

**SENATE BILL No. 42**

By Committee on Commerce

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, 74-  
9 8134, 74-8135, 74-8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63,  
10 74-99b66, 74-99c03 and 75-2935 and repealing the existing sections;  
11 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 technology  
20 enterprise corporation are hereby transferred to and conferred and  
21 imposed upon the department of commerce and the secretary of  
22 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 commerce.

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

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

32 (a) The department of commerce and the secretary of commerce  
33 shall be the successor in every way to the powers, duties and functions of  
34 the Kansas technology enterprise corporation in which the same were  
35 vested prior to the effective date of this section and that are transferred  
36 pursuant to section 2, and amendments thereto. Every act performed in

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

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

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

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

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

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

36 (2) Officers and employees of the Kansas technology enterprise  
37 corporation transferred by this act shall retain all retirement benefits and  
38 leave balances and rights which had accrued or vested prior to the date of  
39 transfer. The service of each such officer and employee so transferred  
40 shall be deemed to have been continuous. All transfers, layoffs or  
41 abolition of classified service positions under the Kansas civil service act  
42 shall be made in accordance with the civil service laws and any rules and  
43 regulations adopted thereunder. Nothing in this act shall affect the

1 classified status of any transferred person employed by the Kansas  
2 technology enterprise corporation.

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

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

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

19 (1) All powers, duties and functions under K.S.A. 74-8106, and  
20 amendments thereto, relating to the centers of excellence established  
21 under K.S.A. 74-8106, and amendments thereto;(2) all powers, duties  
22 and functions under K.S.A. 74-8102 through 74-8111, and amendments  
23 thereto, relating to the strategic technology and research (STAR) fund;  
24 and

25 (3) all powers, duties and functions under K.S.A. 74-8102 through  
26 74-8111, and amendments thereto, relating to the experimental program  
27 to stimulate competitive research (EPSCoR).

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

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

39 New Sec. 6. On and after the effective date of this act: (a) The board  
40 of regents shall be the successor in every way to the powers, duties and  
41 functions of the Kansas technology enterprise corporation in which the  
42 same were vested prior to the effective date of this section, and  
43 amendments thereto, and that are transferred pursuant to section 5, and

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

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

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

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

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

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

37 (2) Officers and employees of the Kansas technology enterprise  
38 corporation transferred by this act shall retain all retirement benefits and  
39 leave balances and rights which had accrued or vested prior to the date of  
40 transfer. The service of each such officer and employee so transferred  
41 shall be deemed to have been continuous. All transfers, layoffs or  
42 abolition of classified service positions under the Kansas civil service act  
43 shall be made in accordance with the civil service laws and any rules and

1 regulations adopted thereunder. Nothing in this act shall affect the  
2 classified status of any transferred person employed by the Kansas  
3 technology enterprise corporation.

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

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

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

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

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

33 (1) The secretary of agriculture or the successor of the secretary of  
34 agriculture, or the secretary's designee;

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

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

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

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

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

1       ~~(7) one person appointed by the Kansas technology enterprise-~~  
2 ~~corporation from among the board of directors of the Kansas technology~~  
3 ~~enterprise corporation; and~~

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

10       (b) Of the persons initially appointed by the governor under  
11 subsection (a), three shall have a term of one year, three shall have a term  
12 of two years and three shall have a term of three years and until a  
13 successor is appointed and qualified. Thereafter, all members shall have  
14 terms of three years and until a successor is appointed and qualified.

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

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

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

39       Sec. 10. K.S.A. 74-5001a is hereby amended to read as follows: 74-  
40 5001a. The purpose of the department of commerce shall be to develop  
41 and implement strategies to:

42       (a) Facilitate the growth, diversification and expansion of existing  
43 enterprises and the creation by Kansans of new wealth-generating

1 enterprises;

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

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

8 (d) maintain and revitalize economically depressed rural areas and  
9 urban neighborhoods by annually targeting scarce resources by size,  
10 sector and location to communities and enterprises of particular need and  
11 opportunity; and by working in close collaboration with local  
12 communities;

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

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

23 Sec. 11. K.S.A. 2010 Supp. 74-5005 is hereby amended to read as  
24 follows: 74-5005. The department shall be the lead agency of the state for  
25 economic development of commerce through the promotion of business,  
26 industry, trade and tourism within the state. In general, but not by way of  
27 limitation, the department shall have, exercise and perform the following  
28 powers and duties:

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

33 (b) to coordinate the implementation of the strategy with all other  
34 state and local agencies and offices and state educational institutions  
35 which do research work, develop materials and programs, gather  
36 statistics, or which perform functions related to economic development;  
37 and such state and local agencies and offices and state educational  
38 institutions shall advise and cooperate with the department in the  
39 planning and accomplishment of the purposes of this act;

40 (c) to advise and cooperate with all federal departments, research  
41 institutions, educational institutions and agencies, quasi-public  
42 professional societies, private business and agricultural organizations and  
43 associations, and any other party, public or private, and to call upon such

1 parties for consultation; and assistance in their respective fields of  
2 interest, to the end that all ~~up-to-date~~ *up-to-date* available technical  
3 advice, information and assistance be gathered for the use of the  
4 department, the governor, the legislature; and the people of this state;

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

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

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

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

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

34 (i) to establish a clearinghouse for the collection and dissemination  
35 of information concerning the number and location of public and private  
36 postsecondary vocational and technical education programs in areas  
37 critical to economic development;

38 (j) to acquaint the people of this state with the industries within the  
39 state and encourage closer cooperation between the farming, commercial  
40 and industrial enterprises and the people of the state;

41 (k) to encourage and promote the traveling public to visit this state  
42 by publicizing information as to the recreational, historic and natural  
43 advantages of the state and its facilities for transient travel and to contract



1 with organizations for the purpose of promoting tourism within the state;  
2 and the department may request other state agencies such as, but not  
3 limited to, the Kansas water office, the Kansas department of wildlife and  
4 parks and the department of transportation, for assistance and all such  
5 agencies shall coordinate information and their respective efforts with the  
6 department to most efficiently and economically carry out the purpose  
7 and intent of this subsection;

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

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

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

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

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

39 (q) to organize, or cause to be organized, an advisory board or  
40 boards representing interested groups, including industry, labor,  
41 agriculture, scientific research, the press, the professions, industrial  
42 associations, civic groups, etc.; and such board or boards shall advise  
43 with the department as to its work and the department shall, as far as

1 practicable, cooperate with such board or boards, and secure the active  
2 aid thereof in the accomplishment of the aims and objectives of the  
3 department;

4 (r) to perform the duties imposed under the Kansas venture capital  
5 company act;

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

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

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

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

26 Sec. 12. K.S.A. 2010 Supp. 74-50,133 is hereby amended to read as  
27 follows: 74-50,133. There is hereby created within the department of  
28 commerce the "high performance incentive fund" to provide matching  
29 funds for business assistance and consulting services to qualified firms  
30 under the provisions of K.S.A. 74-50,131, *and amendments thereto*, that  
31 are entitled to a workforce training tax credit under the provisions of  
32 K.S.A. 74-50,132, *and amendments thereto*, or have received written  
33 approval for and are participating, at the time the funds are sought, in the  
34 Kansas industrial training, Kansas industrial retraining or state of Kansas  
35 investments in lifelong learning program, subject to appropriation of  
36 funds and program criteria, as hereinafter provided. The department of  
37 commerce may provide funds to qualified firms, on a matching basis, to  
38 pay up to 50% of such firm's costs of acquiring consulting services  
39 provided by the mid-America manufacturing technology center, or  
40 approved private consultants to assist in improving the firm's  
41 management, production processes or product or service quality.  
42 Qualified firms also shall receive priority consideration for any other  
43 business assistance programs administered by the department of

1 commerce, the Kansas technology enterprise corporation and the mid-  
2 America manufacturing technology center.

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

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

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

19 (2) the potential location in Kansas of the operations of a major  
20 employer;

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

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

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

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

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

42 (e) The director of the budget and the director of the legislative  
43 research department shall consult periodically and review the balance

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

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

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

24 (2) the net earnings rate for the pooled money investment portfolio  
25 for the preceding month.

26 (g) A ~~five~~ *three* member panel consisting of the secretary of  
27 commerce, the president of Kansas, Inc., ~~the president of the Kansas~~  
28 ~~technology enterprise corporation, the private sector chairperson of the~~  
29 ~~board of Kansas, Inc., and the private sector chairperson of the Kansas~~  
30 ~~technology enterprise corporation~~ *and the private sector chairperson of*  
31 *the board of Kansas, Inc.* shall review annually the propriety of projects  
32 funded under this section. The panel shall report its findings in writing to  
33 the governor, the new economy committee of the house of  
34 representatives, the senate commerce committee and the joint committee  
35 on economic development. The report to the new economy committee of  
36 the house of representatives, the commerce committee of the senate and  
37 the joint committee on economic development under this subsection shall  
38 be made either (1) by the panel by publishing such report on the internet  
39 and by notifying each member of the committees that the report is  
40 available and providing, as part of such notice, the uniform resource  
41 locator (URL) at which such report is available, or (2) by submitting  
42 copies of such report on CD-ROM or other electronically readable media  
43 to such committees.

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

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

41       (c) Subject to the provisions of appropriations acts, the functions of  
42 the agricultural value added center within the agriculture products  
43 development division shall include, but not be limited to, developing a

1 market referral program, matching distribution to buyers in coordination  
2 with other state agencies concerned with marketing Kansas products;  
3 assisting private entrepreneurs in the establishment of facilities and  
4 markets for new agricultural value added endeavors; and introducing  
5 coordinated programs to develop marketing skills of existing agricultural  
6 value adding processors in Kansas.

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

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

12 (B) promote their sales distribution and merchandising;

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

14 (D) study and recommend efficient and economical methods of  
15 marketing;

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

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

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

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

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

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

1 designated by the secretary.

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

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

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

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

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

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

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

41 ~~(g) Subject to appropriation acts, the secretary of commerce shall~~  
42 ~~fulfill all contracts in existence on the effective date of this act between~~  
43 ~~the Kansas technology enterprise corporation and the alternative~~

1 ~~agriculture research and development center.~~

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

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

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

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

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

37 (ii) advanced technology industries of aviation, manufacturing,  
38 information and design; and

39 (iii) emerging industries of telecommunications, computer software,  
40 information services and research services; and

41 (B) two ~~directors~~ *members* shall be persons who represent the  
42 private financial sector of whom one shall have experience in the area of  
43 high-risk venture investments, and the other shall have commercial



1 banking experience in an industry of special technological importance to  
2 the Kansas economy.

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

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

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

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

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

1 include, but are not limited to:

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

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

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

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

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

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

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

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

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

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

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

1 ~~directors members.~~

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

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

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

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

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

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

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

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

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

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

43 (2) awarding applied research matching grants to Kansas educational

1 institutions and Kansas private enterprises in order to move innovation  
2 and applied research toward commercial application;

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

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

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

16 Sec. 17. K.S.A. 74-8103 is hereby amended to read as follows: 74-  
17 8103. As used in this act, unless the context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~(1) Make, amend and repeal bylaws, rules and regulations for the~~  
26 ~~management of its affairs~~ *Adopt rules and regulations as deemed*  
27 *necessary for the implementation of K.S.A. 74-8101 through 74-8104 and*  
28 *74-8107 through 74-8111, and amendments thereto;*

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

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

34 ~~(4)~~ (3) acquire, own, hold, dispose of and encumber real or personal  
35 property of any nature, both tangible and intangible, or any interest  
36 therein;

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

41 ~~(6)~~ (5) acquire real property or an interest therein, by purchase or  
42 foreclosure, where such acquisition is necessary or appropriate to protect  
43 or secure any investment or loan in which the ~~corporation~~ department has

- 1 an interest;
- 2 (7) (6) sell, transfer and convey any such property to a buyer, and in  
3 the event such sale, transfer or conveyance cannot be effected with  
4 reasonable promptness or at a reasonable price, to lease such property to a  
5 tenant;
- 6 (8) (7) invest any funds appropriated by the state and held in reserve  
7 in funds not required for immediate disbursement, in such investments  
8 that may be lawful for fiduciaries in this state, and invest funds received  
9 from gifts, grants, donations and other operations of the ~~corporation~~  
10 *department* in such investments as would be lawful for a private  
11 corporation having purposes similar to the ~~corporation~~ *department*;
- 12 (9) (8) borrow money and give ~~guaranties~~ *guarantees*, provided that  
13 the indebtedness and other obligations of the ~~corporation~~ *department*  
14 shall be payable solely out of its own ~~resources~~ *funds*, and shall not  
15 constitute a pledge of the full faith and credit of the state or any of its  
16 revenues;
- 17 (10) (9) appoint officers, consultants, agents and advisors, and  
18 prescribe their duties and compensation;
- 19 (11) (10) appear in its own behalf before boards, commissions,  
20 departments or other agencies of municipal, county or state government  
21 or federal government;
- 22 (12) (11) procure insurance against any losses in connection with its  
23 properties in such amounts from such insurers as may be necessary or  
24 desirable;
- 25 (13) (12) consent, subject to the provisions of any contract with  
26 note-holders, whenever it considers it necessary or desirable in the  
27 fulfillment of the purposes of ~~this act~~ *K.S.A. 74-8101 through 74-8104*  
28 *and 74-8107 through 74-8111, and amendments thereto*, to the  
29 modifications, with respect to the rate of interest, time payment or of any  
30 installment, of principal and interest or any terms of any contract or  
31 agreement of any kind to which the corporation is a party;
- 32 (14) (13) accept any and all donations, grants, bequests and devises,  
33 conditional and otherwise, of money, property, services or other things of  
34 value which may be received from the United States or any agency  
35 thereof, any governmental agency, or any institution, person, firm or  
36 corporation, public or private, to be held, used or applied for any or all of  
37 the purposes specified in ~~this act~~ *K.S.A. 74-8101 through 74-8104 and*  
38 *74-8107 through 74-8111, and amendments thereto*, in accordance with  
39 the terms and conditions of any such grant;
- 40 (15) (14) trade, buy or sell qualified securities, including without  
41 limitation, the powers to guarantee, purchase, take, receive, subscribe for  
42 or otherwise acquire, to own, hold, use or otherwise employ; to sell,  
43 lease, exchange, transfer or otherwise dispose of; to mortgage, lend,

1 pledge or otherwise deal in and with, qualified securities issued by any  
2 other domestic or foreign corporation, partnership, association, limited  
3 liability company, or business trust, whether or not such issuer was  
4 organized or caused to be organized by the ~~corporation~~ *secretary*. The  
5 ~~corporation~~ *secretary*, while owner of any such qualified securities, may  
6 exercise all of the rights, powers and privileges of ownership, including  
7 without limitation the right to vote;

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

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

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

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

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

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

41 ~~(22)~~ *(21)* negotiate royalty payments to the ~~corporation~~ *department*  
42 on patents and licenses for innovations or inventions arising in the course  
43 of research sponsored by the ~~corporation~~ *department* at educational

1 institutions under the jurisdiction of the Kansas board of regents; such  
 2 negotiated royalty arrangements should reflect an appropriate sharing of  
 3 legal risk as well as financial return between the ~~corporation~~ *department*  
 4 and educational institution; such patents and licenses shall be in keeping  
 5 with the patent policies of the Kansas board of regents;

6 ~~(23)~~ (22) exercise any other powers necessary for the operation and  
 7 functioning of the ~~corporation within the purposes authorized in this act~~  
 8 *department within the purposes of K.S.A. 74-8101 through 74-8104 and*  
 9 *74-8107 through 74-8111, and amendments thereto;*

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

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

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

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

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

36 ~~(d)~~ (c) The ~~corporation~~ *department* shall not be subject to state  
 37 purchasing laws.

38 Sec. 19. K.S.A. 74-8106 is hereby amended to read as follows: 74-  
 39 8106. (a) The purpose of this section is to authorize the establishment of  
 40 three types of centers of excellence at educational institutions: Centers of  
 41 excellence for basic research, centers of excellence for applied research  
 42 and development, and centers of excellence for technology transfer.

43 (b) Centers of excellence for basic research will primarily undertake



1 ongoing basic research with a particular focus that will have long-run  
2 potential for commercial development. The centers should build on  
3 institutional strengths and be in areas of research where the educational  
4 institution has achieved or has true promise of attaining a standard of  
5 excellence as recognized by national and international peers.

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

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

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

35 (2) The ~~corporation~~ *board of regents* may use the Kansas technology  
36 enterprise applied research and development fund to carry out the  
37 purposes of this act by awarding funds to establish new centers of  
38 excellence for applied research and development or to increase funding to  
39 such already established centers of excellence so long as those centers are  
40 determined to be carrying out primarily applied research and  
41 development, and to be meeting the standards of excellence required by  
42 this act. Awards of funds shall be made on a competitive basis, and all  
43 proposals for new centers of excellence shall be subject to external peer

1 review on the basis of scientific merit which meets national standards of  
2 excellence and subsequent potential for commercial application.

3 (d) Centers of excellence for technology transfer will primarily  
4 undertake ongoing transfer of technology from educational institutions to  
5 Kansas business.

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

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

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

21 (e) The ~~corporation~~ *board of regents* shall award funding to centers  
22 of excellence ~~transfer~~ in accordance with subsections (g) and (h).

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

33 (g) The ~~corporation~~ *board of regents* shall award funding for new  
34 centers and increased funding for established centers only after:

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

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

39 (3) receiving the recommendation of the centers of excellence  
40 committee which will review proposals for new or established centers of  
41 excellence containing:

42 (A) Documentation that not less than 50% of the center's funding  
43 above the established level of core funding will be matched by sources

1 other than the ~~corporation~~ *board of regents*; machinery or equipment may  
2 be considered as part of the matching funds, but must be accompanied by  
3 a statement that the center of excellence has received the machinery or  
4 equipment, it is state of the art; and either

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

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

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

11 (C) an itemized operations budget; and

12 (D) other information that may be required by the board *of regents*.

13 (h) The board *of regents* shall approve proposals to establish new  
14 centers of excellence after the board *of regents* finds, based upon the  
15 proposal submitted, external peer reviews, and such additional  
16 investigation as the staff of the ~~corporation~~ *shall make and incorporate in*  
17 ~~its minutes~~ *board of regents shall make* that:

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

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

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

27 (i) Each existing Kansas center of excellence is eligible for annual  
28 support from the ~~corporation~~ *board of regents* according to the same  
29 terms and conditions as provided in this ~~aet~~ *section* for new centers  
30 except that an external peer review to determine under what provision of  
31 this ~~statute~~ *section* and by what terms continuing funding is appropriate  
32 shall be conducted annually during the first three years after the center of  
33 excellence is established and shall be conducted biennially thereafter. In  
34 the years between external peer reviews conducted on a biennial basis,  
35 the ~~corporation~~ *board of regents* shall conduct internal reviews to  
36 determine under what provision of this statute and under what terms  
37 continuing funding is appropriate.

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

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

6       Sec. 20. K.S.A. 74-8107 is hereby amended to read as follows: 74-  
7 8107. (a) The Kansas technology enterprise applied research matching  
8 grant fund is hereby created, to which shall be credited any state funds  
9 specifically so designated.

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

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

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

19       (2) reviewing applied research proposals which present:

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

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

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

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

32       (B) documentation, if the proposal is from a private enterprise, that  
33 not less than 60% of the total direct cost of the proposed project will be  
34 provided by sources other than the ~~corporation~~ *department* or through in-  
35 kind services provided through the private enterprise as evaluated by the  
36 ~~board or review committee~~ *secretary*;

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

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

42       (E) a recommendation from the sponsoring educational institution or  
43 business enterprise; and

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

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

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

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

11 (3) the project will enhance employment opportunities within  
12 Kansas; and

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

15 (e) The ~~board of directors~~ *secretary* shall create an applied research  
16 committee to assist in evaluating potential applied research projects. The  
17 membership of this applied research committee may include ~~both~~  
18 ~~directors and staff members of the corporation~~ *employees of the*  
19 *department*, and other persons drawn from sources other than ~~the~~  
20 ~~corporation who meet standards similar to those applying to the board of~~  
21 ~~directors and department~~ who are recognized by their peers for  
22 outstanding knowledge and leadership in their fields.

23 (f) Any commercialized research that results from ~~a corporation an~~  
24 applied research grant shall be subject to ~~provisions paragraphs (21) and~~  
25 ~~(22) (20) and (21)~~ of subsection (a) of K.S.A. 74-8104, ~~and amendments~~  
26 ~~thereto~~.

27 Sec. 21. K.S.A. 74-8108 is hereby amended to read as follows: 74-  
28 8108. (a) The ~~corporation~~ *secretary* is directed to develop a small  
29 business innovation research (SBIR) matching grant program which  
30 meets the highest current standards for state matching grants to federal  
31 phase I SBIR program. Prior to establishing the SBIR matching grant  
32 program, the ~~corporation~~ *secretary* shall conduct a survey and analysis of  
33 the most effective SBIR matching grant programs existing in other states.

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

39 Sec. 22. K.S.A. 74-8108a is hereby amended to read as follows: 74-  
40 8108a. Five years from the effective date of this act, the ~~corporation~~  
41 *secretary* shall conduct a review of the small business innovation research  
42 bridge financing program and report the results of the review to the  
43 legislature. Such review shall determine the extent to which the program

1 has achieved the following outcomes:

- 2 (a) Increased the number of phase II SBIR grant proposals;  
3 (b) increased the percentage of phase II SBIR grants awarded to  
4 researchers in the state;  
5 (c) stimulated subsequent investments by industry venture capital  
6 and other federal sources;  
7 (d) encouraged development of industry partners with researchers;  
8 and  
9 (e) encouraged development of business or commercialization plans  
10 for new technology.

11 Sec. 23. K.S.A. 74-8109 is hereby amended to read as follows: 74-  
12 8109. (a) There is hereby created the technology enterprise seed-capital  
13 fund to which shall be credited any state funds specifically so designated.  
14 The ~~corporation~~ *secretary* may credit the fund with unrestricted  
15 appropriations, gifts, donations or grants received from any source and  
16 with payments on loans made from the fund.

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

19 (1) To carry out the purposes of ~~this act~~ *K.S.A. 74-8101 through 74-*  
20 *8104 and 74-8107 through 74-8111, and amendments thereto*, through  
21 investments in qualified securities and through the forms of financial  
22 assistance authorized by ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-*  
23 *8107 through 74-8111, and amendments thereto*, including:

- 24 (A) Loans, loans convertible to equity, and equity;  
25 (B) leaseholds;  
26 (C) management or consultant service agreements;  
27 (D) loans with warrants attached that are beneficially owned by the  
28 ~~corporation~~ *department*;  
29 (E) loans with warrants attached that are beneficially owned by a  
30 party other than the ~~corporation~~ *department*; and

31 (F) any other contractual arrangement in which the ~~corporation-~~  
32 *department* is providing scientific and technological services to any  
33 federal, state, county or municipal agency, or to any individual,  
34 corporation, enterprise, association or any other entity involving science  
35 and technology. The ~~corporation~~ *secretary*, in connection with the  
36 provision of any form of financial assistance, may enter into royalty  
37 agreements with an enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (H) binding commitments have been made to the ~~corporation~~

1 *department* by the enterprise for adequate reporting of financial data to  
2 the ~~corporation~~ *department*, which shall include a requirement for an  
3 annual report, or if required by the board, an annual audit of the financial  
4 and operational records of the enterprise, and for such control on the part  
5 of the ~~corporation as the board of directors~~ *department of the secretary*  
6 shall consider prudent over the management of the enterprise, so as to  
7 protect the investment of the ~~corporation~~ *department*, including in the  
8 discretion of the ~~board~~ *secretary* and without limitation, right of access to  
9 financial and other records of the enterprise.

10 (f) The ~~board of directors~~ *secretary* shall create an investment  
11 committee to assist in evaluating potential investments in qualified  
12 securities. The membership of this investment committee may include  
13 both directors and staff members of the ~~corporation~~ *department*, and other  
14 persons drawn from sources other than the ~~corporation who meet~~  
15 ~~standards similar to those applying to the board of directors and~~  
16 *department* who are recognized by their peers for outstanding knowledge  
17 and leadership in their fields, all of whom shall serve at the pleasure of  
18 the ~~board~~ *secretary*.

19 (g) The ~~corporation~~ *secretary* shall not make investments in  
20 qualified securities issued by enterprises in excess of the amount  
21 necessary to own more than 49% of qualified securities in any one  
22 enterprise at the time of the purchase by the ~~corporation~~ *department*, after  
23 giving effect to the conversion of all outstanding convertible qualified  
24 securities of the enterprise except that in the event of severe financial  
25 difficulty of the enterprise, threatening, in the judgment of the ~~board of~~  
26 ~~directors~~ *secretary*, the investment of the ~~corporation~~ *department* therein,  
27 a greater percentage of such securities may be owned by the ~~corporation~~  
28 *department*.

29 Sec. 24. K.S.A. 74-8110 is hereby amended to read as follows: 74-  
30 8110. (a) The ~~Kansas technology enterprise corporation~~ *secretary* shall  
31 establish a clearinghouse to provide technology transfer and technical  
32 referral services and shall fund educational institutions to establish  
33 technical information data bases and industrial liaison offices which are  
34 easily accessible by both private and public sector organizations.

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

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

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

41 (3) assisting persons developing innovations or new technology in  
42 locating enterprises or entrepreneurs that may be interested in applying  
43 such innovations or new technologies; and



1 (4) providing managerial assistance to enterprises requesting such  
2 assistance, but particularly to those small enterprises of special  
3 importance to the Kansas economy.

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

8 Sec. 25. K.S.A. 74-8111 is hereby amended to read as follows: 74-

9 8111. (a) The ~~corporation~~ *secretary* shall publish an annual report which  
10 shall include an audit in accordance with generally accepted accounting  
11 principles as of June 30 of each year, and present the report to the  
12 governor, *the* legislature and Kansas, Inc., setting forth in detail the  
13 operations and transactions conducted by it pursuant to ~~this act~~ *K.S.A. 74-*  
14 *8101 through 74-8104 and 74-8107 through 74-8111, and amendments*  
15 *thereto*, or to other legislation. The annual report shall specifically  
16 account for the ways in which the ~~purpose of the corporation~~ *purposes*  
17 and the programs described in ~~this act~~ *K.S.A. 74-8101 through 74-8104*  
18 *and 74-8107 through 74-8111, and amendments thereto*, have been  
19 carried out, and the recommendations shall specifically note what  
20 changes in the activities of the ~~corporation~~ *department* and the programs  
21 it administers, and of state government are necessary to better address the  
22 purposes described in ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-*  
23 *8107 through 74-8111, and amendments thereto*. The ~~corporation~~  
24 *secretary* shall distribute its annual report by such means that will make it  
25 widely available to those innovative enterprises of special importance to  
26 the Kansas economy.

27 (b) The ~~corporation~~ *secretary* shall annually review and prepare a  
28 report showing how ~~and~~ and at what level other states fund the programs  
29 provided for under ~~this act~~ *K.S.A. 74-8101 through 74-8104 and 74-8107*  
30 *through 74-8111, and amendments thereto*. The ~~corporation~~ *secretary*  
31 shall recommend an appropriate funding level for Kansas which will  
32 make these programs nationally competitive with those of other states.  
33 The ~~corporation's~~ *secretary's* findings and recommendations shall be  
34 submitted to the governor and the legislature.

35 (c) The ~~corporation~~ *secretary* shall adopt a threshold funding level  
36 for each of the programs provided for under ~~this act~~ *K.S.A. 74-8101*  
37 *through 74-8104 and 74-8107 through 74-8111, and amendments thereto*.  
38 The threshold amount shall provide for funding that is great enough to  
39 have a significant impact and carry out the intent of ~~this act~~ *K.S.A. 74-*  
40 *8101 through 74-8104 and 74-8107 through 74-8111, and amendments*  
41 *thereto*. If the appropriation to fund these programs falls below the  
42 threshold, then no funding shall be provided by the ~~corporation~~  
43 *department* to the program funded below threshold level.

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

3 Sec. 26. K.S.A. 2010 Supp. 74-8131 is hereby amended to read as  
4 follows: 74-8131. (a) The purpose of the Kansas angel investor tax credit  
5 act is to facilitate the availability of equity investment in businesses in the  
6 early stages of commercial development and to assist in the creation and  
7 expansion of Kansas businesses, which are job and wealth creating  
8 enterprises, by granting tax credits against the Kansas income tax liability  
9 of investors investing in these businesses. The Kansas angel investor tax  
10 credit act shall be administered by the ~~Kansas technology enterprise~~  
11 ~~corporation (KTEC) secretary~~ with the primary goal of encouraging  
12 individuals to provide seed-capital financing for emerging, Kansas  
13 businesses engaged in the development, implementation and  
14 commercialization of innovative technologies, products and services.

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

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

20 (a) "Angel investor" and "investor" mean an accredited investor who  
21 is a natural person or an owner of a permitted entity investor, who is of  
22 high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the  
23 effective date of this act, and who seeks high returns through private  
24 investments in start-up companies and may seek active involvement in  
25 business, such as consulting and mentoring the entrepreneur. For the  
26 purposes of this act, a person who serves as an executive, officer,  
27 employee, vendor or independent contractor of the business in which an  
28 otherwise qualified cash investment is made is not an angel investor and  
29 such person shall not qualify for the issuance of tax credits for such  
30 investment;

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

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

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

38 (e) "Kansas business" means any business owned by an individual,  
39 any partnership, association or corporation domiciled in Kansas, or any  
40 corporation, even if a wholly owned subsidiary of a foreign corporation,  
41 that does business primarily in Kansas or does substantially all of such  
42 businesses' production in Kansas;

43 (f) "owner" means any natural person who is, directly or indirectly, a

1 partner, stockholder or member in a permitted entity investor;

2 (g) "permitted entity investor" means (A) any general partnership,  
3 limited partnership, corporation that has in effect a valid election to be  
4 taxed as an S corporation under the United States internal revenue code,  
5 or a limited liability company that has elected to be taxed as a partnership  
6 under the United States internal revenue code and (B) that was  
7 established and is operated for the sole purpose of making investments in  
8 other entities;

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

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

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

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

27 Sec. 28. K.S.A. 2010 Supp. 74-8133 is hereby amended to read as  
28 follows: 74-8133. (a) A credit against the tax imposed by article 32 of  
29 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable  
30 income of an angel investor and against the tax imposed by K.S.A. 40-  
31 252, and amendments thereto, shall be allowed for a cash investment in  
32 the qualified securities of a qualified Kansas business. The credit shall be  
33 in a total amount equal to 50% of such investors' cash investment in any  
34 qualified Kansas business, subject to the limitations set forth in  
35 subsection (b). This tax credit may be used in its entirety in the taxable  
36 year in which the cash investment is made except that no tax credit shall  
37 be allowed in a year prior to January 1, 2005. If the amount by which that  
38 portion of the credit allowed by this section exceeds the investors'  
39 liability in any one taxable year, beginning in the year 2005, the  
40 remaining portion of the credit may be carried forward until the total  
41 amount of the credit is used. If the investor is a permitted entity investor,  
42 the credit provided by this section shall be claimed by the owners of the  
43 permitted entity investor in proportion to their ownership share of the

1 permitted entity investor.

2 (b) The secretary of revenue shall not allow tax credits of more than  
3 \$50,000 for a single Kansas business or a total of \$250,000 in tax credits  
4 for a single year per investor who is a natural person or owner of a  
5 permitted entity investor. No tax credits authorized by this act shall be  
6 allowed for any cash investments in qualified securities for any year after  
7 the year 2016. The total amount of tax credits which may be allowed  
8 under this section shall not exceed \$4,000,000 during the tax year 2007  
9 and \$6,000,000 for tax year 2008 and each tax year thereafter, except that  
10 for tax year 2011, the total amount of tax credits which may be allowed  
11 under this section shall not exceed \$5,000,000. The balance of unissued  
12 tax credits may be carried over for issuance in future years until 2016.

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

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

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

40 (f) The reasonable costs of the administration of this act, the  
41 review of applications for certification as qualified Kansas businesses and

1 the issuance of tax credits authorized by this act shall be reimbursed  
2 through fees paid by the qualified Kansas businesses and the investors or  
3 the transferees of investors, according to a reasonable fee schedule  
4 adopted by the ~~corporation~~ *secretary by rules and regulations in*  
5 *accordance with the rules and regulations filing act.*

6 Sec. 29. K.S.A. 2010 Supp. 74-8134 is hereby amended to read as  
7 follows: 74-8134. (a) Before an angel investor may be entitled to receive  
8 tax credits, as authorized by this act, such investor must have made a cash  
9 investment in a qualified security of a qualified Kansas business. This  
10 business must have been approved by ~~KTEC~~ *the secretary* as a qualified  
11 Kansas business prior to the date on which the cash investment was  
12 made. To be designated as a qualified Kansas business, a business must  
13 make application to ~~KTEC~~ *the secretary* in accordance with the  
14 provisions of this section.

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

17 (1) The name of the business and certified copies of the  
18 organizational documents of the business;

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

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

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

25 (5) a description of the qualified securities to be issued, the  
26 consideration to be paid for the qualified securities, the amount of any tax  
27 credits requested and the earliest year in which the tax credits may be  
28 redeemed;

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

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

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

38 (1) The business must not have had annual gross revenues of more

1 than \$5,000,000 in the most recent tax year of the business;

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

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

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

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

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

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

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

1 such service.

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

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

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

17 (2) the business has the reasonable potential to create measurable  
18 employment within the state;

19 (3) the business has an innovative and proprietary technology,  
20 product and service;

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

24 (5) the securities to be issued and purchased are qualified securities;  
25 and

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

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

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

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

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

41 (c) ~~KTEC~~ *The secretary* shall transmit annually to the governor, the  
42 ~~secretary of commerce~~, the standing committee on commerce of the  
43 senate, the standing committee on economic development of the house of



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

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

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

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

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

1 *the secretary*. Each qualified Kansas business that loses such designation  
2 shall enter into a repayment agreement with ~~KTEC~~ *the secretary*  
3 specifying the terms of such repayment obligation.

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

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

12 Sec. 32. K.S.A. 74-8316 is hereby amended to read as follows: 74-  
13 8316. (a) ~~The Kansas technology enterprise corporation secretary~~ is  
14 hereby authorized to facilitate the establishment of a technology-based  
15 venture-capital fund in which the ~~corporation~~ *department* may invest only  
16 moneys from the economic development initiatives fund specifically so  
17 allocated. ~~The corporation may credit also~~ *department may also credit* the  
18 fund with gifts, donations or grants received from any source other than  
19 state government and with proceeds from the fund. Investments in the  
20 fund shall qualify for the income tax credit allowed pursuant to K.S.A.  
21 74-8304, and amendments thereto.

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

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

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

28 (B) leaseholds;

29 (C) management or consultant service agreements;

30 (D) loans with warrants attached that are beneficially owned by the  
31 fund;

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

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

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

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

41 (d) ~~The corporation secretary~~ may invest only in a fund whose  
42 investment guidelines permit the fund's purchase of qualified securities  
43 issued by an enterprise as a part of a resource and technology project

1 subject to the following:

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

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

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

7 (C) a statement of the potential economic impact of the enterprise,  
8 including the number, location and types of jobs expected to be created;  
9 and

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

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

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

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

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

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

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

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

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

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

41 (e) All investments made pursuant to this section shall be evaluated  
42 by the fund's investment committee and the fund shall be audited  
43 annually by an independent auditing firm.

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

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

11 Sec. 33. K.S.A. 74-8317 is hereby amended to read as follows: 74-  
12 8317. The ~~corporation~~ *secretary* shall transmit annually to the governor,  
13 the standing committee on commerce of the senate, the standing  
14 committee on economic development of the house of representatives, the  
15 joint committee on economic development and Kansas, Inc.:

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

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

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

21 (2) The total investments made annually by the fund in Kansas  
22 businesses.

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

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

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

29 Sec. 34. K.S.A. 74-8318 is hereby amended to read as follows: 74-  
30 8318. ~~No enterprise shall be eligible to receive investment pursuant to  
31 this act if an officer, employee or member of the board of directors of the  
32 corporation, the fund or any other entity in which the corporation has a  
33 majority interest has a substantial interest in the corporation. No  
34 enterprise shall be eligible to receive investment pursuant to this act if  
35 the secretary or any employee of the department, or any officer, employee  
36 or member of the board of directors of either the fund or any other entity  
37 which has a substantial interest in the enterprise. For the purposes of this  
38 section, the term "substantial interest" shall have the meaning ascribed  
39 to it in K.S.A. 46-229, and amendments thereto.~~

40 Sec. 35. K.S.A. 74-8319 is hereby amended to read as follows: 74-  
41 8319. For purposes of this act:

42 (a) ~~"Corporation" means the Kansas technology enterprise~~  
43 ~~corporation~~ *"Department" means the department of commerce;*

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

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

8 (d) *"secretary" means the secretary of commerce.*

9 Sec. 36. K.S.A. 74-8401 is hereby amended to read as follows: 74-  
10 8401. (a) There shall be allowed as a credit against the tax imposed by the  
11 Kansas income tax act on the Kansas taxable income of a taxpayer and  
12 against the tax imposed by K.S.A. 40-252, and amendments thereto, on  
13 insurance companies for cash investment in a certified local seed capital  
14 pool an amount equal to 25% of such taxpayer's cash investment in any  
15 such pool in the taxable year in which such investment is made and the  
16 taxable years following such taxable year until the total amount of the  
17 credit is used. The amount by which that portion of the credit allowed by  
18 this section exceeds the taxpayer's liability in any one taxable year may  
19 be carried forward until the total amount of the credit is used. If the  
20 taxpayer is a corporation having an election in effect under subchapter S  
21 of the federal internal revenue code or a partnership, the credit provided  
22 by this section shall be claimed by the shareholders of such corporation  
23 or the partners of such partnership in the same manner as such  
24 shareholders or partners account for their proportionate shares of the  
25 income or loss of the corporation or partnership.

26 (b) The total amount of credits allowable pursuant to this section and  
27 credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and  
28 amendments thereto, shall be attributable to not more than \$50,000,000 of  
29 cash investments in Kansas venture capital companies, Kansas Venture  
30 Capital, Inc. and local seed capital pools. With respect to the additional  
31 amount of cash investments made eligible for tax credits by this act,  
32 \$10,000,000 of such amount shall be dedicated and reserved until  
33 December 31, 1990, for cash investments in a seed capital fund or funds  
34 in which the ~~Kansas technology enterprise corporation, or its subsidiaries,~~  
35 *department of commerce* is an investor. The \$50,000,000 amount of cash  
36 investments now eligible for the tax credits allowed pursuant to this  
37 section and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments  
38 thereto, shall be reduced to the extent that the total amount of cash  
39 investments received by such seed capital fund or funds before January 1,  
40 1991, is less than \$10,000,000. However, any such credits which were not  
41 claimed for investments made prior to January 1, 1991, may be allowed  
42 to a taxpayer for cash investment made in Kansas Venture Capital, Inc.  
43 pursuant to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to

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

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

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

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

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

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

40 Sec. 37. K.S.A. 2010 Supp. 74-99b03 is hereby amended to read as  
41 follows: 74-99b03. As used in the bioscience authority act, and  
42 amendments thereto, the following words and phrases shall have the  
43 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 to  
7 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 security  
15 applications of bioscience, and future developments in the biosciences.  
16 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 proprietorship,  
20 business trust, person, group, or other entity that is engaged in the  
21 business of bioscience in the state and has business operations in the  
22 state, including, without limitation, research, development, or production  
23 directed towards developing or providing bioscience products or  
24 processes for specific commercial or public purposes and are identified  
25 by the following NAICS codes: 325411, 325412, 325413, 325414,  
26 325193, 325199, 325311, 32532, 334516, 339111, 339112, 339113,  
27 334510, 334517, 339115, 621511, 621512, 54171, 54138, 54194.

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

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

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

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

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

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

1 amendments thereto.

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

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

12 ~~(m) "Kansas technology enterprise corporation" or "KTEC" means~~  
13 ~~the Kansas technology enterprise corporation created under K.S.A. 74-~~  
14 ~~8101, and amendments thereto.~~

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

19 ~~(o) (n)~~ "NAICS" means the north American industry classification  
20 system.

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

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

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

26 ~~(s) (r)~~ "Qualified company" means a Kansas company conducting  
27 bioscience research and development that may be granted a funding  
28 voucher.

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

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

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

42 ~~(w) (v)~~ "State universities" includes state educational institutions as  
43 defined in K.S.A. 76-711, and amendments thereto, and the municipal



1 university as defined in K.S.A. 74-3201b, and amendments thereto.

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

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

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

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

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

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

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

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

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

1 Kansas board of regents. Nonvoting members shall serve at the pleasure  
2 of the board of regents.

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

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

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

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

1 to the board shall have all of the powers, duties and functions as a  
2 member of the board during such temporary appointment.

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

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

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

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

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

1 subsection ~~(i)~~ (h).

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

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

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

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

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

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

31 (3) have perpetual existence and succession;

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

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

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

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

43 (8) work with and collaborate with bioscience research institutions

1 to determine the types of bioscience research that will be conducted by  
2 eminent scholars and rising star scholars;

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

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

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

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

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

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

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

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

41 (17) incur or assume indebtedness to, and enter into contracts with  
42 the Kansas development finance authority, which is authorized to borrow  
43 money, issue bonds and provide financing for the authority;

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

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

7 (20) own and possess patents, copyrights, trademarks and  
8 proprietary technology and to enter into contracts for the purposes of  
9 commercializing and establishing charges for the use of such patents,  
10 copyrights, trademarks and proprietary technology involving 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 such  
19 deposits, one or more persons to act as custodians of the moneys of the  
20 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 facility;  
35 such charges and policies and procedures not to be subject to supervision  
36 or regulation by any commission, board, bureau or agency of the state;  
37 and

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

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

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

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

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

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

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

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

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

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

1 belong exclusively to the authority.

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

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



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

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

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

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

34 ~~(m) (k) The authority shall be subject to review by Kansas, Inc. In~~  
35 ~~the review, Kansas, Inc. shall evaluate and report on the effectiveness of~~  
36 ~~the activities of the bioscience authority in the manner provided in K.S.A.~~  
37 ~~74-8010, and amendments thereto.~~

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

43 (a) "Authority" means the Kansas bioscience authority as created by

1 K.S.A. 2010 Supp. 74-99b04, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (5) enterprise facilitation,  
2 (6) Kansas chamber of commerce and industry,  
3 (7) Kansas small business development centers, *and*  
4 (8) ~~Kansas technology enterprise corporation and~~  
5 ~~(9)~~ national federation of independent businesses.
- 6 (c) (1) Members shall serve for a term of four years and until such  
7 members' successors are appointed, except that, of the members first  
8 appointed, three shall serve for a term of two years, three shall serve for a  
9 term of three years and two shall serve for a term of four years.
- 10 (2) In case of a vacancy by a member, a successor shall be appointed  
11 in like manner and subject to the same qualifications and conditions as  
12 the original appointment of the member creating the vacancy and shall  
13 serve the remainder of the unexpired portion of the term.
- 14 (d) The secretary of commerce shall organize and schedule the first  
15 meeting of the board, at which time the board shall choose a chairperson  
16 and may appoint committees from its members as necessary.
- 17 (e) The board of directors shall meet at least four times a year and at  
18 such other times as it deems appropriate or upon call of the chairperson or  
19 upon the written request of a majority of the members of the board.
- 20 (f) Members of the board of directors attending board meetings or  
21 committee meetings thereof authorized by the center, shall be paid  
22 amounts provided in subsection (e) of K.S.A. 75-3223, and amendments  
23 thereto.
- 24 (g) Members of the board of directors, in their dealings with  
25 enterprises that may receive financing through the corporation, shall  
26 declare any potential conflict of interest and abstain from voting prior to  
27 taking any actions relating to that transaction.
- 28 (h) The board of directors shall hold all board meetings within the  
29 state of Kansas.
- 30 (i) Members of the board of directors may serve multiple terms.
- 31 (j) A member appointed to the board of directors may be removed by  
32 the secretary for cause, stated in writing, after a hearing thereon.
- 33 (k) A majority of the total voting membership of the board shall  
34 constitute a quorum for meetings. The board may act by a majority of  
35 those at any meeting where a quorum of the board is present.
- 36 (l) Before assuming office, each person appointed as a member of  
37 the board of directors shall complete and file with the office of the  
38 secretary of state a statement containing the information required in a  
39 statement of substantial interest pursuant to K.S.A. 46-247, and  
40 amendments thereto;
- 41 (m) The board of directors shall:
- 42 (1) Consult with and make a recommendation to the secretary  
43 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, 10  
25 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 representatives  
28 of the legislature and of the legislative coordinating council and all  
29 officers and employees of the office of revisor of statutes, of the  
30 legislative research department, of the division of legislative  
31 administrative services, of the division of post audit and the legislative  
32 counsel;

33 (f) chancellor, president, deans, administrative officers, student  
34 health service physicians, pharmacists, teaching and research personnel,  
35 health care employees and student employees in the institutions under the  
36 state board of regents, the executive officer of the board of regents and  
37 the executive officer's employees other than clerical employees, and, at  
38 the discretion of the state board of regents, directors or administrative  
39 officers of departments and divisions of the institution and county  
40 extension agents, except that this subsection (1)(f) shall not be construed  
41 to include the custodial, clerical or maintenance employees, or any  
42 employees performing duties in connection with the business operations  
43 of any such institution, except administrative officers and directors; as

1 used in this subsection (1)(f), "health care employees" means employees  
2 of the university of Kansas medical center who provide health care  
3 services at the university of Kansas medical center and who are medical  
4 technicians or technologists or respiratory therapists, who are licensed  
5 professional nurses or licensed practical nurses, or who are in job classes  
6 which are designated for this purpose by the chancellor of the university  
7 of Kansas upon a finding by the chancellor that such designation is  
8 required for the university of Kansas medical center to recruit or retain  
9 personnel for positions in the designated job classes; and employees of  
10 any institution under the state board of regents who are medical  
11 technologists;

12 (g) operations, maintenance and security personnel employed to  
13 implement agreements entered into by the adjutant general and the federal  
14 national guard bureau, and officers and enlisted persons in the national  
15 guard and the naval militia;

16 (h) persons engaged in public work for the state but employed by  
17 contractors when the performance of such contract is authorized by the  
18 legislature or other competent authority;

19 (i) persons temporarily employed or designated by the legislature or  
20 by a legislative committee or commission or other competent authority to  
21 make or conduct a special inquiry, investigation, examination or  
22 installation;

23 (j) officers and employees in the office of the attorney general and  
24 special counsel to state departments appointed by the attorney general,  
25 except that officers and employees of the division of the Kansas bureau of  
26 investigation shall be in the classified or unclassified service as provided  
27 in K.S.A. 75-711, and amendments thereto;

28 (k) all employees of courts;

29 (l) client, patient and inmate help in any state facility or institution;

30 (m) all attorneys for boards, commissions and departments;

31 (n) the secretary and assistant secretary of the Kansas state historical  
32 society;

33 (o) physician specialists, dentists, dental hygienists, pharmacists,  
34 medical technologists and long term care workers employed by the  
35 department of social and rehabilitation services;

36 (p) physician specialists, dentists and medical technologists  
37 employed by any board, commission or department or by any institution  
38 under the jurisdiction thereof;

39 (q) student employees enrolled in public institutions of higher  
40 learning;

41 (r) administrative officers, directors and teaching personnel of the  
42 state board of education and the state department of education and of any  
43 institution under the supervision and control of the state board of

1 education, except that this subsection (1)(r) shall not be construed to  
2 include the custodial, clerical or maintenance employees, or any  
3 employees performing duties in connection with the business operations  
4 of any such institution, except administrative officers and directors;

5 (s) all officers and employees in the office of the secretary of state;

6 (t) one personal secretary and one special assistant to the following:

7 The secretary of administration, the secretary of aging, the secretary of  
8 agriculture, the secretary of commerce, the secretary of corrections, the  
9 secretary of health and environment, the superintendent of the Kansas  
10 highway patrol, the secretary of labor, the secretary of revenue, the  
11 secretary of social and rehabilitation services, the secretary of  
12 transportation, the secretary of wildlife and parks and the commissioner  
13 of juvenile justice;

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

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

18 (w) one public information officer and one chief attorney for the  
19 following: The department of administration, the department on aging,  
20 the department of agriculture, the department of commerce, the  
21 department of corrections, the department of health and environment, the  
22 department of labor, the department of revenue, the department of social  
23 and rehabilitation services, the department of transportation, the Kansas  
24 department of wildlife and parks and the commissioner of juvenile  
25 justice;

26 (x) civil service examination monitors;

27 (y) one executive director, one general counsel and one director of  
28 public affairs and consumer protection in the office of the state  
29 corporation commission;

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

32 (aa) all officers and employees of Kansas, Inc. ~~and the Kansas-~~  
33 ~~technology enterprise corporation;~~

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

1 position responsible for all information resources management for a state  
2 agency; and

3 (cc) positions at state institutions of higher education that have been  
4 converted to unclassified positions pursuant to K.S.A. 2010 Supp. 76-  
5 715a, and amendments thereto.

6 (2) The classified service comprises all positions now existing or  
7 hereafter created which are not included in the unclassified service.  
8 Appointments in the classified service shall be made according to merit  
9 and fitness from eligible pools which so far as practicable shall be  
10 competitive. No person shall be appointed, promoted, reduced or  
11 discharged as an officer, clerk, employee or laborer in the classified  
12 service in any manner or by any means other than those prescribed in the  
13 Kansas civil service act and the rules adopted in accordance therewith.

14 (3) For positions involving unskilled, or semiskilled duties, the  
15 secretary of administration, as provided by law, shall establish rules and  
16 regulations concerning certifications, appointments, layoffs and  
17 reemployment which may be different from the rules and regulations  
18 established concerning these processes for other positions in the classified  
19 service.

20 (4) Officers authorized by law to make appointments to positions in  
21 the unclassified service, and appointing officers of departments or  
22 institutions whose employees are exempt from the provisions of the  
23 Kansas civil service act because of the constitutional status of such  
24 departments or institutions shall be permitted to make appointments from  
25 appropriate pools of eligibles maintained by the division of personnel  
26 services.

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



1 branch.

2 Sec. 45. K.S.A. 75-3208 is hereby amended to read as follows: 75-  
3 3208. (a) Except as provided in subsection (e) or (f) or as otherwise  
4 authorized or provided by statute, no claim for expenses for any trip made  
5 beyond the borders of the state by any appointive state officer or  
6 employee shall be paid by the state unless the trip has been approved as  
7 provided by this section.

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

13 (c) Except as otherwise authorized or provided by statute, authority  
14 to grant approval for any such trip by a legislator or an officer or  
15 employee of an agency of the legislative branch is vested with the  
16 legislative coordinating council or an individual authorized by the  
17 legislative coordinating council to grant written approval in the case of  
18 any such trip by an officer or employee of an agency of the legislative  
19 branch.

20 (d) Except as otherwise prescribed by the officer, board or  
21 commission that appointed an agency head, authority to grant written  
22 approval for any such trip by an officer or employee of the executive  
23 branch is vested in such officer's or employee's agency head or the  
24 agency head's designee.

25 (e) In cases involving such a trip by an agency head or by appointive  
26 members of a board, commission or similar body that appoints an agency  
27 head, no approval shall be required unless the appointing authority of the  
28 agency head or the members of the board, commission or similar body, as  
29 the case may be, requires such approval by the appointing authority.

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

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

36 Sec. 46. K.S.A. 76-770 is hereby amended to read as follows: 76-  
37 770. (a) Each contract entered into by a state educational institution for  
38 the acquisition of goods or services for a research and development  
39 activity shall be exempt from the provisions of K.S.A. 75-3739 through  
40 75-3744, and amendments thereto if the contract is financed 50% or more  
41 by moneys received from ~~the Kansas technology enterprise corporation~~,  
42 federal agencies or other external sources.

43 (b) Nothing contained in article 32 of chapter 75 of the Kansas

1 Statutes Annotated shall be construed to limit or prescribe the conduct of  
2 any in-state or out-of-state travel or to limit expense allowances for such  
3 travel which is undertaken for and funded as a part of any research and  
4 development activity of a state educational institution if such expense is  
5 funded 50% or more by moneys received from ~~the Kansas technology~~  
6 ~~enterprise corporation~~, federal agencies or other external sources. The  
7 provisions of K.S.A. 75-3208, and amendments thereto shall not apply to  
8 any such travel.

9 (c) As used in this section:

10 (1) "Research and development activity" means any center of  
11 excellence at a state educational institution, any research or development  
12 project or activity at the state educational institution funded under a  
13 research matching grant program of the ~~Kansas technology enterprise~~  
14 ~~corporation~~ *department of commerce*, or any other sponsored research  
15 project at a state educational institution; and

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

18 Sec. 47. K.S.A. 74-5001a, 74-5050, 74-8102, 74-8103, 74-8105, 74-  
19 8106, 74-8107, 74-8108, 74-8108a, 74-8109, 74-8110, 74-8111, 74-8316,  
20 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and  
21 K.S.A. 2010 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156,  
22 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-  
23 8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and  
24 75-2935 are hereby repealed.

25 Sec. 48. This act shall take effect and be in force from and after its  
26 publication in the statute book.

27