 \$50,000,000 of cash investments in Kansas venture capital companies,  
19 Kansas Venture Capital, Inc. and local seed capital pools. With respect  
20 to the additional amount of cash investments made eligible for tax  
21 credits by this act, \$10,000,000 of such amount shall be dedicated and  
22 reserved until December 31, 1990, for cash investments in a seed  
23 capital fund or funds in which the ~~Kansas technology enterprise~~  
24 ~~corporation, or its subsidiaries,~~ *department of commerce* is an investor.  
25 The \$50,000,000 amount of cash investments now eligible for the tax  
26 credits allowed pursuant to this section and K.S.A. 74-8205, 74-8206  
27 and 74-8304, and amendments thereto, shall be reduced to the extent  
28 that the total amount of cash investments received by such seed capital  
29 fund or funds before January 1, 1991, is less than \$10,000,000.  
30 However, any such credits which were not claimed for investments  
31 made prior to January 1, 1991, may be allowed to a taxpayer for cash  
32 investment made in Kansas Venture Capital, Inc. pursuant to K.S.A. 74-  
33 8205 and 74-8206, and amendments thereto, not to exceed \$2,595,236  
34 of the \$10,000,000 reserved under this subsection for investment in  
35 seed capital funds in which the ~~Kansas technology enterprise~~  
36 ~~corporation or its subsidiaries~~ *department of commerce* was an investor.  
37 A taxpayer may also be allowed a credit for cash investment made  
38 pursuant to K.S.A. 74-8304, and amendments thereto not to exceed  
39 \$6,012,345 of the \$10,000,000 reserved under this subsection if such

1 taxpayer first purchases the entire interest of the ~~Kansas technology~~  
2 ~~enterprise corporation or its subsidiaries~~ *department of commerce* in  
3 Kansas venture capital companies established prior to January 1, 1991.  
4 However, no credit shall be allowed for cash investment which results  
5 in the purchase of the interest of the Kansas technology enterprise  
6 corporation or its subsidiaries in Kansas venture capital companies  
7 established prior to January 1, 1991.

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

15 (2) "Kansas business" means any small business owned by an  
16 individual, any partnership, association or corporation domiciled in  
17 Kansas, or any corporation, even if a wholly owned subsidiary of a  
18 foreign corporation, that does business primarily in Kansas or does  
19 substantially all of its production in Kansas.

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

27 (e) Public funds may be invested in a local seed capital pool  
28 except that each dollar of public funds, other than that which may be  
29 used to administer and operate a pool, shall be matched by not less than  
30 \$2 of private cash investment. Public funds shall have a senior position  
31 to any private cash investment and may receive a lower rate of return  
32 than that allowable for a private cash investment.

33 (f) The provisions of this section, and amendments thereto, shall  
34 be applicable to all taxable years commencing after December 31,  
35 1986.

36 Sec. 37. K.S.A. 2010 Supp. 74-99b03 is hereby amended to read  
37 as follows: 74-99b03. As used in the bioscience authority act, and  
38 amendments thereto, the following words and phrases shall have the  
39 following meanings unless a different meaning clearly appears from the

1 content:

2 (a) "Authority" means the Kansas bioscience authority created by  
3 this act.

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

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

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

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

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

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

38 (h) "Biotechnology" means those fields focusing on technological  
39 developments in such areas as molecular biology, genetic engineering,

- 1 genomics, proteomics, physiomics, nanotechnology, biodefense,  
2 biocomputing and bioinformatics.
- 3 (i) "Board" means the board of directors of the authority created  
4 by this act.
- 5 (j) "Bonds" has the same meaning as in K.S.A. 74-8902, and  
6 amendments thereto.
- 7 (k) "Bioscience development and investment fund" means the fund  
8 created by K.S.A. 2010 Supp. 74-99b34, and amendments thereto.
- 9 (l) "Eminent scholar" means world-class, distinguished and  
10 established investigators recognized nationally for their research,  
11 achievements and ability to garner significant federal funding on an  
12 annual basis. Eminent scholars are recognized for their scientific  
13 knowledge and entrepreneurial spirit to enhance the innovative research  
14 that leads to economic gains. Eminent scholars are either members of  
15 or likely candidates for the national academy of sciences or other  
16 prominent national academic science organizations.
- 17 ~~(m) "Kansas technology enterprise corporation" or "KTEC" means~~  
18 ~~the Kansas technology enterprise corporation created under K.S.A. 74-~~  
19 ~~8101, and amendments thereto.~~
- 20 ~~(n)~~ (m) "Life sciences" means the areas of medical sciences,  
21 pharmaceutical sciences, biological sciences, zoology, botany,  
22 horticulture, ecology, toxicology, organic chemistry, physical chemistry,  
23 physiology and any future advances associated with life sciences.
- 24 ~~(o)~~ (n) "NAICS" means the north American industry classification  
25 system.
- 26 ~~(p)~~ (o) "NISTAC" means the national institute for strategic  
27 technology acquisition and commercialization.
- 28 ~~(q)~~ (p) "President" means the chief executive officer of the  
29 authority.
- 30 ~~(r)~~ (q) "Principal operation" means the operation of the authority  
31 requiring at least 75% of the total number of employees at all times.
- 32 ~~(s)~~ (r) "Qualified company" means a Kansas company conducting  
33 bioscience research and development that may be granted a funding  
34 voucher.
- 35 ~~(t)~~ (s) "Rising star scholar" means up-and-coming distinguished  
36 investigators growing in their national reputations in their fields, who  
37 are active and demonstrate leadership in their associated professional  
38 societies, and who attract significant federal research grant support.  
39 Rising star scholars would be likely candidates for the national

1 academy of sciences or other prominent national academic science  
2 organizations in the future.

3 ~~(tt)~~ (t) "State" means the state of Kansas.

4 ~~(tv)~~ (u) "State employee" means a person employed by the state of  
5 Kansas whether or not a classified or unclassified employee in the state  
6 personnel system. Authority employees shall not be considered state  
7 employees, as such term is defined in this act or in any other statute or  
8 rule and regulation.

9 ~~(tw)~~ (v) "State universities" includes state educational institutions  
10 as defined in K.S.A. 76-711, and amendments thereto, and the  
11 municipal university as defined in K.S.A. 74-3201b, and amendments  
12 thereto.

13 ~~(tx)~~ (w) "Taxpayer" means a person, corporation, limited liability  
14 company, S corporation, partnership, registered limited liability  
15 partnership, foundation, association, nonprofit entity, sole  
16 proprietorship, business trust, group or other entity that is subject to the  
17 Kansas income tax act K.S.A. 79-3201 et seq., and amendments  
18 thereto.

19 ~~(ty)~~ (x) "Technology transfer" means, without limitation, assisting  
20 with filing patent applications, executing licenses, paying maintenance  
21 fees and managing the finance, production, sales and marketing of  
22 bioscience intellectual property.

23 ~~(tz)~~ (y) "This act" means the bioscience authority act.

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

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

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

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

38 (b) In order to accelerate any and all synergy and opportunities for  
39 the growth of the authority, the authority shall be headquartered and

1 establish its principal operation in the county in the state with the  
2 highest number of bioscience employees associated with bioscience  
3 companies as of the effective date of this act. The exact location of the  
4 authority's headquarters and principal operations in such county shall  
5 be at the discretion of the authority's board.

6 (c) The authority shall be governed by an eleven-member board.  
7 One member of the board shall be an agricultural expert who is  
8 recognized for outstanding knowledge and leadership in the field of  
9 bioscience. Eight of the members of the board shall be representatives  
10 of the general public who are recognized for outstanding knowledge  
11 and leadership in the fields of finance, business, bioscience research,  
12 plant biotechnology, basic research, health care, legal affairs,  
13 bioscience manufacturing or product commercialization, education or  
14 government. Of the nine voting members, five must be residents of the  
15 state. The other two members of the board shall be nonvoting members  
16 with research expertise representing state universities and shall be  
17 appointed by the Kansas board of regents. Nonvoting members shall  
18 serve at the pleasure of the board of regents.

19 (d) Of the nine voting members who will be appointed to the  
20 authority's first board, two shall be appointed by the governor for a  
21 term of office of four years, two shall be appointed by the speaker of  
22 the house of representatives, one of which shall be the agricultural  
23 expert as authorized in subsection (c), for a term of office of three  
24 years, two shall be appointed by the president of the senate for a term  
25 of office of three years, one shall be appointed by the minority leader of  
26 the house of representatives for a term of office of two years, one shall  
27 be appointed by the minority leader of the senate for a term of office of  
28 two years, and one shall be appointed by the ~~Kansas technology~~  
29 ~~enterprise corporation~~ *secretary of commerce* for a term of office of one  
30 year. Members of the first board shall be appointed by August 1, 2004.  
31 No more than three voting members shall be appointed from any one  
32 congressional district. All voting members of the board shall be subject  
33 to senate confirmation as provided in K.S.A. 75-4315b, and  
34 amendments thereto. Any member of the board whose nomination is  
35 subject to confirmation during a regular session of the legislature shall  
36 be deemed terminated when the senate rejects the nomination. No such  
37 termination shall affect the validity of any action taken by such member  
38 of the board before such termination.

39 (e) Terms of voting members appointed pursuant to this section



1 shall expire on March 15.

2 (f) After the expiration of the terms of the authority's first board,  
3 or whenever a vacancy occurs or is announced regarding a voting  
4 member or members of the board, such voting member or members  
5 shall be appointed as described in subsections (c) and (d), except that  
6 such members shall be appointed for terms of four years each. In the  
7 event of a vacancy the appointment shall be for the remainder of the  
8 unexpired portion of the term. Each member of the board shall hold  
9 office for the term of appointment and until a successor has been  
10 confirmed. Any member of the board is eligible for reappointment, but  
11 members of the board shall not be eligible to serve more than three  
12 consecutive four-year terms.

13 (g) Except for appointments of nonvoting members, each  
14 appointment shall be forwarded to the senate for confirmation as  
15 provided in K.S.A. 75-4315b, and amendments thereto. Except as  
16 provided by K.S.A. 2010 Supp. 46-2601, and amendments thereto, no  
17 person appointed to the board shall exercise any power, duty or  
18 function as a member of the board until confirmed by the senate. In  
19 case of a vacancy when the senate is not in session, the appointing  
20 entity may make a temporary appointment to the board until the next  
21 meeting of the senate. Any person who is temporarily appointed by the  
22 appointing entity to the board shall have all of the powers, duties and  
23 functions as a member of the board during such temporary  
24 appointment.

25 (h) The board annually shall elect a voting member as chairperson  
26 and at least one other as vice-chairperson. The board also shall elect a  
27 secretary and treasurer for terms to be determined by the board. The  
28 board may elect the same person to serve as both secretary and  
29 treasurer. The board shall establish an executive committee, nominating  
30 committee and other standing or special committees, and prescribe their  
31 duties and powers. Any executive committee of the board may exercise  
32 all such powers and duties of the board as the board may delegate.

33 (i) Members of the board are entitled to compensation and  
34 expenses as provided in K.S.A. 75-3223, and amendments thereto.  
35 Members of the board attending board meetings or subcommittee  
36 meetings authorized by the board, shall be paid mileage and all other  
37 applicable expenses, provided such expenses are consistent with  
38 policies established from time-to-time by the board and as required by  
39 subsection ~~(k)~~ (j).

1 (j) No part of the funds of the authority shall inure to the benefit  
2 of, or be distributed to, its employees, officers or members of the board,  
3 except that the authority may make reasonable payments for expenses  
4 incurred on its behalf relating to any of its lawful purposes and the  
5 authority shall be authorized and empowered to pay reasonable  
6 compensation for services rendered to or for its benefit relating to any  
7 of its lawful purposes, including to pay its employees reasonable  
8 compensation.

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

14 (l) The board shall meet at least four times per year and at such  
15 other times as it deems appropriate, or upon call by the president or the  
16 chairperson, or upon written request of a majority of the directors of the  
17 board. The board may adopt, repeal and amend such rules, procedures  
18 and bylaws, not contrary to law or inconsistent with this act, as it  
19 deems expedient for its own governance and for the governance and  
20 management of the authority. A majority of the total voting membership  
21 of the board shall constitute a quorum for meetings. The board may act  
22 by a majority of those at any meeting where a quorum is present,  
23 except upon such issues as the board may determine shall require a vote  
24 of six members of the board for approval. The board shall meet for the  
25 initial meeting upon call by the member of the board appointed by the  
26 ~~Kansas technology enterprise corporation~~ *secretary of commerce*, who  
27 shall act as temporary chairperson until officers of the board are elected  
28 pursuant to subsection ~~(j)~~ (h).

29 (m) The board shall appoint a president who shall serve at the  
30 pleasure of the board. The president shall serve as the chief executive  
31 officer of the authority. The president's salary shall be set by the board.  
32 The board may negotiate and enter into an employment agreement with  
33 the individual selected as president of the authority, which may provide  
34 for compensation allowances, benefits and expenses as may be  
35 included in such agreement. The president shall direct and supervise  
36 administrative affairs and the general management of the authority.

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

1 (o) The authority shall continue until terminated by law, except  
2 that no such law shall take effect so long as the authority has debts or  
3 obligations outstanding, unless adequate provision has been made for  
4 the payment or retirement of such debts or obligations. Upon any such  
5 dissolution of the authority, all property, funds and assets thereof shall  
6 be vested in the state, bioscience research institutions or both as  
7 designated by the board, or any other public institute or private  
8 enterprise engaged in the business of bioscience, or any combination  
9 thereof, as designated by the board and approved by act of the  
10 legislature.

11 Sec. 39. K.S.A. 2010 Supp. 74-99b09 is hereby amended to read  
12 as follows: 74-99b09. (a) The authority shall have all of the powers  
13 necessary to carry out the purposes and provisions of this act,  
14 including, without limitation, the following powers to:

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

17 (2) have the duties, privileges, immunities, rights, liabilities and  
18 disabilities of a body politic and corporate and independent  
19 instrumentality of the state;

20 (3) have perpetual existence and succession;

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

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

23 (6) work with bioscience research institutions to identify and  
24 recruit eminent scholars and rising star scholars who shall become  
25 employed by bioscience research institutions or the authority, or both,  
26 to perform bioscience research, development and commercialization at  
27 bioscience research institutions or at authority facilities, or both;

28 (7) transfer funds to bioscience research institutions in amounts to  
29 be determined by the board for the purpose of attracting and then  
30 supplementing the compensation of eminent scholars and rising star  
31 scholars;

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

35 (9) work with bioscience research institutions to determine the  
36 types of facilities that may be constructed at bioscience research  
37 institutions or at authority premises, or elsewhere, for eminent scholars  
38 and rising star scholars to perform bioscience research and  
39 development;

- 1 (10) employ personnel to assist or complement the research of  
2 eminent scholars and rising star scholars;
- 3 (11) establish policies and procedures to facilitate integrated  
4 bioscience research activities by the authority and bioscience research  
5 institutions;
- 6 (12) make and execute contracts, guarantees or any other  
7 instruments and agreements necessary or convenient for the exercise of  
8 its powers and functions including, without limitation, to make and  
9 execute contracts with bioscience enterprises, including start-up  
10 companies, other public and private persons and entities, health care  
11 businesses, state universities and colleges, and to incur liabilities and  
12 secure the obligations of any entity or individual;
- 13 (13) partner with the bioscience research institutions to provide  
14 matching funds for federal grants;
- 15 (14) borrow money and to pledge all or any part of the authority's  
16 assets therefore;
- 17 (15) purchase, lease, trade, exchange or otherwise acquire,  
18 maintain, hold, improve, mortgage, sell and dispose of personal  
19 property, whether tangible or intangible, and any interest therein; and to  
20 purchase, lease, trade, exchange or otherwise acquire real property or  
21 any interest therein, and to maintain, hold, improve, mortgage, sell,  
22 lease and otherwise transfer such real property to the universities,  
23 colleges, public institutions and private enterprises in the state, so long  
24 as such transactions do not conflict with the mission of the authority as  
25 specified in this act;
- 26 (16) own, acquire, construct, renovate, equip, improve, operate,  
27 maintain, sell or lease any land, buildings or facilities in the state that  
28 can be used in researching, developing, sponsoring or commercializing  
29 bioscience in the state including, without limitation, a state-of-the-art  
30 facility, laboratory or commercial wet lab space incubator to be used by  
31 the authority, and also to be made available for use by bioscience  
32 research institutions or Kansas companies conducting bioscience  
33 research and development for bioscience research, commercialization  
34 and technology transfer of bioscience products, processes and other  
35 intellectual property in accordance with the provisions of this act;
- 36 (17) incur or assume indebtedness to, and enter into contracts with  
37 the Kansas development finance authority, which is authorized to  
38 borrow money, issue bonds and provide financing for the authority;
- 39 (18) develop policies and procedures generally applicable to the

- 1 procurement of goods, services and construction, based upon sound  
2 business practices;
- 3 (19) solicit, study and assist in the preparation of business plans  
4 and proposals of new or established businesses to advance the  
5 biosciences in the state;
- 6 (20) own and possess patents, copyrights, trademarks and  
7 proprietary technology and to enter into contracts for the purposes of  
8 commercializing and establishing charges for the use of such patents,  
9 copyrights, trademarks and proprietary technology involving  
10 bioscience;
- 11 (21) contract for and to accept any gifts, grants and loans of funds,  
12 property or any other aid in any form from the federal government, the  
13 state, any state agency or any other source, or any combination thereof,  
14 and to comply with the provisions of the terms and conditions thereof;
- 15 (22) acquire space, equipment, services, supplies and insurance  
16 necessary to carry out the purposes of this act;
- 17 (23) deposit any moneys of the authority in any banking institution  
18 within or without the state or in any depository authorized to receive  
19 such deposits, one or more persons to act as custodians of the moneys  
20 of the authority;
- 21 (24) procure such insurance, participate in such insurance plans or  
22 provide such self-insurance or both as it deems necessary or convenient  
23 to carry out the purposes and provisions of this act; the purchase of  
24 insurance, participation in an insurance plan or creation of a self-  
25 insurance fund by the authority shall not be deemed as a waiver or  
26 relinquishment of any sovereign immunity to which the authority or its  
27 officers, directors, employees or agents are otherwise entitled;
- 28 (25) appoint, supervise and set the salary and compensation of the  
29 president, who shall be appointed by and serve at the pleasure of the  
30 board;
- 31 (26) fix, revise, charge and collect rates, rentals, fees and other  
32 charges for the services or facilities furnished by or on behalf of the  
33 authority, and to establish policies and procedures regarding any such  
34 service rendered for the use, occupancy or operation of any such  
35 facility; such charges and policies and procedures not to be subject to  
36 supervision or regulation by any commission, board, bureau or agency  
37 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.

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

4 (c) The authority may participate in joint ventures and collaborate  
5 with any taxpayer, governmental body or agency, insurer, university  
6 and college of the state, or any other entity to facilitate any activities or  
7 programs consistent with the purpose and intent of this act.

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

21 (2) Grants made pursuant to this subsection shall be based on  
22 requirements established by the nonprofit entity and may include, but  
23 not be limited to, requirements for eligibility, grant applications,  
24 organizational characteristics and standards for eligibility and  
25 accountability as are deemed advisable by the nonprofit entity.

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

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

35 (f) Notwithstanding any provision of law to the contrary, the  
36 authority may, ~~on an independent basis for itself or from time to time~~  
37 ~~through a contractual relationship with KTEC,~~ invest the funds  
38 received from gifts, grants, donations and other operations of the  
39 authority in such investments as would be lawful for a private

1 corporation having purposes similar to the authority including preseed,  
2 seed capital and venture capital funds whose purpose is to  
3 commercialize bioscience intellectual property, and in any obligations  
4 or securities as authorized by the board. Prior to making any  
5 investments, the board shall adopt written investment guidelines.

6 (g) Except as provided in this act, all moneys earned or received  
7 by the authority, including all funds derived from the  
8 commercialization of bioscience products by the authority, or any  
9 affiliate or subsidiary thereof, or from the Kansas bioscience  
10 development and investment fund, shall belong exclusively to the  
11 authority.

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

31 ~~(i) During the first five years after the effective date of this act, the~~  
32 ~~authority may contract with KTEC, which will be able to subcontract~~  
33 ~~with appropriate third parties as it deems necessary and appropriate,~~  
34 ~~including, without limitation, NISTAC, for the initial~~  
35 ~~commercialization efforts for bioscience intellectual property,~~  
36 ~~including, without limitation, corporate patent donations. The contract~~  
37 ~~between the authority and KTEC must be negotiated between the~~  
38 ~~authority and KTEC and will set forth the rights and responsibilities of~~  
39 ~~each party, including the financial terms, payment of funds for~~

1 ~~personnel, assumptions of risks, technology transfer and terms of~~  
2 ~~ownership and licensure of such bioeience intellectual property. The~~  
3 ~~contract between the authority and KTEC must also set forth the~~  
4 ~~authority's right, if any, to sell, license, contribute or provide its~~  
5 ~~contractual share of bioeience intellectual property to any third party,~~  
6 ~~or provide services, facilities or assistance to any third party, for a fee,~~  
7 ~~for an ownership interest in the third party, or other consideration, so as~~  
8 ~~to commercialize bioeience technology. After the five-year period~~  
9 ~~from the effective date of this act, the authority may independently~~  
10 ~~commercialize or enter into contracts with third parties for the~~  
11 ~~commercialization of bioeience intellectual property and for~~  
12 ~~technology transfer. The authority will take steps to reasonably ensure~~  
13 ~~that it does not duplicate existing commercialization efforts already~~  
14 ~~located in the state and recognizes the important role KTEC plays in~~  
15 ~~the state. After the five-year period from the effective date of this act,~~  
16 ~~the authority may sell, license, contribute or provide bioeience~~  
17 ~~intellectual property to any third party, or provide services, facilities or~~  
18 ~~assistance to any third party, for a fee, for an ownership interest in the~~  
19 ~~third party, or other consideration, so as to commercialize bioeience~~  
20 ~~technology. The authority may take all such actions necessary to~~  
21 ~~commercialize any technology in which the authority has an interest.~~

22 (j) ~~For the five-year period following the effective date of this act,~~  
23 ~~the authority may transfer funds to KTEC for the operation and~~  
24 ~~management of authority-owned facilities, including, without~~  
25 ~~limitation, funds for KTEC to employ the personnel necessary to assist~~  
26 ~~the authority, the exact amount of such transfer to be negotiated~~  
27 ~~between the authority and KTEC. After consulting with and in~~  
28 ~~accordance with recommendations by the board, KTEC may use such~~  
29 ~~funds to identify, recruit and employ personnel who will perform~~  
30 ~~management and other services at such authority-owned facilities.~~

31 (k) ~~During the five-year period after the effective date of this act,~~  
32 ~~the authority shall contract with KTEC at least once a year for KTEC to~~  
33 ~~submit a report to the board identifying all patents secured, licenses~~  
34 ~~granted, the number of eminent scholars and rising star scholars in the~~  
35 ~~state, a complete accounting of interests in technology sold, transferred,~~  
36 ~~licensed or otherwise disposed of, including, without limitation, the~~  
37 ~~names of buyers, the buyers' location, the date the technology was~~  
38 ~~transferred, revenue generated by the transfer of such technology, and~~  
39 ~~any other information that the board deems appropriate. After the five-~~



1 ~~year period from the effective date of this act, on at least an annual~~  
2 ~~basis, the authority shall conduct, either independently or through a~~  
3 ~~contract with a third party, including KTEC if chosen by the authority,~~  
4 ~~a report of the foregoing information to be submitted to the board.~~

5 (4)—The authority shall prepare an annual report to the legislature  
6 and the governor on all distributions from the bioscience development  
7 and investment fund, and income, investment and income tax credits  
8 and exemptions attributed to bioscience authority activity. The  
9 authority with assistance from the department of revenue shall prepare  
10 an annual report summarizing the growth of bioscience research and  
11 industry in Kansas.

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

16 Sec. 40. K.S.A. 2010 Supp. 74-99b63 is hereby amended to read  
17 as follows: 74-99b63. As used in the bioscience research and  
18 development voucher program act, and amendments thereto, the  
19 following words and phrases have the following meanings unless a  
20 different meaning clearly appears from the content:

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

23 (b) "Bioscience" means, without limitation, the use of  
24 compositions, methods and organisms in cellular and molecular  
25 research, development and manufacturing processes for such diverse  
26 areas as pharmaceuticals, medical therapeutics, medical diagnostics,  
27 medical devices, medical instruments, biochemistry, microbiology,  
28 veterinary medicine, plant biology, agriculture, industrial,  
29 environmental and homeland security applications of bioscience and  
30 future developments in the biosciences. Bioscience includes  
31 biotechnology and life sciences.

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

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

39 (e) "Biotechnology" means, without limitation, those fields

1 focusing on technological developments in such areas as molecular  
2 biology, genetic engineering, genomics, proteomics, physiomics,  
3 nanotechnology, biodefense, biocomputing, bioinformatics and future  
4 developments associated with biotechnology.

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

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

11 ~~(h)~~(g) "Qualified company" means a Kansas company conducting  
12 bioscience research and development that may be granted a funding  
13 voucher.

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

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

17 Sec. 41. K.S.A. 2010 Supp. 74-99b66 is hereby amended to read  
18 as follows: 74-99b66. (a) ~~On terms mutually acceptable to the authority~~  
19 ~~and KTEC the authority may contract with KTEC, to~~ *The authority*  
20 *shall* review applications and to certify whether an applicant is a  
21 qualified company.

22 ~~(b) On terms mutually acceptable to the authority and KTEC, the~~  
23 ~~authority may contract with KTEC to~~ *The authority shall* develop  
24 application criteria and an application process subject to the following  
25 limitations. The proposed bioscience research and development project  
26 must be likely to:

27 (1) Produce a measurable result and be technically sound;  
28 (2) lead to innovative technology or new knowledge;  
29 (3) lead to commercially successful products, processes or  
30 services;

31 (4) stimulate economic growth; or  
32 (5) enhance employment opportunities within the state.

33 (c) As part of the application process, the applicant shall provide  
34 the following information to the authority:

35 (1) Verification that the applicant is a Kansas company conducting  
36 bioscience research and development;

37 (2) a technical research plan that is sufficient for outside expert  
38 review;

39 (3) a detailed financial analysis that includes the commitment of

1 resources by the applicant and others;

2 (4) sufficient detail concerning proposed project partners, type and  
3 amount of work to be performed by each partner and expected product  
4 or service with estimated costs to be reflected in the negotiated contract  
5 or agreement; and

6 (5) a statement of the economic development potential of the  
7 project.

8 (d) Before providing the qualified company with a certificate  
9 authorizing voucher funding from the authority ~~through KTEC~~, the  
10 authority may negotiate with the qualified company the ownership of  
11 patents, copyrights, trademarks, proprietary technology and any other  
12 intellectual property rights, royalties and equity relating to the  
13 bioscience research and development project on behalf of the research  
14 and development voucher fund for the purpose of reinvesting and  
15 sustaining a continuous fund to carry out the provisions of this act.

16 Sec. 42. K.S.A. 2010 Supp. 74-99c03 is hereby amended to read  
17 as follows: 74-99c03. (a) There is hereby created a body politic and  
18 corporate to be known as the Kansas center for entrepreneurship. The  
19 secretary of commerce, after consulting with the board of directors,  
20 shall enter into a contractual agreement for the operation of the center.  
21 The center's exercise of all the rights, powers and privileges conferred  
22 by this act and shall be deemed and held to be the performance of an  
23 essential government function.

24 (b) The center shall be governed by a board of ~~10~~11 directors. The  
25 board of directors shall be appointed by the secretary of commerce and  
26 shall be comprised of individuals who have demonstrated  
27 entrepreneurial success, including one member from each of the  
28 following organizations:

- 29 (1) Three at-large entrepreneurs,
- 30 (2) An agricultural entrepreneur knowledgeable in biosciences,
- 31 (3) banking industry,
- 32 (4) travel/tourism industry,
- 33 (5) enterprise facilitation,
- 34 (6) Kansas chamber of commerce and industry,
- 35 (7) Kansas small business development centers, *and*
- 36 (8) ~~Kansas technology enterprise corporation and~~
- 37 (9) national federation of independent businesses.

38 (c) (1) Members shall serve for a term of four years and until such  
39 members' successors are appointed, except that, of the members first

1 appointed, three shall serve for a term of two years, three shall serve for  
2 a term of three years and two shall serve for a term of four years.

3 (2) In case of a vacancy by a member, a successor shall be  
4 appointed in like manner and subject to the same qualifications and  
5 conditions as the original appointment of the member creating the  
6 vacancy and shall serve the remainder of the unexpired portion of the  
7 term.

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

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

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

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

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

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

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

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

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

37 (m) The board of directors shall:

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

- 1 entrepreneurship;
- 2 (2) make recommendations to the Kansas center for  
3 entrepreneurship regarding its policies and procedures;
- 4 (3) review and evaluate the Kansas center for entrepreneurs'  
5 annual report in light of this act's purpose, policy and procedures and  
6 current economic conditions, and, report its conclusions and  
7 recommendations to the secretary and the center;
- 8 (4) advise the secretary regarding any matter of impropriety  
9 involving the Kansas center for entrepreneurship of which it becomes  
10 aware; and
- 11 (5) carry out any other advisory or oversight function the secretary  
12 deems necessary to fulfill and further the purpose and intent of this act.
- 13 Sec. 43. K.S.A. 2010 Supp. 75-2935 is hereby amended to read as  
14 follows: 75-2935. The civil service of the state of Kansas is hereby  
15 divided into the unclassified and the classified services.
- 16 (1) The unclassified service comprises positions held by state  
17 officers or employees who are:
- 18 (a) Chosen by election or appointment to fill an elective office;
- 19 (b) members of boards and commissions, heads of departments  
20 required by law to be appointed by the governor or by other elective  
21 officers, and the executive or administrative heads of offices,  
22 departments, divisions and institutions specifically established by law;
- 23 (c) except as otherwise provided under this section, one personal  
24 secretary to each elective officer of this state, and in addition thereto,  
25 10 deputies, clerks or employees designated by such elective officer;
- 26 (d) all employees in the office of the governor;
- 27 (e) officers and employees of the senate and house of  
28 representatives of the legislature and of the legislative coordinating  
29 council and all officers and employees of the office of revisor of  
30 statutes, of the legislative research department, of the division of  
31 legislative administrative services, of the division of post audit and the  
32 legislative counsel;
- 33 (f) chancellor, president, deans, administrative officers, student  
34 health service physicians, pharmacists, teaching and research  
35 personnel, health care employees and student employees in the  
36 institutions under the state board of regents, the executive officer of the  
37 board of regents and the executive officer's employees other than  
38 clerical employees, and, at the discretion of the state board of regents,  
39 directors or administrative officers of departments and divisions of the

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

- 1 department of social and rehabilitation services;
- 2 (p) physician specialists, dentists and medical technologists  
3 employed by any board, commission or department or by any  
4 institution under the jurisdiction thereof;
- 5 (q) student employees enrolled in public institutions of higher  
6 learning;
- 7 (r) administrative officers, directors and teaching personnel of the  
8 state board of education and the state department of education and of  
9 any institution under the supervision and control of the state board of  
10 education, except that this subsection (1)(r) shall not be construed to  
11 include the custodial, clerical or maintenance employees, or any  
12 employees performing duties in connection with the business  
13 operations of any such institution, except administrative officers and  
14 directors;
- 15 (s) all officers and employees in the office of the secretary of state;
- 16 (t) one personal secretary and one special assistant to the  
17 following: The secretary of administration, the secretary of aging, the  
18 secretary of agriculture, the secretary of commerce, the secretary of  
19 corrections, the secretary of health and environment, the superintendent  
20 of the Kansas highway patrol, the secretary of labor, the secretary of  
21 revenue, the secretary of social and rehabilitation services, the secretary  
22 of transportation, the secretary of wildlife and parks and the  
23 commissioner of juvenile justice;
- 24 (u) one personal secretary and one special assistant to the  
25 chancellor and presidents of institutions under the state board of  
26 regents;
- 27 (v) one personal secretary and one special assistant to the  
28 executive vice chancellor of the university of Kansas medical center;
- 29 (w) one public information officer and one chief attorney for the  
30 following: The department of administration, the department on aging,  
31 the department of agriculture, the department of commerce, the  
32 department of corrections, the department of health and environment,  
33 the department of labor, the department of revenue, the department of  
34 social and rehabilitation services, the department of transportation, the  
35 Kansas department of wildlife and parks and the commissioner of  
36 juvenile justice;
- 37 (x) civil service examination monitors;
- 38 (y) one executive director, one general counsel and one director of  
39 public affairs and consumer protection in the office of the state

1 corporation commission;

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

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

6 (bb) any position that is classified as a position in the information  
7 resource manager job class series, that is the chief position responsible  
8 for all information resources management for a state agency, and that  
9 becomes vacant on or after the effective date of this act. Nothing in this  
10 section shall affect the classified status of any employee in the  
11 classified service who is employed on the date immediately preceding  
12 the effective date of this act in any position that is a classified position  
13 in the information resource manager job class series and the  
14 unclassified status as prescribed by this subsection shall apply only to a  
15 person appointed to any such position on or after the effective date of  
16 this act that is the chief position responsible for all information  
17 resources management for a state agency; and

18 (cc) positions at state institutions of higher education that have  
19 been converted to unclassified positions pursuant to K.S.A. 2010 Supp.  
20 76-715a, and amendments thereto.

21 (2) The classified service comprises all positions now existing or  
22 hereafter created which are not included in the unclassified service.  
23 Appointments in the classified service shall be made according to merit  
24 and fitness from eligible pools which so far as practicable shall be  
25 competitive. No person shall be appointed, promoted, reduced or  
26 discharged as an officer, clerk, employee or laborer in the classified  
27 service in any manner or by any means other than those prescribed in  
28 the Kansas civil service act and the rules adopted in accordance  
29 therewith.

30 (3) For positions involving unskilled, or semiskilled duties, the  
31 secretary of administration, as provided by law, shall establish rules and  
32 regulations concerning certifications, appointments, layoffs and  
33 reemployment which may be different from the rules and regulations  
34 established concerning these processes for other positions in the  
35 classified service.

36 (4) Officers authorized by law to make appointments to positions  
37 in the unclassified service, and appointing officers of departments or  
38 institutions whose employees are exempt from the provisions of the  
39 Kansas civil service act because of the constitutional status of such



1 departments or institutions shall be permitted to make appointments  
2 from appropriate pools of eligibles maintained by the division of  
3 personnel services.

4 Sec. 44. K.S.A. 75-2935b is hereby amended to read as follows:  
5 75-2935b. Salaries and other compensation of all persons who are  
6 within the unclassified service of the Kansas civil service act, and  
7 which salaries and other compensation are not fixed by statute, shall be  
8 subject to the approval of the governor and such salaries or other  
9 compensation shall not be paid until approved by the governor. The  
10 provisions of this section shall not apply to the salaries and other  
11 compensation of any officer or employee when such salary or other  
12 compensation is specifically prescribed by law, nor to officers and  
13 employees of elected state officials, officers and employees under the  
14 jurisdiction of the state board of regents, the executive secretary and  
15 other employees of the Kansas public employees retirement system that  
16 are in the unclassified service as specified under K.S.A. 74-4908, and  
17 amendments thereto, officers and employees of Kansas, Inc. ~~and the~~  
18 ~~Kansas technology enterprise corporation~~, officers and employees  
19 under the jurisdiction of the supreme court, legislative officers and  
20 employees or officers and employees of any agency performing  
21 functions and duties primarily for the legislative branch.

22 Sec. 45. K.S.A. 75-3208 is hereby amended to read as follows: 75-  
23 3208. (a) Except as provided in subsection (e) or (f) or as otherwise  
24 authorized or provided by statute, no claim for expenses for any trip  
25 made beyond the borders of the state by any appointive state officer or  
26 employee shall be paid by the state unless the trip has been approved as  
27 provided by this section.

28 (b) Except as otherwise prescribed by a majority of the justices of  
29 the supreme court, authority to grant written approval for any such trip  
30 by an officer or employee of the judicial branch, or any agency thereof,  
31 is vested in the judicial administrator or the judicial administrator's  
32 designee.

33 (c) Except as otherwise authorized or provided by statute,  
34 authority to grant approval for any such trip by a legislator or an officer  
35 or employee of an agency of the legislative branch is vested with the  
36 legislative coordinating council or an individual authorized by the  
37 legislative coordinating council to grant written approval in the case of  
38 any such trip by an officer or employee of an agency of the legislative  
39 branch.

1 (d) Except as otherwise prescribed by the officer, board or  
2 commission that appointed an agency head, authority to grant written  
3 approval for any such trip by an officer or employee of the executive  
4 branch is vested in such officer's or employee's agency head or the  
5 agency head's designee.

6 (e) In cases involving such a trip by an agency head or by  
7 appointive members of a board, commission or similar body that  
8 appoints an agency head, no approval shall be required unless the  
9 appointing authority of the agency head or the members of the board,  
10 commission or similar body, as the case may be, requires such approval  
11 by the appointing authority.

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

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

18 Sec. 46. K.S.A. 76-770 is hereby amended to read as follows: 76-  
19 770. (a) Each contract entered into by a state educational institution for  
20 the acquisition of goods or services for a research and development  
21 activity shall be exempt from the provisions of K.S.A. 75-3739 through  
22 75-3744, and amendments thereto if the contract is financed 50% or  
23 more by moneys received from ~~the Kansas technology enterprise~~  
24 ~~corporation~~, federal agencies or other external sources.

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

34 (c) As used in this section:

35 (1) "Research and development activity" means any center of  
36 excellence at a state educational institution, any research or  
37 development project or activity at the state educational institution  
38 funded under a research matching grant program of the ~~Kansas~~  
39 ~~technology enterprise corporation~~ *department of commerce*, or any

1 other sponsored research project at a state educational institution; and  
2 (2) "state educational institution" means a state educational  
3 institution as defined by K.S.A. 76-711, and amendments thereto.  
4 Sec. 47. K.S.A. 74-5001a, 74-5050, 74-8102, 74-8103, 74-8105,  
5 74-8106, 74-8107, 74-8108, 74-8108a, 74-8109, 74-8110, 74-8111, 74-  
6 8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-  
7 770 and K.S.A. 2010 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151,  
8 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134,  
9 74-8135, 74-8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-  
10 99b66, 74-99c03 and 75-2935 are hereby repealed.  
11 Sec. 48. This act shall take effect and be in force from and after its  
12 publication in the statute book.  
13