

SENATE BILL No. 303

By Committee on Ways and Means

3-5

9 AN ACT abolishing the Kansas technology enterprise corporation and
10 Kansas, Inc. and transferring the powers and duties thereof to the
11 department of commerce; amending K.S.A. 74-5001a, 74-5007a, 74-
12 8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110, 74-8111,
13 74-8204, 74-8310, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 74-
14 9303, 74-9306, 75-2935b, 75-3208 and 76-770 and K.S.A. 2008 Supp.
15 12-17,169, 12-17,177, 74-520a, 74-5005, 74-5049, 74-5089, 74-5095,
16 74-50,133, 74-50,151, 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132,
17 74-8133, 74-8134, 74-8135, 74-8136, 74-8405, 74-99b03, 74-99b04,
18 74-99b09, 74-99b63, 74-99b66, 74-99c03, 74-99c07, 74-99e02 and 75-
19 2935 and repealing the existing sections; also repealing K.S.A. 74-5050,
20 74-50,101, 74-8003, 74-8009a, 74-8011, 74-8012, 74-8013, 74-8014,
21 74-8015, 74-8016 and 74-8105 and K.S.A. 2008 Supp. 74-50,134, 74-
22 8001, 74-8002, 74-8004, 74-8005, 74-8006, 74-8007, 74-8010, 74-8101
23 and 74-99c10.

24

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

26 New Section 1. (a) The director of accounts and reports shall transfer
27 all balances for all funds or accounts thereof appropriated or reapprop-
28 riated for the Kansas technology enterprise corporation to the depart-
29 ment of commerce.

30 (b) All liabilities of the Kansas technology enterprise corporation, in-
31 cluding accrued compensation or salaries of officers and employees who
32 are transferred to the department of commerce under this act, shall be
33 assumed and paid by the department of commerce.

34 (c) All of the powers, duties and functions of the Kansas technology
35 enterprise corporation are hereby transferred to and conferred and im-
36 posed upon, the department of commerce and the Kansas technology
37 enterprise corporation is hereby abolished.

38 New Sec. 2. (a) The department of commerce shall be the successor
39 in every way to the powers, duties and functions of the Kansas technology
40 enterprise corporation in which the same were vested prior to the effec-
41 tive date of this section and that are transferred pursuant to section 1,
42 and amendments thereto. Every act performed in the exercise of such
43 transferred powers, duties and functions by or under the department of

1 commerce pursuant to this act shall be deemed to have the same force
2 and effect as if performed by the Kansas technology enterprise corpora-
3 tion in which such powers, duties and functions were vested prior to the
4 effective date of this section.

5 (b) Whenever the Kansas technology enterprise corporation or words
6 of like effect, are referred to or designated by a statute, contract or other
7 document and such reference is in regard to any of the powers, duties or
8 functions transferred to the department of commerce pursuant to section
9 1, and amendments thereto, such reference or designation shall be
10 deemed to apply to the department of commerce.

11 (c) All rules and regulations, orders and directives of the Kansas tech-
12 nology enterprise corporation and which are in effect on the effective
13 date of this section shall continue to be effective and shall be deemed to
14 be rules and regulations, orders and directives of the department of com-
15 merce until revised, amended, revoked or nullified pursuant to law.

16 (d) The department of commerce shall have the legal custody of all
17 records, memoranda, writings, entries, prints, representations, electronic
18 data or combinations thereof of any act, transaction, occurrence or event
19 of the Kansas technology enterprise corporation.

20 New Sec. 3. (a) The director of accounts and reports shall transfer
21 all balances for all funds or accounts thereof appropriated or reapprop-
22 riated for Kansas, Inc. to the department of commerce.

23 (b) All liabilities of Kansas, Inc., including accrued compensation or
24 salaries of officers and employees who are transferred to the department
25 of commerce under this act, shall be assumed and paid by the department
26 of commerce.

27 (c) All of the powers, duties and functions of Kansas, Inc. are hereby
28 transferred to and conferred and imposed upon, the department of com-
29 merce and Kansas, Inc. is hereby abolished.

30 New Sec. 4. (a) The department of commerce shall be the successor
31 in every way to the powers, duties and functions of Kansas, Inc. in which
32 the same were vested prior to the effective date of this section and that
33 are transferred pursuant to section 6, and amendments thereto. Every act
34 performed in the exercise of such transferred powers, duties and func-
35 tions by or under the department of commerce pursuant to this act shall
36 be deemed to have the same force and effect as if performed by Kansas,
37 Inc. in which such powers, duties and functions were vested prior to the
38 effective date of this section.

39 (b) Whenever Kansas, Inc. or words of like effect, are referred to or
40 designated by a statute, contract or other document and such reference
41 is in regard to any of the powers, duties or functions transferred to the
42 department of commerce pursuant to section 6, and amendments thereto,
43 such reference or designation shall be deemed to apply to the department

1 of commerce.

2 (c) All rules and regulations, orders and directives of Kansas, Inc. and
3 which are in effect on the effective date of this section shall continue to
4 be effective and shall be deemed to be rules and regulations, orders and
5 directives of the department of commerce until revised, amended, re-
6 voked or nullified pursuant to law.

7 (d) The department of commerce shall have the legal custody of all
8 records, memoranda, writings, entries, prints, representations, electronic
9 data or combinations thereof of any act, transaction, occurrence or event
10 of Kansas, Inc.

11 New Sec. 5. (a) When any conflict arises as to the disposition of any
12 property, power, duty or function or the unexpended balance of any ap-
13 propriation as a result of any abolition or transfer made by or under this
14 act, such conflict shall be resolved by the governor, whose decision shall
15 be final.

16 (b) The department of commerce shall succeed to all property, prop-
17 erty rights and records which were used for or pertain to the performance
18 of powers, duties and functions transferred to the department of com-
19 merce. Any conflict as to the proper disposition of property, personnel
20 or records arising under this act shall be determined by the governor,
21 whose decision shall be final.

22 New Sec. 6. (a) No suit, action or other proceeding, judicial or ad-
23 ministrative, lawfully commenced, or which could have been commenced,
24 by or against any state agency or program mentioned in this act, or by or
25 against any officer of the state in such officer's official capacity or in
26 relation to the discharge of such officer's official duties, shall abate by
27 reason of the governmental reorganization effected under the provisions
28 of this act. The court may allow any such suit, action or other proceeding
29 to be maintained by or against the successor of any such state agency or
30 any officer affected.

31 (b) No criminal action commenced or which could have been com-
32 menced by the state shall abate by the taking effect of this section.

33 Sec. 7. K.S.A. 2008 Supp. 12-17,169 is hereby amended to read as
34 follows: 12-17,169. (a) (1) Any city or county shall have the power to issue
35 special obligation bonds in one or more series to finance the undertaking
36 of any STAR bond project in accordance with the provisions of this act.
37 Such special obligation bonds shall be made payable, both as to principal
38 and interest:

39 (A) From revenues of the city or county derived from or held in
40 connection with the undertaking and carrying out of any STAR bond
41 project or projects under this act including historic theater sales tax
42 increments;

43 (B) from any private sources, contributions or other financial assis-

1 tance from the state or federal government;

2 (C) from a pledge of 100% of the tax increment revenue received by
3 the city from any local sales and use taxes, including the city's share of
4 any county sales tax, which are collected from taxpayers doing business
5 within that portion of the city's STAR bond project district established
6 pursuant to K.S.A. 2008 Supp. 12-17,165, and amendments thereto, oc-
7 cupied by a STAR bond project, except for amounts committed to other
8 uses by election of voters or pledged to bond repayment prior to the
9 approval of the STAR bond project;

10 (D) at the option of the county in a city STAR bond project district,
11 from a pledge of all of the tax increment revenues received by the county
12 from any local sales and use taxes which are collected from taxpayers
13 doing business within that portion of the city's STAR bond project district
14 established pursuant to K.S.A. 2008 Supp. 12-17,165, and amendments
15 thereto, except for amounts committed to other uses by election of voters
16 or pledged to bond repayment prior to the approval of a STAR bond
17 project;

18 (E) in a county STAR bond project district, from a pledge of 100%
19 of the tax increment revenue received by the county from any county
20 sales and use tax, but excluding any portions of such taxes that are allo-
21 cated to the cities in such county pursuant to K.S.A. 12-192, and amend-
22 ments thereto, which are collected from taxpayers doing business within
23 that portion of the county's STAR bond project district established pur-
24 suant to K.S.A. 2008 Supp. 12-17,165, and amendments thereto, occupied
25 by a STAR bond project;

26 (F) from a pledge of all of the tax increment revenue received from
27 any state sales taxes which are collected from taxpayers doing business
28 within that portion of the city's or county's STAR bond project district
29 occupied by a STAR bond project;

30 (G) at the option of the city or county and with approval of the sec-
31 retary, from all or a portion of the transient guest tax of such city or
32 county;

33 (H) at the option of the city or county and with approval of the sec-
34 retary, (i) from a pledge of all or a portion of increased revenue received
35 by the city or county from franchise fees collected from utilities and other
36 businesses using public right-of-way within the STAR bond project dis-
37 trict; or (ii) from a pledge of all or a portion of the revenue received by
38 a city or county from local sales taxes or local transient guest and local
39 use taxes; or

40 (I) by any combination of these methods.

41 The city or county may pledge such revenue to the repayment of such
42 special obligation bonds prior to, simultaneously with, or subsequent to
43 the issuance of such special obligation bonds.

1 (2) Bonds issued under paragraph (1) of this subsection shall not be
2 general obligations of the city or the county, nor in any event shall they
3 give rise to a charge against its general credit or taxing powers, or be
4 payable out of any funds or properties other than any of those set forth
5 in paragraph (1) of this subsection and such bonds shall so state on their
6 face.

7 (3) Bonds issued under the provisions of paragraph (1) of this sub-
8 section shall be special obligations of the city or county and are declared
9 to be negotiable instruments. Such bonds shall be executed by the mayor
10 and clerk of the city or the chairperson of the board of county commis-
11 sioners and the county clerk and sealed with the corporate seal of the city
12 or county. All details pertaining to the issuance of such special obligation
13 bonds and terms and conditions thereof shall be determined by ordinance
14 of the city or by resolution of the county.

15 All special obligation bonds issued pursuant to this act and all income
16 or interest therefrom shall be exempt from all state taxes except inheri-
17 tance taxes. Such special obligation bonds shall contain none of the re-
18 citals set forth in K.S.A. 10-112, and amendments thereto. Such special
19 obligation bonds shall, however, contain the following recitals: (i) The
20 authority under which such special obligation bonds are issued; (ii) such
21 bonds are in conformity with the provisions, restrictions and limitations
22 thereof; and (iii) that such special obligation bonds and the interest
23 thereon are to be paid from the money and revenue received as provided
24 in paragraph (1) of this subsection.

25 (4) Any city or county issuing special obligation bonds under the pro-
26 visions of this act may refund all or part of such issue pursuant to the
27 provisions of K.S.A. 10-116a, and amendments thereto.

28 (b) (1) Subject to the provisions of paragraph (2) of this subsection,
29 any city shall have the power to issue full faith and credit tax increment
30 bonds to finance the undertaking, establishment or redevelopment of any
31 major motorsports complex, as defined in subsection (k) of K.S.A. 2008
32 Supp. 12-17,162, and amendments thereto. Such full faith and credit tax
33 increment bonds shall be made payable, both as to principal and interest:
34 (A) From the revenue sources identified in paragraph (1) of subsection
35 (a) or by any combination of these sources; and (B) subject to the pro-
36 visions of paragraph (2) of this subsection, from a pledge of the city's full
37 faith and credit to use its ad valorem taxing authority for repayment
38 thereof in the event all other authorized sources of revenue are not
39 sufficient.

40 (2) Except as provided in paragraph (3) of this subsection, before the
41 governing body of any city proposes to issue full faith and credit tax in-
42 crement bonds as authorized by this subsection, the feasibility study re-
43 quired by subsection (b) of K.S.A. 2008 Supp. 12-17,166, and amend-

1 ments thereto, shall demonstrate that the benefits derived from the
2 project will exceed the cost and that the income therefrom will be suffi-
3 cient to pay the costs of the project. No full faith and credit tax increment
4 bonds shall be issued unless the governing body states in the resolution
5 required by subsection (e) of K.S.A. 2008 Supp. 12-17,166, and amend-
6 ments thereto, that it may issue such bonds to finance the proposed STAR
7 bond project. The governing body may issue the bonds unless within 60
8 days following the conclusion of the public hearing on the proposed STAR
9 bond project plan a protest petition signed by 3% of the qualified voters
10 of the city is filed with the city clerk in accordance with the provisions of
11 K.S.A. 25-3601, et seq., and amendments thereto. If a sufficient petition
12 is filed, no full faith and credit tax increment bonds shall be issued until
13 the issuance of the bonds is approved by a majority of the voters voting
14 at an election thereon. Such election shall be called and held in the man-
15 ner provided by the general bond law. The failure of the voters to approve
16 the issuance of full faith and credit tax increment bonds shall not prevent
17 the city from issuing special obligation bonds in accordance with this
18 section. No such election shall be held in the event the board of county
19 commissioners or the board of education determines, as provided in
20 K.S.A. 2008 Supp. 12-17,165, and amendments thereto, that the proposed
21 STAR bond project district will have an adverse effect on the county or
22 school district.

23 (3) As an alternative to paragraph (2) of this subsection, any city which
24 adopts a STAR bond project plan for a major motorsports complex, but
25 does not state its intent to issue full faith and credit tax increment bonds
26 in the resolution required by subsection (e) of K.S.A. 2008 Supp. 12-
27 17,166, and amendments thereto, and has not acquired property in the
28 STAR bond project area may issue full faith and credit tax increment
29 bonds if the governing body of the city adopts a resolution stating its intent
30 to issue the bonds and the issuance of the bonds is approved by a majority
31 of the voters voting at an election thereon. Such election shall be called
32 and held in the manner provided by the general bond law. The failure of
33 the voters to approve the issuance of full faith and credit tax increment
34 bonds shall not prevent the city from issuing special obligation bonds
35 pursuant to paragraph (1) of subsection (a). Any project plan adopted by
36 a city prior to the effective date of this act in accordance with K.S.A. 12-
37 1772, and amendments thereto, shall not be invalidated by any require-
38 ments of this act.

39 (4) During the progress of any major motorsports complex project in
40 which the project costs will be financed, in whole or in part, with the
41 proceeds of full faith and credit tax increment bonds, the city may issue
42 temporary notes in the manner provided in K.S.A. 10-123, and amend-
43 ments thereto, to pay the project costs for the major motorsports complex

1 project. Such temporary notes shall not be issued and the city shall not
2 acquire property in the STAR bond project area until the requirements
3 of paragraph (2) or (3) of this subsection, whichever is applicable, have
4 been met.

5 (5) Full faith and credit tax increment bonds issued under this sub-
6 section shall be general obligations of the city and are declared to be
7 negotiable instruments. Such bonds shall be issued in accordance with
8 the general bond law. All such bonds and all income or interest therefrom
9 shall be exempt from all state taxes except inheritance taxes. The amount
10 of the full faith and credit tax increment bonds issued and outstanding
11 which exceeds 3% of the assessed valuation of the city shall be within the
12 bonded debt limit applicable to such city.

13 (6) Any city issuing full faith and credit tax increment bonds under
14 the provisions of this subsection may refund all or part of such issue
15 pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

16 (c) For each project financed with special obligation bonds payable
17 from the revenues described in subsection (a)(1), the city or county shall
18 prepare and submit to the secretary by October 1 of each year, a report
19 describing the status of any projects within such STAR bond project area,
20 any expenditures of the proceeds of special obligation bonds that have
21 occurred since the last annual report and any expenditures of the pro-
22 ceeds of such bonds expected to occur in the future, including the amount
23 of sales tax revenue, how such revenue has been spent, the projected
24 amount of such revenue and the anticipated use of such revenue. The
25 department of commerce shall compile this information and submit a
26 report annually to the governor, ~~Kansas, Inc.~~ and the legislature by Feb-
27 ruary 1 of each year.

28 (d) A city or county may use the proceeds of special obligation bonds
29 or any uncommitted funds derived from sources set forth in this section
30 to pay the bond project costs as defined in K.S.A. 2008 Supp. 12-17,162,
31 and amendments thereto, to implement the STAR bond project plan.

32 (e) With respect to a STAR bond project district established prior to
33 January 1, 2003, for which, prior to January 1, 2003, the secretary made
34 a finding as provided in subsection (a) of this section that a STAR bond
35 project would create a major tourism area for the state, such special ob-
36 ligation bonds shall be payable both as to principal and interest, from a
37 pledge of all of the revenue from any transient guest, state and local sales
38 and use taxes collected from taxpayers as provided in subsection (a) of
39 this section whether or not revenues from such taxes are received by the
40 city.

41 Sec. 8. K.S.A. 2008 Supp. 12-17,177 is hereby amended to read as
42 follows: 12-17,177. (a) The boundaries of any STAR bond project district
43 in a major tourism area including an auto race track facility located in

1 Wyandotte county, shall, without regard to that portion of the district
2 pertaining to the auto race track facility, be as follows: Beginning at the
3 intersection of Interstate 70 and Interstate 435; West along Interstate 70
4 to 118th Street; North along 118th Street to State Avenue; Northeasterly
5 along proposed relocated State Avenue to 110th Street; North along
6 110th Street to Parallel Parkway; East along Parallel Parkway to Interstate
7 435; South along Interstate 435 to Interstate 70.

8 (b) Any major tourism area may include an additional area not ex-
9 ceeding 400 acres of additional property, excluding roads and highways,
10 in addition to the property necessary for the auto race track facility upon
11 a finding by the governor that the development plan and each project
12 within such additional 400 acre area will enhance the major tourism area.
13 For the development of each project within such additional 400 acre area
14 the city shall select qualified developers pursuant to a request for pro-
15 posals in accordance with written official procedures approved by the
16 governing body of the city.

17 (c) Any project within such additional 400 acre area that is financed
18 in whole or in part by special obligation bonds payable from revenues
19 derived from subsection (a)(1)(C), (a)(1)(F) or (a)(1)(G) of K.S.A. 2008
20 Supp. 12-17,169, and amendments thereto, shall not be entitled to any
21 real property tax abatements or the revenues described in K.S.A. 12-1775,
22 and amendments thereto.

23 (d) Any project within such additional 400 acre area must be ap-
24 proved by the governor and construction must be commenced by July 1,
25 2002.

26 (e) The maximum principal amount of special obligation bonds issued
27 to fund STAR bond projects within a major tourism area, including any
28 such additional 400 acre area, shall not exceed \$308,000,000, unless the
29 city has secured prior approval from the secretary of commerce and the
30 secretary of revenue. Any special obligation bonds issued for the following
31 purposes shall not be counted toward such limit on the principal amount:

32 (1) Special obligation bonds issued solely for the purpose of refunding
33 such bonds, either at maturity or in advance of maturity, pursuant to the
34 provisions of K.S.A. 10-116a, and amendments thereto; and

35 (2) special obligation bonds issued solely to fund reserve funds for
36 such refunding bonds.

37 (f) Prior to issuing any special obligation bonds for any purpose, the
38 city or county must have the approval of the secretary and the secretary
39 of revenue.

40 (g) The city or county shall prepare and submit annually to the sec-
41 retary by October 1 of each year, a report describing the status of any
42 projects within a major tourism area and all other STAR bond projects,
43 including any such additional 400 acre area, any expenditures of the pro-

1 ceeds of special obligation bonds that have occurred since the last annual
2 report and any expenditures of the proceeds of such bonds expected to
3 occur in the future, including the amount of sales tax revenue, how it has
4 been spent, the projected amount of such revenue and the anticipated
5 use of such revenue. The department of commerce shall compile this
6 information and submit a report annually to the governor, ~~Kansas, Inc.~~
7 and the legislature by February 1 of each year.

8 (h) Any business located in Kansas within 50 miles of a major tourism
9 area that relocates into a major tourism area, including such additional
10 400 acre area, shall not receive any of the benefits of K.S.A. 2008 Supp.
11 12-17,160 et seq., and amendments thereto.

12 (i) If a city determines that revenues from sources other than prop-
13 erty taxes will be sufficient to pay any special obligation bonds issued to
14 finance a STAR bond project for an auto race track facility as described
15 in K.S.A. 2008 Supp. 12-17,162, and amendments thereto, and the sec-
16 retary makes a finding that such project will create a major tourism area
17 as defined in K.S.A. 2008 Supp. 12-17,162, and amendments thereto, all
18 real and personal property, constituting an auto race track facility de-
19 scribed in K.S.A. 2008 Supp. 12-17,162, and amendments thereto, in such
20 STAR bond project district shall be exempt from property taxation for a
21 period ending on the earlier of:

22 (1) The date which is 30 years after the date of the finding by the
23 secretary with respect to such major tourism area; or

24 (2) the date on which no such special obligation bonds issued to fi-
25 nance such auto race track facility in a major tourism area remain
26 outstanding.

27 (j) The city which is authorized to issue bonds pursuant to the pro-
28 visions of K.S.A. 2008 Supp. 12-17,160 et seq., and amendments thereto,
29 in order to finance a STAR bond project in a major tourism area as de-
30 fined by K.S.A. 2008 Supp. 12-17,162, and amendments thereto, shall
31 obtain underwriting services required by the city for the issuance of such
32 bonds pursuant to written proposals received in accordance with this
33 section.

34 Each city which is authorized to issue such bonds shall establish written
35 official procedures for obtaining underwriting services required for the
36 issuance of such bonds, including specifications for requests for proposals
37 and criteria for evaluation of proposals on a competitive basis. The pro-
38 posal evaluation criteria shall include factors based on cost, capacity to
39 provide the required services, qualifications and experience.

40 Prior to the issuance of any such bond to finance a STAR bond project
41 in a major tourism area, the city shall publish notice of a request for
42 proposals to provide the underwriting services that are required by the
43 city with regard to the proposed bond issuance and shall mail requests

1 for proposals to qualified interested parties upon request for such notice.
2 The city shall award contracts for such underwriting services from the
3 proposals received in accordance with the procedures and evaluation cri-
4 teria adopted by the city for such purpose. A city shall publish such notice
5 in the official newspaper of the city.

6 (k) A STAR bond project in a major tourism area for an auto race
7 track facility, shall be completed within 30 years from the date the sec-
8 retary makes the finding that the STAR bond project will create a major
9 tourism area pursuant to subsection (l) of K.S.A. 2008 Supp. 12-17,162,
10 and amendments thereto.

11 (l) The maximum maturity on bonds issued to finance projects pur-
12 suant to this act shall not exceed 20 years as provided in K.S.A. 2008
13 Supp. 12-17,166, except that:

14 (1) Such maximum period of special obligation bonds not payable
15 from revenues described by subsections (a)(1)(C), (a)(1)(F) and (a)(1)(G)
16 of K.S.A. 2008 Supp. 12-17,169, and amendments thereto, issued to fi-
17 nance an auto race track facility shall not exceed 30 years; and

18 (2) such maximum period, if the governor determines and makes and
19 submits a finding to the speaker of the house of representatives and the
20 president of the senate that a maturity greater than 20 years, but in no
21 event exceeding 30 years, is necessary for the economic feasibility of the
22 financing of an auto race track facility with special obligation bonds pay-
23 able primarily from revenues described by subsections (a)(1)(C), (a)(1)(F)
24 and (a)(1)(G) of K.S.A. 2008 Supp. 12-17,169, and amendments thereto,
25 may be extended in accordance with such determination and finding.

26 (m) The secretary of revenue shall determine when the amount of
27 sales tax and other revenues that have been collected and distributed to
28 the bond debt service or reserve fund is sufficient to satisfy all principal
29 and interest costs to the maturity date or dates, of any special obligation
30 bonds issued by a city or county to finance a STAR bond project in a
31 major tourism area. Thereafter, all sales tax and other revenues shall be
32 collected and distributed in accordance with applicable law.

33 Sec. 9. K.S.A. 2008 Supp. 74-520a is hereby amended to read as
34 follows: 74-520a. (a) On and after March 15, 1995, the Kansas state fair
35 board is hereby established. The Kansas state fair board shall consist of
36 the following members:

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

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

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

42 (4) one person appointed by the governor from three persons nom-
43 inated by the Kansas chamber of commerce and industry;

1 (5) one person appointed by the governor from three persons nom-
 2 inated by the travel industry association of Kansas;

3 (6) one person appointed by the governor from three persons nom-
 4 inated by the Kansas fairs association;

5 ~~(7) one person appointed by the Kansas technology enterprise cor-
 6 poration from among the board of directors of the Kansas technology
 7 enterprise corporation; and~~

8 ~~(8) six seven~~ people from the general public appointed by the gov-
 9 ernor. Of such people appointed, one shall be from each of the five ex-
 10 tension areas, as established in subsection (e), and ~~one two~~ shall represent
 11 the state at large. Directors of each extension area shall submit three
 12 nominations to the governor. Such persons nominated shall be actively
 13 involved in agriculture production or agribusiness.

14 (b) Of the persons initially appointed by the governor under subsec-
 15 tion (a), three shall have a term of one year, three shall have a term of
 16 two years and three shall have a term of three years and until a successor
 17 is appointed and qualified. Thereafter, all members shall have terms of
 18 three years and until a successor is appointed and qualified.

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

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

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

43 Sec. 10. K.S.A. 74-5001a is hereby amended to read as follows: 74-

1 5001a. The purpose of the department of commerce shall be to develop
2 and implement strategies to:

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

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

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

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

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

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

28 Sec. 11. K.S.A. 2008 Supp. 74-5005 is hereby amended to read as
29 follows: 74-5005. The department shall be the lead agency of the state
30 for economic development of commerce through the promotion of busi-
31 ness, industry, trade and tourism within the state. In general, but not by
32 way of limitation, the department shall have, exercise and perform the
33 following powers and duties:

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

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

1 plishment of the purposes of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (q) to organize, or cause to be organized, an advisory board or boards
2 representing interested groups, including industry, labor, agriculture, sci-
3 entific research, the press, the professions, industrial associations, civic
4 groups, etc.; and such board or boards shall advise with the department
5 as to its work and the department shall, as far as practicable, cooperate
6 with such board or boards, and secure the active aid thereof in the ac-
7 complishment of the aims and objectives of the department;
- 8 (r) to perform the duties imposed under the Kansas venture capital
9 company act;
- 10 (s) to serve as the central agency and clearinghouse to collect and
11 disseminate ideas and information bearing on local planning problems;
12 and, in so doing, the department, upon request of the board of county
13 commissioners of any county or the governing body of any city in the
14 state, may make a study and report upon any planning problem of such
15 county or city submitted to it;
- 16 (t) to disseminate to the public information concerning economic de-
17 velopment programs available in the state, regardless of whether such
18 programs are administered by the department or some other agency and
19 the department shall make available audio-visual and written materials
20 describing the economic development programs to local chambers of
21 commerce, economic development organizations, banks and public li-
22 braries and shall take other measures as may be necessary to effectuate
23 the purpose of this subsection; ~~and~~
- 24 (u) to perform the duties imposed under the individual development
25 account program act, K.S.A. 2008 Supp. 74-50,201 through 74-50,208,
26 and amendments thereto; *and*
- 27 (v) *to perform the duties and carry out the purposes set forth in K.S.A.*
28 *74-8101 through 74-8111, and amendments thereto.*
- 29 Sec. 12. K.S.A. 74-5007a is hereby amended to read as follows: 74-
30 5007a. The purpose of the division of business development shall be to
31 attract new business and industry from outside the state and promote and
32 encourage the growth, diversification, innovation and retention of existing
33 Kansas business and industry, in rural and urban Kansas, thereby creating
34 quality jobs, attracting new capital investment, and expanding and diver-
35 sifying the state's economic tax base. In defining this purpose, the de-
36 partment and the state government shall recognize that the future of the
37 Kansas economy depends largely on the creation of diversified, value
38 added, primary economic activity that imports new quality jobs, income
39 and wealth into the state. The division of business development is hereby
40 authorized and empowered to:
- 41 (a) Foster a climate of agricultural and industrial development by
42 providing incentives to businesses and industries located principally out-
43 side the state to expand, locate or relocate within the state;

- 1 (b) to engage in recruitment of such businesses and industries by
2 identifying, contacting and informing them of the benefits of expanding,
3 locating or relocating in Kansas;
- 4 (c) maintain and keep current all available information regarding the
5 industrial opportunities and possibilities of the state, including raw ma-
6 terials and by-products; power and water resources; transportation facil-
7 ities; available markets and the marketing limitations of the state; labor
8 supply; banking and financing facilities; availability of industrial sites; and
9 the advantages the state and its particular sections have as industrial lo-
10 cations; and such information shall be used for the encouragement of new
11 industries in the state and the expansion of existing industries within the
12 state;
- 13 (d) to assist counties and cities in industrial development through the
14 establishment of industrial development corporations, including site sur-
15 veys, small business administration problems, and render such other sim-
16 ilar assistance as may be required; and in those instances where it is
17 deemed appropriate, to contract with and make a service charge to the
18 county or city involved for such services rendered; and
- 19 (e) to acquaint the people of this state with the industries within the
20 state and encourage closer cooperation between the agriculture, com-
21 mercial and industrial enterprises and the people of the state.
- 22 (f) Provide programs that facilitate the development of existing in-
23 dustries and startup industries;
- 24 (g) facilitate the availability of capital for business growth and quality
25 job creation;
- 26 (h) foster the development of a coordinated statewide network of
27 business assistance programs;
- 28 (i) encourage the development of minority and women-owned
29 businesses;
- 30 (j) pursue initiatives that expand the market for Kansas products and
31 services;
- 32 (k) assist small business by providing assistance in interpreting and
33 applying the laws and administrative rules and regulations of the state
34 applying to such businesses; and
- 35 (l) make performance grants available to certified development com-
36 panies and small business development centers as key constituent ele-
37 ments of a "statewide risk capital system" subject to legislative appropri-
38 ations. Such grants shall be made to provide secure base levels of funding
39 and incentives for providing financial and technical assistance through the
40 statewide risk capital system to primary, job creating enterprises. The
41 method of distribution of the grants shall be developed by the division in
42 consultation with the certified development companies and small business
43 development centers ~~and reviewed and evaluated by Kansas, Inc.~~ Prior

1 to establishing the method of distribution, the division in consultation
2 with the certified development companies and small business develop-
3 ment centers shall perform a survey and analysis of the effectiveness of
4 existing methods of distribution for funding in other states. The method
5 of distribution shall include provision for the establishment of perform-
6 ance standards and performance review prior to initial funding and for
7 all subsequent refunding. The method of distribution shall also provide a
8 formula for base levels of funding which considers all current levels of
9 federal, state and other existing funding, and which recognizes different
10 needs based upon differences in client populations and areas served. The
11 method of distribution proposed shall give priority to the use of state
12 funds for incentive funding where possible, and shall specifically encour-
13 age co-location of services essential to an effective and efficient statewide
14 risk capital system.

15 Sec. 13. K.S.A. 2008 Supp. 74-5049 is hereby amended to read as
16 follows: 74-5049. (a) In order to insure that the department of commerce
17 is effectively administering this act, the department shall cooperate with
18 the standing committee on commerce of the senate, the standing com-
19 mittee on ~~new economy~~ *economic development and tourism* of the house
20 of representatives and the joint committee on economic development ~~and~~
21 ~~Kansas, Inc.~~, in the performance of an independent performance review
22 of the activities of the department and the departmental divisions. The
23 review shall include, but not be limited to: (1) An assessment of the
24 impacts of the department's programs corresponding to the strategic
25 plans of the department and the departmental divisions; (2) a comparative
26 assessment of the relative impact of the department's programs with sim-
27 ilar programs in other states; and (3) a comparative assessment of the
28 targeting of the department's programs by size and sector of economic
29 activity, and by location in different areas of the state. The review shall
30 be completed or updated at least once every three years.

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

1 tivities of the department and its divisions, and of state government are
2 necessary to better address the purposes described in this act. The annual
3 report to the standing committee on commerce of the senate, the standing
4 committee on ~~new economy~~ *economic development and tourism* of the
5 house of representatives and the joint committee on economic develop-
6 ment shall be made by the department either (1) by publishing such
7 report on the internet and by notifying each member of the committees
8 that the report is available and providing, as part of such notice, the
9 uniform resource locator (URL) at which such report is available, or (2)
10 by submitting copies of such report on CD-ROM or other electronically
11 readable media to such committees.

12 Sec. 14. K.S.A. 2008 Supp. 74-5089 is hereby amended to read as
13 follows: 74-5089. (a) There is hereby established a state matching grant
14 program to provide assistance in the promotion of tourism and develop-
15 ment of quality tourist attractions within the state of Kansas. Grants
16 awarded under this program shall be limited to not more than 40% of
17 the cost of any proposed project. Applicants shall not utilize any state
18 moneys to meet the matching requirements under the provisions of this
19 program. Both public and private entities shall be eligible to apply for a
20 grant under the provisions of this act. Not less than 75% of all moneys
21 granted under this program shall be allocated to public entities or entities
22 exempt from taxation under the provisions of 501(c)(3) of the federal
23 internal revenue code of 1986 and amendments thereto. After July 1,
24 1994, no more than 20% of moneys granted to public or nonprofit entities
25 shall be granted to any single such entity. Furthermore, after July 1, 1994,
26 no more than 20% of moneys granted to private entities shall be granted
27 to any single such entity. The secretary of commerce shall administer the
28 provisions of this act and the secretary may adopt rules and regulations
29 establishing criteria for qualification for a matching grant and such other
30 matters deemed necessary by the secretary for the administration of this
31 act.

32 (b) For the purpose of K.S.A. 74-5089 through 74-5091, and amend-
33 ments thereto, "tourist attraction" means a site that is of significant in-
34 terest to tourists as a historic, cultural, scientific, educational, recreational
35 or architecturally unique site, or as a site of natural scenic beauty or an
36 area naturally suited for outdoor recreation, however, under no circum-
37 stances shall "tourist attraction" mean a race track facility, as defined in
38 K.S.A. 74-8802, and amendments thereto, or any casino or other estab-
39 lishment which operates class three games, as defined in the 1991 version
40 of 25 USC 2703.

41 ~~(c) During the fiscal year 1997, Kansas Inc. shall commission an anal-~~
42 ~~ysis of this program's impact on tourism. The analysis shall include a~~
43 ~~recommendation for continuation, discontinuation or alteration of the~~

1 ~~program.~~

2 Sec. 15. K.S.A. 2008 Supp. 74-5095 is hereby amended to read as
3 follows: 74-5095. (a) There is hereby established the community strategic
4 planning grant committee which is composed of the following:

5 (1) The president of ~~Kansas, Inc.~~ *the Kansas center for entrepre-*
6 *neurship*, who shall act as chairperson;

7 (2) the director of the national institute for rural development or the
8 director's designee;

9 (3) one member from the Kansas association of counties;

10 (4) one member from the Kansas league of municipalities;

11 (5) one member from the Kansas industrial developers association
12 who is also from a metropolitan county; and

13 (6) one member with extensive knowledge of urban revitalization or
14 public finance or both who shall be appointed by the secretary of
15 commerce.

16 (b) Members designated in subsections (a)(3), (4) and (5) shall be
17 appointed by the secretary of commerce in consultation with the respec-
18 tive associations named therein.

19 (c) The committee is hereby attached to the department of com-
20 merce as a part thereof. All budgeting, purchasing and related manage-
21 ment functions of the committee shall be administered by the secretary
22 of commerce. The secretary of commerce shall provide office and meet-
23 ing space and such clerical and other staff assistance as may be necessary
24 to assist the committee in carrying out its powers, duties and functions
25 under this act.

26 (d) Members of the committee attending meetings of the committee,
27 or attending a subcommittee meeting thereof authorized by the commit-
28 tee, may be paid compensation, subsistence allowances, mileage and
29 other expenses as provided in K.S.A. 75-3223 and amendments thereto.

30 Sec. 16. K.S.A. 2008 Supp. 74-50,133 is hereby amended to read as
31 follows: 74-50,133. There is hereby created within the department of
32 commerce the "high performance incentive fund" to provide matching
33 funds for business assistance and consulting services to qualified firms
34 under the provisions of K.S.A. 74-50,131 that are entitled to a workforce
35 training tax credit under the provisions of K.S.A. 74-50,132 or have re-
36 ceived written approval for and are participating, at the time the funds
37 are sought, in the Kansas industrial training, Kansas industrial retraining
38 or state of Kansas investments in lifelong learning program, subject to
39 appropriation of funds and program criteria, as hereinafter provided. The
40 department of commerce may provide funds to qualified firms, on a
41 matching basis, to pay up to 50% of such firm's costs of acquiring con-
42 sulting services provided by the mid-America manufacturing technology
43 center, or approved private consultants to assist in improving the firm's

1 management, production processes or product or service quality. Quali-
2 fied firms also shall receive priority consideration for any other business
3 assistance programs administered by the department of commerce, ~~the~~
4 ~~Kansas technology enterprise corporation and the mid-America manu-~~
5 ~~facturing technology center.~~

6 Sec. 17. K.S.A. 2008 Supp. 74-50,151 is hereby amended to read as
7 follows: 74-50,151. (a) There is hereby created in the state treasury the
8 Kansas economic opportunity initiatives fund. Subject to acts of the leg-
9 islature applicable thereto, the moneys in the Kansas economic oppor-
10 tunity initiatives fund shall be used only for the purposes prescribed by
11 this section.

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

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

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

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

1 ings performed on each project.

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

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

25 (1) The average daily balance of moneys in the Kansas economic op-
26 portunity initiatives fund for the preceding month; and

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

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

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

5 Sec. 18. K.S.A. 2008 Supp. 74-50,156 is hereby amended to read as
6 follows: 74-50,156. (a) There is hereby established within and as a part
7 of the department of commerce the agriculture products development
8 division. The secretary of commerce shall appoint a director of such di-
9 vision and such director shall be in the unclassified service of the Kansas
10 civil service act. Subject to and in accordance with appropriations acts,
11 the agriculture products development division shall include: (1) All pow-
12 ers, duties and functions related to the agricultural value added center
13 pursuant to subsections (b) and (c); (2) all powers and duties created
14 regarding the division of markets pursuant to K.S.A. 74-530, and amend-
15 ments thereto, which are hereby transferred; (3) all powers and duties
16 created regarding registered trademarks pursuant to K.S.A. 74-540a, and
17 amendments thereto, which are hereby transferred; (4) all powers and
18 duties regarding the trademark fund pursuant to K.S.A. 74-540b, and
19 amendments thereto, which are hereby transferred; and (5) all powers
20 and duties created regarding expenditures and moneys credited to the
21 market development fund pursuant to K.S.A. 74-540c, and amendments
22 thereto, which are hereby transferred.

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

- 1 (c) Subject to the provisions of appropriations acts, the functions of
2 the agricultural value added center within the agriculture products de-
3 velopment division shall include, but not be limited to, developing a mar-
4 ket referral program, matching distribution to buyers in coordination with
5 other state agencies concerned with marketing Kansas products; assisting
6 private entrepreneurs in the establishment of facilities and markets for
7 new agricultural value added endeavors; and introducing coordinated pro-
8 grams to develop marketing skills of existing agricultural value adding
9 processors in Kansas.
- 10 (d) (1) It shall be the duty of the agriculture products development
11 division to perform acts and to do, or cause to be done, those things which
12 are designed to lead to the more advantageous marketing of agricultural
13 products of Kansas. For these purposes the division may:
- 14 (A) Investigate the subject of marketing farm products;
 - 15 (B) promote their sales distribution and merchandising;
 - 16 (C) furnish information and assistance to the public;
 - 17 (D) study and recommend efficient and economical methods of
18 marketing;
 - 19 (E) provide for such studies and research as may be deemed neces-
20 sary and proper;
 - 21 (F) gather and diffuse timely and useful information concerning the
22 supply, demand, prevailing prices and commercial movement of farm
23 products including quantity in common storage and cold storage, in co-
24 operation with other public or private agencies;
 - 25 (G) conduct market development activities and assist and coordinate
26 participation by companies, commodity organizations, trade organiza-
27 tions, producer organizations and other interested organizations to de-
28 velop new markets and sales for Kansas agricultural commodities and food
29 products;
 - 30 (H) render assistance to any of the entities listed in subsection (G)
31 and development activities and make a reasonable service charge for such
32 services rendered by the division; and
 - 33 (I) make agreements with other states and with the United States
34 government, or its agencies, and accept funds from the federal govern-
35 ment, or its agencies, or any other source for research studies, investi-
36 gation, market development and other purposes related to the duties of
37 the division.
- 38 (2) The department of commerce shall remit all moneys received
39 under this subsection to the state treasurer in accordance with the pro-
40 visions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
41 such remittance, the state treasurer shall deposit the entire amount in the
42 state treasury to the credit of the market development fund. All expend-
43 itures from such fund shall be made for any purpose consistent with this

1 subsection and shall be made in accordance with appropriation acts upon
2 warrants of the director of accounts and reports issued pursuant to vouch-
3 ers approved by the secretary of commerce or a person designated by the
4 secretary.

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

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

9 (B) print, reproduce or use the trademark in or on educational, pro-
10 motional or other material;

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

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

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

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

1 ~~(g) Subject to appropriation acts, the secretary of commerce shall~~
 2 ~~fulfill all contracts in existence on the effective date of this act between~~
 3 ~~the Kansas technology enterprise corporation and the alternative agri-~~
 4 ~~culture research and development center.~~

5 Sec. 19. K.S.A. 2008 Supp. 74-8101 is hereby amended to read as
 6 follows: 74-8101. (a) There is hereby created ~~a body politic and corporate~~
 7 ~~to be known as~~ the Kansas technology enterprise ~~corporation~~ board which
 8 shall be attached to the department of commerce. The Kansas technology
 9 enterprise ~~corporation~~ board is hereby constituted a public instrumen-
 10 tality and the exercise of the authority and powers conferred by this act
 11 shall be deemed and held to be the performance of an essential govern-
 12 mental function. *The secretary of commerce shall provide such technical*
 13 *assistance and staff as necessary to assist the Kansas technology enterprise*
 14 *board in the performance of its duties under K.S.A. 74-8101 through 74-*
 15 *8111, and amendments thereto. The secretary and the department of com-*
 16 *merce shall have no authority over the board with respect to the perform-*
 17 *ance of any power, duty or function of the board.*

18 (b) *For the fiscal year ending June 30, 2010, and for each fiscal year*
 19 *thereafter, the secretary shall include the budget estimate of the Kansas*
 20 *technology enterprise board, as prepared and approved by the board,*
 21 *along with the budget estimate prepared and submitted to the division of*
 22 *the budget for the department of commerce under K.S.A. 75-3717, and*
 23 *amendments thereto. The budget estimate of the board for each such fiscal*
 24 *year shall be prepared at the direction and under the supervision of the*
 25 *board. Expenditures from appropriations to the department of commerce*
 26 *for the board, made pursuant to budget estimates for the board, shall be*
 27 *made on vouchers approved by the board, or the board's designee. All*
 28 *vouchers for expenditures and all payrolls of the board shall be approved*
 29 *by the board, or the board's designee.*

30 ~~(b) (c)~~ The ~~corporation~~ board shall be governed by a board consist of
 31 ~~20 directors~~ members who shall be residents of this state. The board shall
 32 consist of *the following 19 voting members: (1) the governor or, at the*
 33 *discretion of the governor, the secretary of the department of commerce,*
 34 ~~(2) the secretary of agriculture, (3) ; (2) four directors~~ members who are
 35 members of the legislature appointed as provided in subsection ~~(d)~~ (e)(1);
 36 ~~(4) ; (3) four directors~~ members who are appointed by legislative officers
 37 as provided in subsection ~~(d)~~ (e)(2); and ~~(5) (4) ten directors~~ members
 38 appointed by the governor subject to senate confirmation as provided in
 39 K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A.
 40 46-2601, and amendments thereto, no person whose appointment is sub-
 41 ject to confirmation by the senate, shall exercise any power, duty or func-
 42 tion as a member of the board until confirmed by the senate. *The other*
 43 *member of the board shall be the secretary of commerce, or the secretary's*

1 *designee, who shall serve ex officio and be a nonvoting member of the*
 2 *board.*

3 ~~(c)~~(d) (1) All 10 of the ~~directors~~ *members* appointed by the governor
 4 shall be persons recognized for outstanding knowledge and leadership in
 5 their fields. Six of the ~~directors~~ *members* shall be persons from the private
 6 sector and four shall be persons from the public sector. The four appoint-
 7 ees from the public sector shall consist of one or more of the following:
 8 Senior administrators at Kansas educational institutions governed by the
 9 board of regents or engineers or scientists who have extensive experience
 10 in managing basic or applied scientific and technological research. Of the
 11 six ~~directors~~ *members* appointed from the private sector:

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

- 15 (i) Resource-based industries of agriculture, oil and gas;
- 16 (ii) advanced technology industries of aviation, manufacturing, infor-
 17 mation and design; and
- 18 (iii) emerging industries of telecommunications, computer software,
 19 information services and research services; and

20 (B) two ~~directors~~ *members* shall be persons who represent the private
 21 financial sector of whom one shall have experience in the area of high-
 22 risk venture investments, and the other shall have commercial banking
 23 experience in an industry of special technological importance to the Kan-
 24 sas economy.

25 (2) In making appointments to the board, the governor shall give
 26 consideration to the qualifications of the persons who served as commis-
 27 sioners of the Kansas advanced technology commission and shall give
 28 consideration to appropriate geographical representation.

29 (3) Of the members first appointed to the board, two ~~directors~~ *mem-*
 30 *bers* shall be appointed for a term of one year, two ~~directors~~ *members*
 31 shall be appointed for terms of two years, three ~~directors~~ *members* shall
 32 be appointed for terms of three years and three ~~directors~~ *members* shall
 33 be appointed for terms of four years. Except as provided by paragraph
 34 (4), successors to such ~~directors~~ *members* shall be appointed for terms of
 35 four years. Each ~~director~~ *member* shall hold office for the term of ap-
 36 pointment and until the successor has been appointed and confirmed. In
 37 the event of a vacancy, the vacancy shall be filled by the governor in the
 38 manner provided for original appointments for the remainder of the unex-
 39 pired portion of the term.

40 (4) The terms of ~~directors~~ *members* appointed pursuant to this sub-
 41 section who are serving on the board on the effective date of this act shall
 42 expire on January 15, of the year in which such member's term would
 43 have expired under the provisions of this section prior to amendment by

1 this act. Thereafter, ~~directors~~ *members* shall be appointed for terms of
2 four years and until their successors are appointed and confirmed.

3 ~~(d)~~ (e)(1) Four ~~directors~~ *members* shall be members of the legislature
4 as follows: The speaker of the house, the house minority leader, the pres-
5 ident of the senate, and the senate minority leader, or legislators who are
6 appointed to represent them and who will provide continuity by virtue of
7 their membership on the standing committee on commerce of the senate,
8 the standing committee on economic development *and tourism* of the
9 house of representatives or the joint committee on economic develop-
10 ment. Legislative officers designated in this subsection shall serve by vir-
11 tue of office. Legislators appointed under this subsection shall serve from
12 the dates of their appointment until the first day of the regular legislative
13 session in odd-numbered years and are eligible for reappointment.

14 (2) (A) Four ~~directors~~ *members* shall be appointed by legislative of-
15 ficers as follows: (1) One shall be appointed by the speaker of the house,
16 (2) one shall be appointed by the house minority leader, (3) one shall be
17 appointed by the president of the senate, and (4) one shall be appointed
18 by the senate minority leader. The members so appointed shall be persons
19 who are recognized for outstanding knowledge and leadership in their
20 fields, who are from the private sector and who represent industries of
21 the Kansas economy including small enterprises which include, but are
22 not limited to:

- 23 (i) Resource-based industries of agriculture, oil and gas;
- 24 (ii) advanced technology industries of aviation, manufacturing, infor-
25 mation and design; and
- 26 (iii) emerging industries of telecommunications, computer software,
27 information services and research services.

28 (B) Of the ~~directors~~ *members* first appointed by legislative officers
29 under this subsection ~~(d)~~ (e)(2), the ~~directors~~ *members* appointed by the
30 speaker of the house and the president of the senate shall be appointed
31 to a term of four years and the ~~directors~~ *members* appointed by the house
32 minority leader and the senate minority leader shall be appointed to a
33 term of two years. Successors to such ~~directors~~ *members* shall be ap-
34 pointed for terms of four years. Each ~~director~~ *members* shall hold office
35 for the term of appointment and until the successor has been appointed.
36 In the event of a vacancy, the vacancy shall be filled by the legislative
37 officer who appointed the ~~director~~ *member* who created the vacancy in
38 the manner provided for the original appointment for the remainder of
39 the unexpired portion of the term.

40 ~~(e)~~ (f) Members of the board of ~~directors~~, in their dealings with en-
41 terprises that may receive financing through the ~~corporation~~ *department*
42 *of commerce*, shall declare any potential conflict of interest and abstain
43 from voting prior to taking any actions relating to that transaction.

- 1 ~~(f) The board of directors shall conduct a national search and select~~
2 ~~a corporate president who meets a national standard of experience, ability~~
3 ~~and initiative for similar positions. The corporate president shall not be~~
4 ~~a member of the board.~~
- 5 (g) The board ~~of directors~~ shall hold all board meetings within the
6 state of Kansas.
- 7 (h) Members of the board ~~of directors~~ are entitled to compensation
8 and expenses as provided in K.S.A. 75-3223, and amendments thereto.
- 9 (i) The board shall annually elect from the private sector membership
10 one member as chairperson and one member as vice-chairperson.
- 11 (j) The board ~~of directors~~ shall meet at least once during each cal-
12 endar quarter, and at such other times ~~as may be provided in the rules~~
13 ~~of the corporation, upon call by the president, the chairperson or upon~~
14 ~~written request of a majority of the directors members.~~
- 15 (k) A majority of the board ~~of directors~~ shall be necessary to transact
16 ~~corporation board~~ business, and all actions of the ~~directors members~~ shall
17 be by a majority vote of the full number of ~~corporate directors members~~.
- 18 (l) The ~~directors members~~ shall establish an executive committee
19 composed of the chairperson, vice-chairperson and three additional mem-
20 bers chosen by the chairperson from among the remaining ~~directors mem-~~
21 ~~bers~~. The executive committee, in intervals between board meetings, may
22 transact any board business that has been delegated to the executive com-
23 mittee. A majority of the executive committee shall be necessary to trans-
24 act business and all actions of the executive committee shall be by a
25 majority vote of the committee.
- 26 (m) No member of the board ~~of directors~~ is eligible to serve more
27 than two terms of office.
- 28 (n) A member appointed to the board of directors by the governor
29 may be removed by the governor for cause, stated in writing, after a
30 hearing thereon.
- 31 Sec. 20. K.S.A. 74-8102 is hereby amended to read as follows: 74-
32 8102. (a) The purpose of ~~the Kansas technology enterprise corporation~~
33 ~~K.S.A. 74-8101 through 74-8111, and amendments thereto~~, is to foster
34 innovation in existing and developing businesses, especially the creation,
35 growth and expansion of Kansas enterprises in a diversified range of pri-
36 mary sectors, which develop value-added products, processes and services
37 including, but not limited to:
- 38 (1) Existing resource-based industries of agriculture, oil, gas, coal and
39 helium;
- 40 (2) existing advanced technology industries of aviation, pharmaceu-
41 ticals, computers and electronics; and
- 42 (3) emerging industries of telecommunications, computer software,
43 information services and research services.

- 1 (b) The ~~corporation~~ *board* shall achieve the purpose stated in sub-
 2 section (a) of this section by:
- 3 (1) Financing basic research, applied research and development, and
 4 technology transfer at Kansas educational institutions which meet com-
 5 petitive standards of excellence as measured by national and international
 6 peers, and which create innovative collaboration between Kansas edu-
 7 cational institutions and Kansas enterprises;
- 8 (2) awarding applied research matching grants to Kansas educational
 9 institutions and Kansas private enterprises in order to move innovation
 10 and applied research toward commercial application;
- 11 (3) engaging in seed-capital financing for the development and im-
 12 plementation of innovations or new technologies for existing resource,
 13 technology-based and emerging Kansas businesses; and
- 14 (4) providing technical referral services to such small, new, emerging
 15 or mature businesses and encouraging Kansas educational institutions to
 16 establish technical information databases and industrial liaison offices
 17 which are easily accessible by both private and public sector Kansas
 18 organizations.
- 19 (c) ~~The department of commerce, Kansas, Inc. and all~~ All other in-
 20 terested state agencies shall cooperate with the ~~Kansas technology enter-
 21 prise corporation~~ *board* in providing information and other assistance as
 22 may be requested for the performance of its duties with respect to the
 23 state's economic development strategy.
- 24 Sec. 21. K.S.A. 74-8103 is hereby amended to read as follows: 74-
 25 8103. As used in ~~this act~~ K.S.A. 74-8101 through 74-8111, and amend-
 26 *ments thereto*, unless the context clearly requires otherwise:
- 27 (a) "Applied research" means those research activities occurring at
 28 educational institutions and in private enterprises, which have potential
 29 commercial application;
- 30 (b) "basic research" means research that has long range generic value
 31 to an industry classification or group of companies. Basic research is dis-
 32 tinguished from applied research which has more short range present
 33 value to a single company or project;
- 34 (c) ~~"corporation" means the Kansas technology enterprise corpora-
 35 tion~~ *"board" means the Kansas technology enterprise board established*
 36 *under K.S.A. 74-8101, and amendments thereto;*
- 37 (d) *"department" means the department of commerce;*
- 38 ~~(d)~~ (e) "educational institutions" means public and private commu-
 39 nity colleges, colleges and universities in the state;
- 40 ~~(e)~~ (f) "enterprise" means a firm with its principal place of business
 41 in Kansas which is engaged or proposes to be engaged in this state in
 42 agricultural, natural resource-based or other manufacturing, research and
 43 development, or the provision of technology-based services;

- 1 ~~(f)~~ (g) “new technology” means the development through science or
2 research of methods, processes and procedures, including but not limited
3 to those involving the utilization of agricultural products and by-products
4 and oil and gas and other mineral resources for practical application in
5 industrial and service situations;
- 6 ~~(g)~~ (h) “person” means any individual, partnership, corporation or
7 joint venture carrying on business or proposing to carry on business within
8 the state;
- 9 ~~(h)~~ (i) “product” means any product, device, technique or process,
10 which is or may be developed or marketed commercially; however, “prod-
11 uct” does not refer to basic research but shall apply to such products,
12 devices, techniques or processes which have advanced beyond the theo-
13 retical stage and are in a prototype or practice stage;
- 14 ~~(i)~~ (j) “qualified security” means any public or private financial ar-
15 rangement, involving any note, security, debenture, evidence of indebt-
16 edness, certificate of interest or participation in any profit-sharing agree-
17 ment, preorganization certificate or subscription, transferable security,
18 investment contract, certificate of deposit for a security, certificate of
19 interest or participation in a patent or application therefor, or in royalty
20 or other payments under such a patent or application, or, in general, any
21 interest or instrument commonly known as a “security” or any certificate
22 for, receipt for, guarantee of, or option, warrant or right to subscribe to
23 or purchase any of the foregoing to the extent allowed by law;
- 24 (k) “secretary” means the secretary of commerce; and
- 25 ~~(j)~~ (l) “seed capital” means financing that is provided for the devel-
26 opment, refinement and commercialization of a product, process or in-
27 novation, whether for the startup of a new firm, the expansion or the
28 restructuring of a small firm.
- 29 Sec. 22. K.S.A. 2008 Supp. 74-8104 is hereby amended to read as
30 follows: 74-8104. (a) The ~~corporation~~ board shall have all the powers
31 necessary to achieve the purposes, specified in K.S.A. 74-8102, and
32 amendments thereto, including the power to:
- 33 (1) ~~Make, amend and repeal bylaws; Adopt rules and regulations for~~
34 ~~the management of its affairs as necessary for the implementation of the~~
35 ~~provisions of K.S.A. 74-8101 through 74-8111, and amendments thereto;~~
- 36 (2) ~~sue and be sued;~~
- 37 ~~(3)~~ make contracts and execute all instruments necessary or conven-
38 ient for carrying out its ~~business~~ powers and duties under K.S.A. 74-8101
39 through 74-8111, and amendments thereto;
- 40 ~~(4)~~ (3) acquire, own, hold, dispose of and encumber real or personal
41 property of any nature, both tangible and intangible, or any interest
42 therein;
- 43 ~~(5)~~ (4) enter into agreements or other transactions with any federal,

1 state, county or municipal agency and with any individual, corporation,
2 enterprise, association or any other entity involving applied research and
3 technology;

4 ~~(6)~~ (5) acquire real property or an interest therein, by purchase or
5 foreclosure, where such acquisition is necessary or appropriate to protect
6 or secure any investment or loan in which the ~~corporation~~ *board* has an
7 interest;

8 ~~(7)~~ (6) sell, transfer and convey any such property to a buyer, and in
9 the event such sale, transfer or conveyance cannot be effected with rea-
10 sonable promptness or at a reasonable price, to lease such property to a
11 tenant;

12 ~~(8)~~ (7) invest any funds appropriated by the state and held in reserve
13 in funds not required for immediate disbursement, in such investments
14 that may be awful for fiduciaries in this state, and invest funds received
15 from gifts, grants, donations and other operations of the ~~corporation~~
16 *board* in such investments as would be lawful for a private ~~corporation~~
17 *entity* having purposes similar to the ~~corporation~~ *board*;

18 ~~(9)~~ (8) borrow money and give ~~guaranties~~ *guarantees*, provided that
19 the indebtedness and other obligations of the ~~corporation~~ *board* shall be
20 payable solely out of its own ~~resources~~ *revenues*, and shall not constitute
21 a pledge of the full faith and credit of the state or any of its revenues;

22 ~~(10)~~ (9) appoint officers, consultants, agents and advisors, and pre-
23 scribe their duties and compensation;

24 ~~(11)~~ (10) appear in its own behalf before boards, commissions, de-
25 partments or other agencies of municipal, county or state government or
26 federal government;

27 ~~(12)~~ (11) procure insurance against any losses in connection with its
28 properties in such amounts from such insurers as may be necessary or
29 desirable;

30 ~~(13)~~ (12) consent, subject to the provisions of any contract with note-
31 holders, whenever it considers it necessary or desirable in the fulfillment
32 of the purposes of ~~this act~~ *K.S.A. 74-8101 through 74-8111, and amend-*
33 *ments thereto*, to the modifications, with respect to the rate of interest,
34 time payment or of any installment, of principal and interest or any terms
35 of any contract or agreement of any kind to which the ~~corporation~~ *board*
36 is a party;

37 ~~(14)~~ (13) accept any and all donations, grants, bequests and devises,
38 conditional and otherwise, of money, property, services or other things
39 of value which may be received from the United States or any agency
40 thereof, any governmental agency, or any institution, person, firm or cor-
41 poration, public or private, to be held, used or applied for any or all of
42 the purposes specified in ~~this act~~ *K.S.A. 74-8101 through 74-8111, and*
43 *amendments thereto*, in accordance with the terms and conditions of any

1 such grant;

2 ~~(15)~~ (14) trade, buy or sell qualified securities, including without lim-
3 itation, the powers to guarantee, purchase, take, receive, subscribe for or
4 otherwise acquire, to own, hold, use or otherwise employ; to sell, lease,
5 exchange, transfer or otherwise dispose of; to mortgage, lend, pledge or
6 otherwise deal in and with, qualified securities issued by any other do-
7 mestic or foreign corporation, partnership, association, limited liability
8 company, or business trust, whether or not such issuer was organized or
9 caused to be organized by the ~~corporation~~ board. The ~~corporation~~ board,
10 while owner of any such qualified securities, may exercise all of the rights,
11 powers and privileges of ownership, including without limitation the right
12 to vote;

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

20 ~~(17)~~ (16) solicit, study and assist in the preparation of business plans
21 and proposals of new or established resource and technologically oriented
22 enterprises of special importance to the Kansas economy;

23 ~~(18)~~ (17) prepare, publish and distribute such technological studies,
24 reports, bulletins and other materials as it considers appropriate, subject
25 only to the maintenance and responsibility for confidentiality of the client
26 proprietary information, and encourage educational institutions to de-
27 velop and disseminate similar materials;

28 ~~(19)~~ (18) organize, conduct, sponsor or cooperate with, and assist
29 both the private sector and educational institutions in the conduct of,
30 special institutes, conferences, demonstrations and studies relating to the
31 stimulation and formulation of innovation, applied science and techno-
32 logically oriented enterprises and studies relating to the formulation of
33 resource and technologically oriented enterprises and industry endeavors;

34 ~~(20)~~ (19) provide and pay for such advisory services and technical
35 assistance that may be necessary or desirable to carry out the purposes
36 of ~~this act~~ K.S.A. 74-8101 through 74-8111, and amendments thereto;

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

1 ~~(22)~~ (21) negotiate royalty payments to the ~~corporation~~ *board* on pat-
 2 ents and licenses for innovations or inventions arising in the course of
 3 research sponsored by the ~~corporation~~ *board* at educational institutions
 4 under the jurisdiction of the Kansas board of regents; such negotiated
 5 royalty arrangements should reflect an appropriate sharing of legal risk
 6 as well as financial return between the ~~corporation~~ *board* and educational
 7 institution; such patents and licenses shall be in keeping with the patent
 8 policies of the Kansas board of regents;

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

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

16 ~~(25)~~ (24) cooperate with the department of commerce regarding fi-
 17 nancial assistance programs targeted to small enterprises of special im-
 18 portance to the Kansas economy;

19 ~~(26)~~ (25) provide resource-based, scientific and technological data
 20 and information required by the governor, the legislature, or its commit-
 21 tees, and to state agencies, educational institutions and cities, counties
 22 and school districts and to private citizens and groups, within the limita-
 23 tions of the resources available to the ~~corporation~~ *board*. This service shall
 24 be in addition to any services currently provided by any educational in-
 25 stitution, committee or other organization in the state.

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

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

38 ~~(d) The corporation shall not be subject to state purchasing laws.~~

39 Sec. 23. K.S.A. 74-8106 is hereby amended to read as follows: 74-
 40 8106. (a) The purpose of this section is to authorize the establishment of
 41 three types of centers of excellence at educational institutions: Centers
 42 of excellence for basic research, centers of excellence for applied research
 43 and development, and centers of excellence for technology transfer.

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

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

12 (2) The ~~corporation~~ *board* may use the Kansas technology enterprise
13 basic research fund to carry out the purposes of ~~this act~~ *K.S.A. 74-8101*
14 *through 84-8111, and amendments thereto*, by awarding funds to establish
15 new centers of excellence for basic research or to increase funding to
16 such already established centers of excellence so long as those centers are
17 determined to be primarily carrying out basic research and to meet the
18 standards of excellence required by ~~this act~~ *K.S.A. 74-8101 through 74-*
19 *8111, and amendments thereto*. Awards of funds shall be made on a com-
20 petitive basis, and all proposals for new centers of excellence shall be
21 subject to external peer review on the basis of scientific merit which meet
22 national standards of excellence and subsequent potential for commercial
23 application.

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

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

36 (2) The ~~corporation~~ *board* may use the Kansas technology enterprise
37 applied research and development fund to carry out the purposes of ~~this~~
38 ~~act~~ *K.S.A. 74-8101 through 74-8111, and amendments thereto*, by award-
39 ing funds to establish new centers of excellence for applied research and
40 development or to increase funding to such already established centers
41 of excellence so long as those centers are determined to be carrying out
42 primarily applied research and development, and to be meeting the stan-
43 dards of excellence required by ~~this act~~ *K.S.A. 74-8101 through 74-8111,*

1 *and amendments thereto.* Awards of funds shall be made on a competitive
2 basis, and all proposals for new centers of excellence shall be subject to
3 external peer review on the basis of scientific merit which meets national
4 standards of excellence and subsequent potential for commercial
5 application.

6 (d) Centers of excellence for technology transfer will primarily un-
7 dertake ongoing transfer of technology from educational institutions to
8 Kansas business.

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

14 (2) The ~~corporation~~ *board* may use the Kansas technology enterprise
15 technology transfer fund to carry out the purposes of ~~this act~~ K.S.A. 74-
16 8101 through 74-8111, *and amendments thereto*, by awarding funds to
17 establish new centers of technology transfer or to increase funding to such
18 already established centers of excellence so long as those centers are
19 determined to be carrying out primarily technology transfer.

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

24 (e) The ~~corporation~~ *board* shall award funding to centers of excel-
25 lence ~~transfer~~ in accordance with subsections (g) and (h).

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

36 (g) The ~~corporation~~ *board* shall award funding for new centers and
37 increased funding for established centers only after:

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

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

42 (3) receiving the recommendation of the centers of excellence com-
43 mittee which will review proposals for new or established centers of ex-

1 cellence containing:

- 2 (A) Documentation that not less than 50% of the center's funding
3 above the established level of core funding will be matched by sources
4 other than the ~~corporation~~ *board*; machinery or equipment may be con-
5 sidered as part of the matching funds, but must be accompanied by a
6 statement that the center of excellence has received the machinery or
7 equipment, it is state of the art; and either
8 (i) verifying that the machinery or equipment is donated and has only
9 been used in testing to insure quality control, or used by a wholesaler or
10 retailer for demonstration purposes only; or
11 (ii) detailing the price paid by the center of excellence, with an in-
12 voice showing the amount paid for the equipment;
13 (B) a description of a potential for future benefit to industry;
14 (C) an itemized operations budget; and
15 (D) other information that may be required by the board.
16 (h) The board shall approve proposals to establish new centers of
17 excellence after the board finds, based upon the proposal submitted, ex-
18 ternal peer reviews, and such additional investigation as the staff of the
19 ~~corporation~~ *department* shall make ~~and incorporate in its minutes~~ that:
20 (1) The proposed center of excellence has the potential to stimulate
21 economic growth by bringing together educational institutions and busi-
22 nesses in partnerships to focus on basic research, applied research and
23 development, and technology transfer;
24 (2) the center has the long-run potential for benefit to existing and
25 new businesses through innovation and development of new technology;
26 and
27 (3) approval of the proposal will not create or foster unnecessary du-
28 plication of programs, particularly at the graduate level of instruction.
29 (i) Each existing Kansas center of excellence is eligible for annual
30 support from the ~~corporation~~ *board* according to the same terms and
31 conditions as provided in ~~this act~~ *K.S.A. 74-8101 through 74-8111, and*
32 *amendments thereto*, for new centers except that an external peer review
33 to determine under what provision of ~~this statute~~ *K.S.A. 74-8101 through*
34 *74-8111, and amendments thereto*, and by what terms continuing funding
35 is appropriate shall be conducted annually during the first three years
36 after the center of excellence is established and shall be conducted bi-
37 ennially thereafter. In the years between external peer reviews conducted
38 on a biennial basis, the ~~corporation~~ *board* shall conduct internal reviews
39 to determine under what provision of ~~this statute~~ *K.S.A. 74-8101 through*
40 *74-8111, and amendments thereto*, and under what terms continuing
41 funding is appropriate.
42 (j) Any commercialized research that results from the funding of a
43 center of excellence shall be subject to negotiations under provisions of

1 *paragraphs* (21) and (22) of subsection (a) of K.S.A. 74-8104, and amend-
2 ments thereto.

3 Sec. 24. K.S.A. 74-8107 is hereby amended to read as follows: 74-
4 8107. (a) The Kansas technology enterprise applied research matching
5 grant fund is hereby created, to which shall be credited any state funds
6 specifically so designated.

7 (b) The ~~corporation board~~ may use the Kansas technology enterprise
8 applied research fund to carry out the purposes of ~~this act K.S.A. 74-8101~~
9 ~~through 74-8111, and amendments thereto~~, by awarding competitive ap-
10 plied research grants to educational institutions and private enterprises
11 of special importance to the Kansas economy. The fund is not to be used
12 for pure research technology transfer technical assistance or training but
13 only for actual applied research.

14 (c) The board shall award grants only after:

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

17 (2) reviewing applied research proposals which present:

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

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

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

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

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

35 (C) a description of the future commercial application and the in-
36 dustrial sectors that will likely benefit by the applied research project and
37 the potential for job creation;

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

40 (E) a recommendation from the sponsoring educational institution or
41 business enterprise; and

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

43 (d) The board shall approve such applied research proposals after the

1 board finds, based upon the proposal submitted and such additional in-
 2 vestigation as the staff of the ~~corporation~~ *department* shall make ~~and~~
 3 ~~incorporate in its minutes~~, that:

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

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

9 (3) the project will enhance employment opportunities within Kan-
 10 sas; and

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

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

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

24 Sec. 25. K.S.A. 74-8108 is hereby amended to read as follows: 74-
 25 8108. (a) The ~~corporation~~ *board* is directed to develop a small business
 26 innovation research (SBIR) matching grant program which meets the
 27 highest current standards for state matching grants to federal phase I
 28 SBIR program. Prior to establishing the SBIR matching grant program,
 29 the ~~corporation~~ *board* shall conduct a survey and analysis of the most
 30 effective SBIR matching grant programs existing in other states.

31 (b) The ~~corporation~~ *board* is hereby directed to establish a small busi-
 32 ness innovation research bridge financing fund. Such fund shall provide
 33 grants, loans, royalty or equity investment to firms that have previously
 34 received federal phase I SBIR moneys and that have applied for a phase
 35 II SBIR grant.

36 Sec. 26. K.S.A. 74-8109 is hereby amended to read as follows: 74-
 37 8109. (a) There is hereby created the technology enterprise seed-capital
 38 fund to which shall be credited any state funds specifically so designated.
 39 The ~~corporation~~ *board* may credit the fund with unrestricted appropri-
 40 ations, gifts, donations or grants received from any source and with pay-
 41 ments on loans made from the fund.

42 (b) The ~~corporation~~ *board* may use the Kansas technology enterprise
 43 seed-capital fund as follows:

- 1 (1) To carry out the purposes of ~~this act~~ *K.S.A. 74-8101 through 74-*
2 *8111, and amendments thereto*, through investments in qualified securi-
3 ties and through the forms of financial assistance authorized by ~~this act~~
4 *K.S.A. 74-8101 through 74-8111, and amendments thereto*, including:
- 5 (A) Loans, loans convertible to equity, and equity;
 - 6 (B) leaseholds;
 - 7 (C) management or consultant service agreements;
 - 8 (D) loans with warrants attached that are beneficially owned by the
9 ~~corporation board~~;
 - 10 (E) loans with warrants attached that are beneficially owned by a
11 party other than the ~~corporation board~~; and
 - 12 (F) any other contractual arrangement in which the ~~corporation~~
13 *board* is providing scientific and technological services to any federal,
14 state, county or municipal agency, or to any individual, corporation, en-
15 terprise, association or any other entity involving science and technology.
16 The ~~corporation board~~, in connection with the provision of any form of
17 financial assistance, may enter into royalty agreements with an enterprise.
- 18 (2) To pay all or a portion of the ~~corporation's board's~~ operating ex-
19 penses from revenues generated by seed-capital fund investments, which
20 shall be an amount sufficient to allow the ~~corporation board~~ to undertake
21 and efficiently manage its responsibilities.
- 22 (3) To invest in such other investments as are lawful for Kansas
23 fiduciaries.
- 24 (c) The ~~corporation board~~ may use the Kansas technology enterprise
25 seed-capital fund to purchase qualified securities issued by enterprises as
26 a part of a resource and technology project for the purpose of raising the
27 initial capital for such projects subject to the conditions set forth in this
28 section.
- 29 (d) The ~~corporation board~~ may use the fund to make low-interest or
30 zero-interest loans to business incubator facilities in exchange for royalties
31 from future gross sales generated by enterprises created in the incubator.
- 32 (e) The ~~corporation board~~ shall purchase qualified securities issued
33 by an enterprise as a part of a resource and technology project only after:
- 34 (1) Receipt of an application from the enterprise which contains:
 - 35 (A) A business plan including a description of the enterprise and its
36 management, product and market;
 - 37 (B) a statement of the amount, timing and projected use of the capital
38 required;
 - 39 (C) a statement of the potential economic impact of the enterprise,
40 including the number, location and types of jobs expected to be created;
41 and
 - 42 (D) such other information as the ~~corporation board of directors~~ shall
43 request.

- 1 (2) Approval of the investment by the ~~corporation~~ *board* may be
2 made after the board ~~of directors~~ finds, based upon the application sub-
3 mitted by the enterprise and such additional investigation as the staff of
4 the ~~corporation~~ *department* shall make ~~and incorporate in its minutes,~~
5 that:
- 6 (A) The proceeds of the investment will be used only to cover the
7 seed-capital needs of the enterprise except as authorized by this section;
- 8 (B) the enterprise has a reasonable chance of success;
- 9 (C) the ~~corporation's~~ *board's* participation is instrumental to the suc-
10 cess of the enterprise and its retention within the state because funding
11 otherwise available for the enterprise is not available on commercially
12 reasonable terms;
- 13 (D) the enterprise has the reasonable potential to create a substantial
14 amount of employment within the state;
- 15 (E) the entrepreneur and other founders of the enterprise have al-
16 ready made or are contractually committed to make a substantial financial
17 and time commitment to the enterprise;
- 18 (F) the securities to be purchased are qualified securities;
- 19 (G) there is a reasonable possibility that the ~~corporation~~ *board* will
20 recoup at least its initial investment; and
- 21 (H) binding commitments have been made to the ~~corporation~~ *board*
22 by the enterprise for adequate reporting of financial data to the ~~corpo-~~
23 ~~ration~~ *board*, which shall include a requirement for an annual report, or
24 if required by the board, an annual audit of the financial and operational
25 records of the enterprise, and for such control on the part of the ~~corpo-~~
26 ~~ration~~ *board* as the board ~~of directors~~ shall consider prudent over the
27 management of the enterprise, so as to protect the investment of the
28 ~~corporation~~ *board*, including in the discretion of the board and without
29 limitation, right of access to financial and other records of the enterprise.
- 30 (f) The board ~~of directors~~ shall create an investment committee to
31 assist in evaluating potential investments in qualified securities. The
32 membership of this investment committee may include ~~both directors~~
33 ~~and staff~~ members *of the board and employees* of the ~~corporation~~ *de-*
34 *partment*, and other persons drawn from sources other than the ~~corpo-~~
35 ~~ration~~ *who meet standards similar to those applying to the board of di-*
36 ~~rectors and board or department~~ *who are recognized by their peers for*
37 *outstanding knowledge and leadership in their fields, all of whom shall*
38 *serve at the pleasure of the board.*
- 39 (g) The ~~corporation~~ *board* shall not make investments in qualified
40 securities issued by enterprises in excess of the amount necessary to own
41 more than 49% of qualified securities in any one enterprise at the time
42 of the purchase by the ~~corporation~~ *board*, after giving effect to the con-
43 version of all outstanding convertible qualified securities of the enterprise

1 except that in the event of severe financial difficulty of the enterprise,
2 threatening, in the judgment of the board of directors, the investment of
3 the ~~corporation board~~ therein, a greater percentage of such securities
4 may be owned by the ~~corporation board~~.

5 Sec. 27. K.S.A. 74-8110 is hereby amended to read as follows: 74-
6 8110. (a) The ~~Kansas technology enterprise corporation board~~ shall es-
7 tablish a clearinghouse to provide technology transfer and technical re-
8 ferral services and shall fund educational institutions to establish technical
9 information data bases and industrial liaison offices which are easily ac-
10 cessible by both private and public sector organizations.

11 (b) The ~~corporation board~~ shall provide to private enterprises and
12 individuals, services which include, but are not limited to:

13 (1) Disseminating such research and technical information as is avail-
14 able to the ~~corporation board~~;

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

17 (3) assisting persons developing innovations or new technology in lo-
18 cating enterprises or entrepreneurs that may be interested in applying
19 such innovations or new technologies; and

20 (4) providing managerial assistance to enterprises requesting such as-
21 sistance, but particularly to those small enterprises of special importance
22 to the Kansas economy.

23 (c) The ~~corporation board~~ shall encourage business enterprises to use
24 such technology transfer and technical support services as provided by
25 educational institutions and especially the state's small business devel-
26 opment centers.

27 Sec. 28. K.S.A. 74-8111 is hereby amended to read as follows: 74-
28 8111. (a) The ~~corporation board~~ shall publish an annual report which shall
29 include an audit in accordance with generally accepted accounting prin-
30 ciples as of June 30 of each year, and present the report to the governor;
31 ~~and the legislature and Kansas, Inc.~~, setting forth in detail the operations
32 and transactions conducted by it pursuant to ~~this act~~ K.S.A. 74-8101
33 ~~through 74-8111, and amendments thereto~~, or to other legislation. The
34 annual report shall specifically account for the ways in which the ~~purpose~~
35 ~~of the corporation purposes~~ and the programs described in ~~this act~~ K.S.A.
36 74-8101 ~~through 74-8111, and amendments thereto~~, have been carried
37 out, and the recommendations shall specifically note what changes in the
38 activities of the ~~corporation board~~ and the programs it administers, and
39 of state government are necessary to better address the purposes de-
40 scribed in ~~this act~~ K.S.A. 74-8101 ~~through 74-8111, and amendments~~
41 ~~thereto~~. The ~~corporation board~~ shall distribute its annual report by such
42 means that will make it widely available to those innovative enterprises
43 of special importance to the Kansas economy.

1 (b) The ~~corporation~~ *board* shall annually review and prepare a report
2 showing how and and at what level other states fund the programs pro-
3 vided for under ~~this act~~ *K.S.A. 74-8101 through 74-8111, and amend-*
4 *ments thereto*. The ~~corporation~~ *board* shall recommend an appropriate
5 funding level for Kansas which will make these programs nationally com-
6 petitive with those of other states. The ~~corporation's~~ *board's* findings and
7 recommendations shall be submitted to the governor and the legislature.

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

16 (d) The ~~corporation~~ *board* shall be subject to an audit by the legis-
17 lative division of post audit.

18 Sec. 29. K.S.A. 2008 Supp. 74-8131 is hereby amended to read as
19 follows: 74-8131. (a) The purpose of the Kansas angel investor tax credit
20 act is to facilitate the availability of equity investment in businesses in the
21 early stages of commercial development and to assist in the creation and
22 expansion of Kansas businesses, which are job and wealth creating enter-
23 prises, by granting tax credits against the Kansas income tax liability of
24 investors investing in these businesses. The Kansas angel investor tax
25 credit act shall be administered by the ~~Kansas technology enterprise cor-~~
26 ~~poration (KTEC)~~ *department of commerce* with the primary goal of en-
27 couraging individuals to provide seed-capital financing for emerging, Kan-
28 sas businesses engaged in the development, implementation and
29 commercialization of innovative technologies, products and services.

30 (b) This act shall be known and may be cited as the Kansas angel
31 investor tax credit act.

32 Sec. 30. K.S.A. 2008 Supp. 74-8132 is hereby amended to read as
33 follows: 74-8132. As used in this act:

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

1 investment;

2 (b) “Bioscience business” means what is reflected in K.S.A. 2008
3 Supp. 74-99b83, and amendments thereto;

4 (c) “cash investment” means money or money equivalent in consid-
5 eration for qualified securities;

6 (d) ~~“KTEC” means the Kansas technology enterprise corporation, a
7 public instrumentality created pursuant to K.S.A. 74-8101, and amend-
8 ments thereto~~ “department” means the department of commerce;

9 (e) “Kansas business” means any business owned by an individual,
10 any partnership, association or corporation domiciled in Kansas, or any
11 corporation, even if a wholly owned subsidiary of a foreign corporation,
12 that does business primarily in Kansas or does substantially all of such
13 businesses’ production in Kansas;

14 (f) “owner” means any natural person who is, directly or indirectly, a
15 partner, stockholder or member in a permitted entity investor;

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

23 (h) “qualified Kansas business” means the Kansas businesses that are
24 approved and certified as qualified Kansas businesses as provided in
25 K.S.A. 2008 Supp. 74-8134, and amendments thereto; ~~and~~

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

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

40 (j) “secretary” means the secretary of commerce.

41 Sec. 31. K.S.A. 2008 Supp. 74-8133 is hereby amended to read as
42 follows: 74-8133. (a) A credit against the tax imposed by article 32 of
43 chapter 79 of the Kansas Statutes Annotated on the Kansas taxable in-

1 come of an angel investor and against the tax imposed by K.S.A. 40-252,
2 and amendments thereto, shall be allowed for a cash investment in the
3 qualified securities of a qualified Kansas business. The credit shall be in
4 a total amount equal to 50% of such investors' cash investment in any
5 qualified Kansas business, subject to the limitations set forth in subsection
6 (b). This tax credit may be used in its entirety in the taxable year in which
7 the cash investment is made except that no tax credit shall be allowed in
8 a year prior to January 1, 2005. If the amount by which that portion of
9 the credit allowed by this section exceeds the investors' liability in any
10 one taxable year, beginning in the year 2005, the remaining portion of
11 the credit may be carried forward until the total amount of the credit is
12 used. If the investor is a permitted entity investor, the credit provided by
13 this section shall be claimed by the owners of the permitted entity investor
14 in proportion to their ownership share of the permitted entity investor.

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

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

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

33 (e) Any investor who has not owed any Kansas income tax under the
34 provisions of article 32, chapter 79 of the Kansas Statutes Annotated for
35 the immediate past three taxable years, who does not reasonably believe
36 that it will owe any such tax for the current taxable year and who makes
37 a cash investment in a qualified security of a qualified Kansas business
38 shall be deemed to acquire an interest in the nature of a transferable
39 credit limited to an amount equal to 50% of this cash investment. This
40 interest may be transferred to any natural person of net worth, as defined
41 in 17 C.F.R. 230.501(a) as in effect on the effective date of this act
42 whether or not such person is then an investor and be claimed by the
43 transferee as a credit against the transferee's Kansas income tax liability

1 beginning in the year provided in subsection (a). No person shall be en-
2 titled to a refund for the interest created under this section. Only the full
3 credit for any one investment may be transferred and this interest may
4 only be transferred one time. A credit acquired by transfer shall be subject
5 to the limitations prescribed in this section. Documentation of any credit
6 acquired by transfer shall be provided by the investor in the manner
7 required by the director of taxation.

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

14 Sec. 32. K.S.A. 2008 Supp. 74-8134 is hereby amended to read as
15 follows: 74-8134. (a) Before an angel investor may be entitled to receive
16 tax credits, as authorized by this act, such investor must have made a cash
17 investment in a qualified security of a qualified Kansas business. This
18 business must have been approved by ~~KTEC~~ the department as a quali-
19 fied Kansas business prior to the date on which the cash investment was
20 made. To be designated as a qualified Kansas business, a business must
21 make application to ~~KTEC~~ the department in accordance with the pro-
22 visions of this section.

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

26 (1) The name of the business and certified copies of the organiza-
27 tional documents of the business;

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

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

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

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

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

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

- 1 (c) No business shall be designated as a qualified Kansas business
2 unless such business meets all of the following criteria:
- 3 (1) The business must not have had annual gross revenues of more
4 than \$5,000,000 in the most recent tax year of the business;
- 5 (2) businesses that are not bioscience businesses must have been in
6 operation for less than five years; bioscience businesses must have been
7 in operation for less than 10 years;
- 8 (3) all else equal, first consideration will be given to animal health
9 companies;
- 10 (4) the business must not have ownership interests including, but not
11 limited to, common or preferred shares of stock that can be traded by
12 the public via a stock exchange, electronic exchange, bulletin board or
13 other public market place on or before the date that a qualifying invest-
14 ment is made;
- 15 (5) the business must not be engaged primarily in any one or more
16 of the following enterprises: (A) Any service provider set forth in K.S.A.
17 17-2707, and amendments thereto; (B) the business of banking, savings
18 and loan or lending institutions, credit or finance, or financial brokerage
19 or investments; (C) the provision of professional services, such as legal,
20 accounting or engineering services; (D) governmental, charitable, relig-
21 ious or trade organizations; (E) the ownership, development, brokerage,
22 sales or leasing of real estate; (F) insurance; (G) construction or construc-
23 tion management or contracting; (H) business consulting or brokerage;
24 (I) any business engaged primarily as a passive business, having irregular
25 or noncontinuous operations, or deriving substantially all of the income
26 of the business from passive investments that generate interest, dividends,
27 royalties, or capital gains, or any business arrangements the effect of
28 which is to immunize an investor from risk of loss; (J) any Kansas certified
29 capital formation company; (K) any activity that is in violation of the law;
30 and (L) any business raising money primarily to purchase real estate, land
31 or fixtures; and
- 32 (6) the business must satisfy all other requirements of this act.
- 33 (d) Notwithstanding the requirements of subsection (c), a business
34 may be considered as a qualified Kansas business under the provisions of
35 this act if such business falls within a standard industrial classification
36 code.
- 37 (e) The portions of documents and other materials submitted to
38 ~~KTEC~~ *the department* that contain trade secrets shall be kept confidential
39 and shall be maintained in a secured environment by the ~~president of~~
40 ~~KTEC~~ *secretary*. For the purposes of this act, such portions of documents
41 and other materials means any customer lists, any formula, compound,
42 production data or compilation of information certain individuals within
43 a commercial concern using such portions of documents and other ma-

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

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

11 Sec. 33. K.S.A. 2008 Supp. 74-8135 is hereby amended to read as
12 follows: 74-8135. (a) The designation of a business as a qualified Kansas
13 business shall be made by ~~KTEC~~ *the secretary*, and such designation must
14 be renewed annually. A business shall be so designated if ~~KTEC~~ *the*
15 *secretary* determines, based upon the application submitted by the busi-
16 ness and any additional investigation the staff of ~~KTEC~~ *the department*
17 shall make, that the following criteria have been or shall be satisfied:

- 18 (1) The business has a reasonable chance of success;
- 19 (2) the business has the reasonable potential to create measurable
20 employment within the state;
- 21 (3) the business has an innovative and proprietary technology, prod-
22 uct and service;
- 23 (4) the existing owners of the business and other founders have made
24 or are committed to make a substantial financial and time commitment
25 to the business;
- 26 (5) the securities to be issued and purchased are qualified securities;
27 and

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

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

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

10 Sec. 34. K.S.A. 2008 Supp. 74-8136 is hereby amended to read as
11 follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a
12 limited resource of the state for which ~~KTEC~~ *the department* is desig-
13 nated as the administrator. The purpose of such tax credits is to facilitate
14 the availability of equity investment in businesses in the early stages of
15 commercial development and to assist in the creation and expansion of
16 Kansas businesses which are job and wealth creating enterprises. To
17 achieve this purpose and to optimize the use of the limited resources of
18 the state, ~~KTEC~~ *the secretary* is authorized to issue tax credits to qualified
19 investors in qualified Kansas businesses. Such tax credits shall be awarded
20 to those qualified Kansas businesses which, as determined by ~~KTEC~~ *the*
21 *secretary*, are most likely to provide the greatest economic benefit to the
22 state. ~~KTEC~~ *The secretary* may issue whole or partial tax credits based
23 on an assessment of the qualified businesses. ~~KTEC~~ *The secretary* may
24 consider numerous factors in such assessment, including, but not limited
25 to, the quality and experience of the management team, the size of the
26 estimated market opportunity, the risk from current or future competi-
27 tion, the ability to defend intellectual property, the quality and utility of
28 the business model and the quality and reasonableness of financial pro-
29 jections for the business.

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

43 (c) ~~KTEC~~ *The secretary* shall transmit annually to the governor, ~~the~~

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

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

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

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

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

1 such financial assistance to ~~KTEC~~ *the department*, in an amount deter-
 2 mined by ~~KTEC~~ *the department*. Each qualified Kansas business that
 3 loses such designation shall enter into a repayment agreement with ~~KTEC~~
 4 *the secretary* specifying the terms of such repayment obligation.

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

7 (i) The department of commerce and ~~KTEC~~ may prepare and adopt
 8 procedures concerning the performance of ~~the~~ *its* duties ~~placed upon~~
 9 ~~each respective entity by~~ *under* this act.

10 Sec. 35. K.S.A. 74-8204 is hereby amended to read as follows: 74-
 11 8204. (a) Kansas venture capital, inc., shall prepare and publish an annual
 12 report of its activities for the information of the governor, the standing
 13 committee on commerce of the senate, the standing committee on ~~new~~
 14 ~~economy~~ *economic development and tourism* of the house of represen-
 15 tatives and the joint committee on economic development, securities
 16 commissioner of Kansas, attorney general, ~~Kansas, Inc.~~, and the public
 17 which shall be made widely available and shall specifically account for:

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

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

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

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

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

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

38 Sec. 36. K.S.A. 74-8310 is hereby amended to read as follows: 74-
 39 8310. (a) Pursuant to K.S.A. 74-5049, and amendments thereto, the sec-
 40 retary shall report the following:

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

42 (2) the total tax credit generated;

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

- 1 (4) the total investments in Kansas businesses by Kansas venture cap-
2 ital companies;
- 3 (5) an estimate of jobs created or preserved under the program; and
- 4 (6) an estimate of the multiplier effect on the Kansas economy of the
5 program.
- 6 (b) Additionally, in the report the secretary shall evaluate the success
7 of the program in collaboration with ~~Kansas, Inc.~~ and the standing com-
8 mittee on commerce of the senate, the standing committee on economic
9 development *and tourism* of the house of representatives and the joint
10 committee on economic development, and may include specific recom-
11 mendations for legislation.
- 12 Sec. 37. 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*
18 the fund with gifts, donations or grants received from any source other
19 than state government and with proceeds from the fund. Investments in
20 the 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 qual-
25 ified securities and through the forms of financial assistance authorized
26 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 financial
35 assistance, may enter into royalty agreements with an enterprise.
- 36 (2) To invest in such other investments as are lawful for Kansas fi-
37 duciaries pursuant to K.S.A. ~~2002-Supp.~~ 58-24a02, and amendments
38 thereto.
- 39 (c) Distributions received by the ~~corporation~~ *department* may be re-
40 invested in any fund consistent with the purposes of this act.
- 41 (d) The ~~corporation~~ *department* may invest only in a fund whose in-
42 vestment 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 capital
6 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 en-
22 terprise 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 al-
27 ready made or are contractually committed to make a substantial financial
28 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 enter-
33 prise 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 man-
37 ager shall consider prudent over the management of the enterprise, so as
38 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 an-
43 nually 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 con-
 5 vertible qualified securities of the enterprise, except that in the event of
 6 severe financial difficulty of the enterprise, threatening, in the judgment
 7 of the fund manager, the investment of the fund therein, a greater per-
 8 centage of such securities may be owned by the fund.

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

11 Sec. 38. 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 com-
 14 mittee on economic development *and tourism* of the house of represen-
 15 tatives; *and* the joint committee on economic development ~~and Kansas~~;
 16 ~~he~~:

- 17 (a) The annual statement of the fund; and
 18 (b) a report, based upon information received by the fund manager,
 19 which specifies the following:
 20 (1) The manner in which the purpose as described in this act has
 21 been carried out by the fund.
 22 (2) The total investments made annually by the fund in Kansas
 23 businesses.
 24 (3) An estimate of jobs created and jobs preserved by investments by
 25 the fund in Kansas businesses.
 26 (4) An estimate of the multiplier effect on the Kansas economy of
 27 investments by the fund in Kansas businesses.

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

30 Sec. 39. K.S.A. 74-8318 is hereby amended to read as follows: 74-
 31 8318. No enterprise shall be eligible to receive investment pursuant to
 32 this act if ~~an officer, a director or employee or member of the board of~~
 33 ~~directors of the corporation, department, or an officer, employee or mem-~~
 34 ~~ber of the board of directors of the fund or any other entity in which the~~
 35 ~~corporation~~ *department* has a majority interest has a substantial interest
 36 in the ~~corporation~~ *enterprise*.

37 Sec. 40. K.S.A. 74-8319 is hereby amended to read as follows: 74-
 38 8319. For purposes of this act:

- 39 (a) ~~“Corporation” means the Kansas technology enterprise corpora-~~
 40 ~~tion~~ *“Department” means the department of commerce;*
 41 (b) “fund” means any venture-capital fund whether organized as a
 42 corporation, partnership, limited partnership, limited liability company or
 43 other business entity, as well as any separately organized entity, which

1 manages any such fund;

2 (c) “fund manager” means any person or persons, approved by the
3 ~~corporation~~ *secretary*, legally responsible for the investment and man-
4 agement of a fund’s assets pursuant to statute or contract; *and*

5 (d) “*secretary*” means the *secretary of commerce*.

6 Sec. 41. K.S.A. 74-8401 is hereby amended to read as follows: 74-
7 8401. (a) There shall be allowed as a credit against the tax imposed by
8 the Kansas income tax act on the Kansas taxable income of a taxpayer and
9 against the tax imposed by K.S.A. 40-252, and amendments thereto, on
10 insurance companies for cash investment in a certified local seed capital
11 pool an amount equal to 25% of such taxpayer’s cash investment in any
12 such pool in the taxable year in which such investment is made and the
13 taxable years following such taxable year until the total amount of the
14 credit is used. The amount by which that portion of the credit allowed
15 by this section exceeds the taxpayer’s liability in any one taxable year may
16 be carried forward until the total amount of the credit is used. If the
17 taxpayer is a corporation having an election in effect under subchapter S
18 of the federal internal revenue code or a partnership, the credit provided
19 by this section shall be claimed by the shareholders of such corporation
20 or the partners of such partnership in the same manner as such share-
21 holders or partners account for their proportionate shares of the income
22 or loss of the corporation or partnership.

23 (b) The total amount of credits allowable pursuant to this section and
24 credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and
25 amendments thereto, shall be attributable to not more than \$50,000,000
26 of cash investments in Kansas venture capital companies, Kansas venture
27 capital, inc. and local seed capital pools. With respect to the additional
28 amount of cash investments made eligible for tax credits by this act,
29 \$10,000,000 of such amount shall be dedicated and reserved until De-
30 cember 31, 1990, for cash investments in a seed capital fund or funds in
31 which the ~~Kansas technology enterprise corporation, or its subsidiaries,~~
32 *department of commerce* is an investor. The \$50,000,000 amount of cash
33 investments now eligible for the tax credits allowed pursuant to this sec-
34 tion and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto,
35 shall be reduced to the extent that the total amount of cash investments
36 received by such seed capital fund or funds before January 1, 1991, is
37 less than \$10,000,000. However, any such credits which were not claimed
38 for investments made prior to January 1, 1991, may be allowed to a tax-
39 payer for cash investment made in Kansas venture capital, inc. pursuant
40 to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to exceed
41 \$2,595,236 of the \$10,000,000 reserved under this subsection for invest-
42 ment in seed capital funds in which the ~~Kansas technology enterprise~~
43 ~~corporation or its subsidiaries~~ *department of commerce* was an investor.

1 A taxpayer may also be allowed a credit for cash investment made pur-
2 suant to K.S.A. 74-8304, and amendments thereto, not to exceed
3 \$6,012,345 of the \$10,000,000 reserved under this subsection if such tax-
4 payer first purchases the entire interest of the ~~Kansas technology enter-~~
5 ~~prise corporation or its subsidiaries~~ *department of commerce* in Kansas
6 venture capital companies established prior to January 1, 1991. However,
7 no credit shall be allowed for cash investment which results in the pur-
8 chase of the interest of the ~~Kansas technology enterprise corporation or~~
9 ~~its subsidiaries~~ *department of commerce* in Kansas venture capital com-
10 panies established prior to January 1, 1991.

11 (c) As used in this section: (1) “Local seed capital pool” means money
12 invested in a fund established to provide funding for use by small busi-
13 nesses for any one or more of the following purposes: (A) Development
14 of a prototype product or process; (B) a marketing study to determine
15 the feasibility of a new product or process; or (C) a business plan for the
16 development and production of a new product or process; *and*

17 (2) “Kansas business” means any small business owned by an individ-
18 ual, any partnership, association or corporation domiciled in Kansas, or
19 any corporation, even if a wholly owned subsidiary of a foreign corpora-
20 tion, that does business primarily in Kansas or does substantially all of its
21 production in Kansas.

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

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

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

36 Sec. 42. K.S.A. 2008 Supp. 74-8405 is hereby amended to read as
37 follows: 74-8405. (a) Pursuant to K.S.A. 74-5049, and amendments
38 thereto, the secretary of commerce shall report the following:

- 39 (1) The number of local seed capital pools;
- 40 (2) the total tax credit generated;
- 41 (3) the total investments made in Kansas venture capital companies;
- 42 (4) the total investments in Kansas businesses by local seed capital
43 pools;

1 (5) an estimate of jobs created or preserved under the program; and
 2 (6) an estimate of the multiplier effect on the Kansas economy of the
 3 program.

4 (b) Additionally, in the report the secretary shall evaluate the success
 5 of the program in collaboration with ~~Kansas, Inc.~~ and the standing com-
 6 mittee on commerce of the senate, the standing committee on economic
 7 development *and tourism* of the house of representatives and the joint
 8 committee on economic development, and may include specific recom-
 9 mendations for legislation.

10 Sec. 43. K.S.A. 74-9303 is hereby amended to read as follows: 74-
 11 9303. (a) There is hereby created a body politic and corporate to be known
 12 as the information network of Kansas, Inc. INK is hereby constituted as
 13 a public instrumentality and the exercise by INK of the authority and
 14 powers conferred by this act shall be deemed and held to be the per-
 15 formance of an essential governmental function.

16 (b) INK shall be governed by a board consisting of ~~10~~ *nine* members
 17 as follows:

18 (1) ~~The president of Kansas, Inc.,~~

19 ~~(2)~~ The secretary of state;

20 ~~(3)~~ (2) two members who are chief executive officers of agencies of
 21 the executive branch, appointed by the governor who shall serve at the
 22 pleasure of the governor;

23 ~~(4)~~ (3) one member appointed by the governor from a list of three
 24 Kansas bar association members submitted by such association. Such
 25 member shall serve a three-year term;

26 ~~(5)~~ (4) three members from other user associations of a statewide
 27 character appointed by the governor from a list of not less than nine
 28 individuals and their respective user associations compiled ~~initially by the~~
 29 ~~president of Kansas, Inc. and thereafter~~ by the board of INK and sub-
 30 mitted to the governor. No two members appointed pursuant to this par-
 31 agraph shall represent the same user association. The terms for such
 32 members shall be for a period of three years, except initially, when the
 33 terms shall be for one, two and three years, respectively;

34 ~~(6)~~ (5) one member appointed by the governor from a list submitted
 35 by the president of the Kansas public libraries association and comprised
 36 of three librarians employed by public libraries. Following the initial ap-
 37 pointment hereunder, such list shall be comprised of librarians of public
 38 libraries which subscribe to INK. Such member shall serve a three-year
 39 term; and

40 ~~(7)~~ (6) the director of information systems and communications who
 41 shall serve as a nonvoting member.

42 (c) The board shall annually elect one member from the board as
 43 chairperson of INK, another as vice-chairperson and another as secretary.

1 (d) Five members of the board shall constitute a quorum and the
2 affirmative vote of five members shall be necessary for any action taken
3 by the board. No vacancy in the membership of the board shall impair
4 the right of a quorum to exercise all the rights and perform all the duties
5 of the board.

6 Sec. 44. K.S.A. 74-9306 is hereby amended to read as follows: 74-
7 9306. ~~Kansas, Inc. and the~~ *The department of revenue and the division*
8 of information services and communications shall provide to INK such
9 staff and other assistance as may be requested thereby, and the actual
10 costs of such assistance shall be paid for by INK.

11 Sec. 45. K.S.A. 2008 Supp. 74-99b03 is hereby amended to read as
12 follows: 74-99b03. As used in the bioscience authority act, and amend-
13 ments thereto, the following words and phrases shall have the following
14 meanings unless a different meaning clearly appears from the content:

15 (a) "Authority" means the Kansas bioscience authority created by this
16 act.

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

22 (c) "Bioscience" means the use of compositions, methods and organ-
23 isms in cellular and molecular research, development and manufacturing
24 processes for such diverse areas as pharmaceuticals, medical therapeutics,
25 medical diagnostics, medical devices, medical instruments, biochemistry,
26 microbiology, veterinary medicine, plant biology, agriculture and indus-
27 trial, environmental, and homeland security applications of bioscience,
28 and future developments in the biosciences. Bioscience includes biotech-
29 nology and life sciences.

30 (d) "Bioscience company" means a corporation, limited liability com-
31 pany, S corporation, partnership, registered limited liability partnership,
32 foundation, association, nonprofit entity, sole proprietorship, business
33 trust, person, group, or other entity that is engaged in the business of
34 bioscience in the state and has business operations in the state, including,
35 without limitation, research, development, or production directed to-
36 wards developing or providing bioscience products or processes for spe-
37 cific commercial or public purposes and are identified by the following
38 NAICS codes: 325411, 325412, 325413, 325414, 325193, 325199, 325311,
39 32532, 334516, 339111, 339112, 339113, 334510, 334517, 339115,
40 621511, 621512, 54171, 54138, 54194.

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

43 (f) "Bioscience research" means any investigation for the advance-

- 1 ment of scientific or technological knowledge of bioscience and any
 2 activity that seeks to utilize, synthesize, or apply existing knowledge, infor-
 3 mation or resources to the resolution of a specific problem, question or
 4 issue of bioscience.
- 5 (g) “Bioscience research institutions” means all universities and col-
 6 leges located in the state of Kansas conducting bioscience research.
- 7 (h) “Biotechnology” means those fields focusing on technological de-
 8 velopments in such areas as molecular biology, genetic engineering, gen-
 9 omics, proteomics, physiomics, nanotechnology, biodefense, biocomput-
 10 ing and bioinformatics.
- 11 (i) “Board” means the board of directors of the authority created by
 12 this act.
- 13 (j) “Bonds” has the same meaning as in K.S.A. 74-8902, and amend-
 14 ments thereto.
- 15 (k) “Bioscience development and investment fund” means the fund
 16 created by K.S.A. 2008 Supp. 74-99b34, and amendments thereto.
- 17 (l) “Eminent scholar” means world-class, distinguished and estab-
 18 lished investigators recognized nationally for their research, achievements
 19 and ability to garner significant federal funding on an annual basis. Em-
 20 inent scholars are recognized for their scientific knowledge and entre-
 21 preneurial spirit to enhance the innovative research that leads to eco-
 22 nomic gains. Eminent scholars are either members of or likely candidates
 23 for the national academy of sciences or other prominent national aca-
 24 demic science organizations.
- 25 ~~(m) “Kansas technology enterprise corporation” or “KTEC” means~~
 26 ~~the Kansas technology enterprise corporation created under K.S.A. 74-~~
 27 ~~8101, and amendments thereto.~~
- 28 ~~(n)~~ (m) “Life sciences” means the areas of medical sciences, phar-
 29 maceutical sciences, biological sciences, zoology, botany, horticulture,
 30 ecology, toxicology, organic chemistry, physical chemistry, physiology and
 31 any future advances associated with life sciences.
- 32 ~~(o)~~ (n) “NAICS” means the north American industry classification
 33 system.
- 34 ~~(p)~~ (o) “NISTAC” means the national institute for strategic technol-
 35 ogy acquisition and commercialization.
- 36 ~~(q)~~ (p) “President” means the chief executive officer of the authority.
- 37 ~~(r)~~ (q) “Principal operation” means the operation of the authority
 38 requiring at least 75% of the total number of employees at all times.
- 39 ~~(s)~~ (r) “Qualified company” means a Kansas company conducting bi-
 40 oscience research and development that may be granted a funding
 41 voucher.
- 42 ~~(t)~~ (s) “Rising star scholar” means up-and-coming distinguished in-
 43 vestigators growing in their national reputations in their fields, who are

1 active and demonstrate leadership in their associated professional socie-
2 ties, and who attract significant federal research grant support. Rising star
3 scholars would be likely candidates for the national academy of sciences
4 or other prominent national academic science organizations in the future.

5 ~~(t)~~ (t) “State” means the state of Kansas.

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

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

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

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

23 ~~(y)~~ (y) “This act” means the bioscience authority act.

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

27 (1) Induced abortion in humans, performed after the date of enact-
28 ment of this act, or the use of cells or tissues derived therefrom; or
29 (2) any research the federal funding of which would be contrary to
30 federal laws that are in effect on the date of enactment of this act.

31 Sec. 46. K.S.A. 2008 Supp. 74-99b04 is hereby amended to read as
32 follows: 74-99b04. (a) There is hereby established a body politic and cor-
33 porate, with corporate succession, to be known as the Kansas bioscience
34 authority. The authority shall be an independent instrumentality of the
35 state. Its exercise of the rights, powers and privileges conferred by this
36 act shall be deemed and held to be the performance of an essential gov-
37 ernmental function.

38 (b) In order to accelerate any and all synergy and opportunities for
39 the growth of the authority, the authority shall be headquartered and
40 establish its principal operation in the county in the state with the highest
41 number of bioscience employees associated with bioscience companies
42 as of the effective date of this act. The exact location of the authority’s
43 headquarters and principal operations in such county shall be at the dis-

1 cretion of the authority's board.

2 (c) The authority shall be governed by an eleven-member board. *One*
3 *member shall be the secretary of commerce or the secretary's designee.*
4 One member of the board shall be an agricultural expert who is recog-
5 nized for outstanding knowledge and leadership in the field of bioscience.
6 ~~Eight~~ *Seven* of the members of the board shall be representatives of the
7 general public who are recognized for outstanding knowledge and lead-
8 ership in the fields of finance, business, bioscience research, plant bio-
9 technology, basic research, health care, legal affairs, bioscience manufac-
10 turing or product commercialization, education or government. Of the
11 nine voting members, five must be residents of the state. The other two
12 members of the board shall be nonvoting members with research exper-
13 tise representing state universities and shall be appointed by the Kansas
14 board of regents. Nonvoting members shall serve at the pleasure of the
15 board of regents.

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

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

38 (f) After the expiration of the terms of the authority's first board, or
39 whenever a vacancy occurs or is announced regarding a voting member
40 or members of the board, such voting member or members shall be ap-
41 pointed as described in subsections (c) and (d), except that such members
42 shall be appointed for terms of four years each. In the event of a vacancy
43 the appointment shall be for the remainder of the unexpired portion of

1 the term. Each member of the board shall hold office for the term of
2 appointment and until a successor has been confirmed. Any member of
3 the board is eligible for reappointment, but members of the board shall
4 not be eligible to serve more than three consecutive four-year terms.

5 (g) Except for appointments of nonvoting members, each appoint-
6 ment shall be forwarded to the senate for confirmation as provided in
7 K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A.
8 46-2601, and amendments thereto, no person appointed to the board shall
9 exercise any power, duty or function as a member of the board until
10 confirmed by the senate. In case of a vacancy when the senate is not in
11 session, the appointing entity may make a temporary appointment to the
12 board until the next meeting of the senate. Any person who is temporarily
13 appointed by the appointing entity to the board shall have all of the pow-
14 ers, duties and functions as a member of the board during such temporary
15 appointment.

16 (h) The board annually shall elect a voting member as chairperson
17 and at least one other as vice-chairperson. The board also shall elect a
18 secretary and treasurer for terms to be determined by the board. The
19 board may elect the same person to serve as both secretary and treasurer.
20 The board shall establish an executive committee, nominating committee
21 and other standing or special committees, and prescribe their duties and
22 powers. Any executive committee of the board may exercise all such pow-
23 ers and duties of the board as the board may delegate.

24 (i) Members of the board are entitled to compensation and expenses
25 as provided in K.S.A. 75-3223, and amendments thereto. Members of the
26 board attending board meetings or subcommittee meetings authorized
27 by the board, shall be paid mileage and all other applicable expenses,
28 provided such expenses are consistent with policies established from
29 time-to-time by the board and as required by subsection (k).

30 (j) No part of the funds of the authority shall inure to the benefit of,
31 or be distributed to, its employees, officers or members of the board,
32 except that the authority may make reasonable payments for expenses
33 incurred on its behalf relating to any of its lawful purposes and the au-
34 thority shall be authorized and empowered to pay reasonable compen-
35 sation for services rendered to or for its benefit relating to any of its lawful
36 purposes, including to pay its employees reasonable compensation.

37 (k) Any member of the board other than a nonvoting member may
38 be removed by an affirmative vote by six members of the board for mal-
39 feasance or misfeasance in office, regularly failing to attend meetings, or
40 for any cause which renders the member incapable of or unfit to discharge
41 the duties of director.

42 (l) The board shall meet at least four times per year and at such other
43 times as it deems appropriate, or upon call by the president or the chair-

1 person, or upon written request of a majority of the directors of the board.
2 The board may adopt, repeal and amend such rules, procedures and by-
3 laws, not contrary to law or inconsistent with this act, as it deems expe-
4 dient for its own governance and for the governance and management of
5 the authority. A majority of the total voting membership of the board
6 shall constitute a quorum for meetings. The board may act by a majority
7 of those at any meeting where a quorum is present, except upon such
8 issues as the board may determine shall require a vote of six members of
9 the board for approval. The board shall meet for the initial meeting upon
10 call by the ~~member of the board appointed by the Kansas technology~~
11 ~~enterprise corporation~~ *secretary of commerce, or the secretary's designee,*
12 who shall act as temporary chairperson until officers of the board are
13 elected pursuant to subsection (i).

14 (m) The board shall appoint a president who shall serve at the plea-
15 sure of the board. The president shall serve as the chief executive officer
16 of the authority. The president's salary shall be set by the board. The
17 board may negotiate and enter into an employment agreement with the
18 individual selected as president of the authority, which may provide for
19 compensation allowances, benefits and expenses as may be included in
20 such agreement. The president shall direct and supervise administrative
21 affairs and the general management of the authority.

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

25 (o) The authority shall continue until terminated by law, except that
26 no such law shall take effect so long as the authority has debts or obli-
27 gations outstanding, unless adequate provision has been made for the
28 payment or retirement of such debts or obligations. Upon any such dis-
29 solution of the authority, all property, funds and assets thereof shall be
30 vested in the state, bioscience research institutions or both as designated
31 by the board, or any other public institute or private enterprise engaged
32 in the business of bioscience, or any combination thereof, as designated
33 by the board and approved by act of the legislature.

34 (p) *The provisions of subsections (e) through (g) and (k) shall not*
35 *apply to the secretary of commerce, or the secretary's designee, as a mem-*
36 *ber of the board.*

37 Sec. 47. K.S.A. 2008 Supp. 74-99b09 is hereby amended to read as
38 follows: 74-99b09. (a) The authority shall have all of the powers necessary
39 to carry out the purposes and provisions of this act, including, without
40 limitation, the following powers to:

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

43 (2) have the duties, privileges, immunities, rights, liabilities and dis-

- 1 abilities of a body politic and corporate and independent instrumentality
- 2 of the state;
- 3 (3) have perpetual existence and succession;
- 4 (4) adopt, have and use a seal and to alter the same at its pleasure;
- 5 (5) sue and be sued in its own name;
- 6 (6) work with bioscience research institutions to identify and recruit
- 7 eminent scholars and rising star scholars who shall become employed by
- 8 bioscience research institutions or the authority, or both, to perform bi-
- 9 oscience research, development and commercialization at bioscience re-
- 10 search institutions or at authority facilities, or both;
- 11 (7) transfer funds to bioscience research institutions in amounts to
- 12 be determined by the board for the purpose of attracting and then sup-
- 13 plementing the compensation of eminent scholars and rising star scholars;
- 14 (8) work with and collaborate with bioscience research institutions to
- 15 determine the types of bioscience research that will be conducted by
- 16 eminent scholars and rising star scholars;
- 17 (9) work with bioscience research institutions to determine the types
- 18 of facilities that may be constructed at bioscience research institutions or
- 19 at authority premises, or elsewhere, for eminent scholars and rising star
- 20 scholars to perform bioscience research and development;
- 21 (10) employ personnel to assist or complement the research of emi-
- 22 nent scholars and rising star scholars;
- 23 (11) establish policies and procedures to facilitate integrated biosci-
- 24 ence research activities by the authority and bioscience research
- 25 institutions;
- 26 (12) make and execute contracts, guarantees or any other instruments
- 27 and agreements necessary or convenient for the exercise of its powers
- 28 and functions including, without limitation, to make and execute contracts
- 29 with bioscience enterprises, including start-up companies, other public
- 30 and private persons and entities, health care businesses, state universities
- 31 and colleges, and to incur liabilities and secure the obligations of any
- 32 entity or individual;
- 33 (13) partner with the bioscience research institutions to provide
- 34 matching funds for federal grants;
- 35 (14) borrow money and to pledge all or any part of the authority's
- 36 assets therefore;
- 37 (15) purchase, lease, trade, exchange or otherwise acquire, maintain,
- 38 hold, improve, mortgage, sell and dispose of personal property, whether
- 39 tangible or intangible, and any interest therein; and to purchase, lease,
- 40 trade, exchange or otherwise acquire real property or any interest therein,
- 41 and to maintain, hold, improve, mortgage, sell, lease and otherwise trans-
- 42 fer such real property to the universities, colleges, public institutions and
- 43 private enterprises in the state, so long as such transactions do not conflict

- 1 with the mission of the authority as specified in this act;
- 2 (16) own, acquire, construct, renovate, equip, improve, operate,
3 maintain, sell or lease any land, buildings or facilities in the state that can
4 be used in researching, developing, sponsoring or commercializing bio-
5 science in the state including, without limitation, a state-of-the-art facility,
6 laboratory or commercial wet lab space incubator to be used by the au-
7 thority, and also to be made available for use by bioscience research in-
8 stitutions or Kansas companies conducting bioscience research and de-
9 velopment for bioscience research, commercialization and technology
10 transfer of bioscience products, processes and other intellectual property
11 in accordance with the provisions of this act;
- 12 (17) incur or assume indebtedness to, and enter into contracts with
13 the Kansas development finance authority, which is authorized to borrow
14 money, issue bonds and provide financing for the authority;
- 15 (18) develop policies and procedures generally applicable to the pro-
16 curement of goods, services and construction, based upon sound business
17 practices;
- 18 (19) solicit, study and assist in the preparation of business plans and
19 proposals of new or established businesses to advance the biosciences in
20 the state;
- 21 (20) own and possess patents, copyrights, trademarks and proprietary
22 technology and to enter into contracts for the purposes of commercial-
23 izing and establishing charges for the use of such patents, copyrights,
24 trademarks and proprietary technology involving bioscience;
- 25 (21) contract for and to accept any gifts, grants and loans of funds,
26 property or any other aid in any form from the federal government, the
27 state, any state agency or any other source, or any combination thereof,
28 and to comply with the provisions of the terms and conditions thereof;
- 29 (22) acquire space, equipment, services, supplies and insurance nec-
30 essary to carry out the purposes of this act;
- 31 (23) deposit any moneys of the authority in any banking institution
32 within or without the state or in any depository authorized to receive such
33 deposits, one or more persons to act as custodians of the moneys of the
34 authority;
- 35 (24) procure such insurance, participate in such insurance plans or
36 provide such self-insurance or both as it deems necessary or convenient
37 to carry out the purposes and provisions of this act; the purchase of in-
38 surance, participation in an insurance plan or creation of a self-insurance
39 fund by the authority shall not be deemed as a waiver or relinquishment
40 of any sovereign immunity to which the authority or its officers, directors,
41 employees or agents are otherwise entitled;
- 42 (25) appoint, supervise and set the salary and compensation of the
43 president, who shall be appointed by and serve at the pleasure of the

1 board;

2 (26) fix, revise, charge and collect rates, rentals, fees and other
3 charges for the services or facilities furnished by or on behalf of the au-
4 thority, and to establish policies and procedures regarding any such serv-
5 ice rendered for the use, occupancy or operation of any such facility; such
6 charges and policies and procedures not to be subject to supervision or
7 regulation by any commission, board, bureau or agency of the state; and

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

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

13 (c) The authority may participate in joint ventures and collaborate
14 with any taxpayer, governmental body or agency, insurer, university and
15 college of the state, or any other entity to facilitate any activities or pro-
16 grams consistent with the purpose and intent of this act.

17 (d) (1) The authority may create a nonprofit entity or entities for the
18 purpose of soliciting, accepting and administering grants, outright gifts
19 and bequests, endowment gifts and bequests, and gifts and bequests in
20 trust, which entity or entities shall not engage in trust business. The non-
21 profit entity created in this subsection may expend such funds through
22 grants or loans to further the purpose of bioscience authority activities
23 including, but not limited to, issuing grants to high schools for the purpose
24 of creating bioscience academies and to Kansas universities and colleges
25 for the purpose of increasing the number of students majoring in biosci-
26 ence, science education and math education. The authority may set
27 requirements for curricula, teaching credentials and any other items and
28 procedures incidental to establishing the grant programs.

29 (2) Grants made pursuant to this subsection shall be based on
30 requirements established by the nonprofit entity and may include, but
31 not be limited to, requirements for eligibility, grant applications, organi-
32 zational characteristics and standards for eligibility and accountability as
33 are deemed advisable by the nonprofit entity.

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

36 (e) In carrying out any activities authorized by this act, the authority
37 may provide appropriate assistance, including the making of loans and
38 providing time of employees, to any taxpayer, governmental body or
39 agency, insurer, university and college of the state, or any other entity,
40 whether or not any such taxpayer, governmental body or agency, insurer,
41 university and college of the state, or any other entity is owned or con-
42 trolled in whole or in part, directly or indirectly, by the authority.

43 (f) Notwithstanding any provision of law to the contrary, the authority

1 may, ~~on an independent basis for itself or from time to time through a~~
2 ~~contractual relationship with KTEC~~; invest the funds received from gifts,
3 grants, donations and other operations of the authority in such invest-
4 ments as would be lawful for a private corporation having purposes similar
5 to the authority including preseed, seed capital and venture capital funds
6 whose purpose is to commercialize bioscience intellectual property, and
7 in any obligations or securities as authorized by the board. Prior to making
8 any investments, the board shall adopt written investment guidelines.

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

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

32 (i) ~~During the first five years after the effective date of this act, the~~
33 ~~authority may contract with KTEC, which will be able to subcontract with~~
34 ~~appropriate third parties as it deems necessary and appropriate, including,~~
35 ~~without limitation, NISTAC, for the initial commercialization efforts for~~
36 ~~bioscience intellectual property, including, without limitation, corporate~~
37 ~~patent donations. The contract between the authority and KTEC must~~
38 ~~be negotiated between the authority and KTEC and will set forth the~~
39 ~~rights and responsibilities of each party, including the financial terms,~~
40 ~~payment of funds for personnel, assumptions of risks, technology transfer~~
41 ~~and terms of ownership and licensure of such bioscience intellectual prop-~~
42 ~~erty. The contract between the authority and KTEC must also set forth~~
43 ~~the authority's right, if any, to sell, license, contribute or provide its con-~~

1 ~~tractual share of bioscience intellectual property to any third party, or~~
2 ~~provide services, facilities or assistance to any third party, for a fee, for~~
3 ~~an ownership interest in the third party, or other consideration, so as to~~
4 ~~commercialize bioscience technology. After the five-year period from the~~
5 ~~effective date of this act, The authority may independently commercialize~~
6 ~~or enter into contracts with third parties for the commercialization of~~
7 ~~bioscience intellectual property and for technology transfer. The authority~~
8 ~~will take steps to reasonably ensure that it does not duplicate existing~~
9 ~~commercialization efforts already located in the state and recognizes the~~
10 ~~important role KTEC plays in the state. After the five-year period from~~
11 ~~the effective date of this act, The authority may sell, license, contribute~~
12 ~~or provide bioscience intellectual property to any third party, or provide~~
13 ~~services, facilities or assistance to any third party, for a fee, for an own-~~
14 ~~ership interest in the third party, or other consideration, so as to com-~~
15 ~~mmercialize bioscience technology. The authority may take all such actions~~
16 ~~necessary to commercialize any technology in which the authority has an~~
17 ~~interest.~~

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

27 ~~—(k)— During the five-year period after the effective date of this act, the~~
28 ~~authority shall contract with KTEC at least once a year for KTEC to~~
29 ~~submit a report to the board identifying all patents secured, licenses~~
30 ~~granted, the number of eminent scholars and rising star scholars in the~~
31 ~~state, a complete accounting of interests in technology sold, transferred,~~
32 ~~licensed or otherwise disposed of, including, without limitation, the~~
33 ~~names of buyers, the buyers' location, the date the technology was trans-~~
34 ~~ferred, revenue generated by the transfer of such technology, and any~~
35 ~~other information that the board deems appropriate. After the five-year~~
36 ~~period from the effective date of this act, on at least an annual basis, the~~
37 ~~authority shall conduct, either independently or through a contract with~~
38 ~~a third party, including KTEC if chosen by the authority, a report of the~~
39 ~~foregoing information to be submitted to the board.~~

40 ~~—(l)— The authority shall prepare an annual report to the legislature and~~
41 ~~the governor on all distributions from the bioscience development and~~
42 ~~investment fund, and income, investment and income tax credits and~~
43 ~~exemptions attributed to bioscience authority activity. The authority with~~

1 assistance from the department of revenue shall prepare an annual report
2 summarizing the growth of bioscience research and industry in Kansas.

3 ~~(m)~~ (k) The authority shall be subject to review by ~~Kansas, Inc~~ the
4 ~~division of post audit~~. In the review, ~~Kansas, Inc~~ the ~~division of post audit~~
5 shall evaluate and report on the effectiveness of the activities of the bi-
6 oscience authority in the manner provided in K.S.A. 74-8010, and amend-
7 ments thereto.

8 Sec. 48. K.S.A. 2008 Supp. 74-99b63 is hereby amended to read as
9 follows: 74-99b63. As used in the bioscience research and development
10 voucher program act, and amendments thereto, the following words and
11 phrases have the following meanings unless a different meaning clearly
12 appears from the content:

13 (a) “Authority” means the Kansas bioscience authority as created by
14 K.S.A. 2008 Supp. 74-99b04, and amendments thereto.

15 (b) “Bioscience” means, without limitation, the use of compositions,
16 methods and organisms in cellular and molecular research, development
17 and manufacturing processes for such diverse areas as pharmaceuticals,
18 medical therapeutics, medical diagnostics, medical devices, medical in-
19 struments, biochemistry, microbiology, veterinary medicine, plant biol-
20 ogy, agriculture, industrial, environmental and homeland security appli-
21 cations of bioscience and future developments in the biosciences.
22 Bioscience includes biotechnology and life sciences.

23 (c) “Bioscience research” means any investigation for the advance-
24 ment of scientific or technological knowledge of bioscience and any ac-
25 tivity that seeks to utilize, synthesize, or apply existing knowledge, infor-
26 mation or resources to the resolution of a specific problem, question or
27 issue of bioscience.

28 (d) “Bioscience research institutions” means all universities and col-
29 leges located in the state of Kansas conducting bioscience research.

30 (e) “Biotechnology” means, without limitation, those fields focusing
31 on technological developments in such areas as molecular biology, genetic
32 engineering, genomics, proteomics, physiomics, nanotechnology, biode-
33 fense, biocomputing, bioinformatics and future developments associated
34 with biotechnology.

35 (f) ~~“KTEC” means the Kansas technology enterprise corporation cre-~~
36 ~~ated by K.S.A. 74-8101 et seq., and amendments thereto.~~

37 ~~(g)~~ “Life sciences” means the areas of medical sciences, pharmaceu-
38 tical sciences, biological sciences, zoology, botany, horticulture, ecology,
39 toxicology, organic chemistry, physical chemistry, physiology and any fu-
40 ture advances associated with life sciences.

41 ~~(h)~~ (g) “Qualified company” means a Kansas company conducting
42 bioscience research and development that may be granted a funding
43 voucher.

1 ~~(j)~~ (h) “State” means the state of Kansas.

2 ~~(j)~~ (i) “This act” means the bioscience research and development
3 voucher program act.

4 Sec. 49. K.S.A. 2008 Supp. 74-99b66 is hereby amended to read as
5 follows: 74-99b66. (a) ~~On terms mutually acceptable to the authority and~~
6 ~~KTEC~~ The authority ~~may contract with KTEC, to~~ shall review applica-
7 tions ~~and~~ to certify whether an applicant is a qualified company.

8 (b) ~~On terms mutually acceptable to the authority and KTEC, The~~
9 authority ~~may contract with KTEC to~~ shall develop application criteria
10 and an application process subject to the following limitations. The pro-
11 posed bioscience research and development project must be likely to:

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

13 (2) lead to innovative technology or new knowledge;

14 (3) lead to commercially successful products, processes or services;

15 (4) stimulate economic growth; or

16 (5) enhance employment opportunities within the state.

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

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

21 (2) a technical research plan that is sufficient for outside expert
22 review;

23 (3) a detailed financial analysis that includes the commitment of re-
24 sources by the applicant and others;

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

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

30 (d) Before providing the qualified company with a certificate author-
31 izing voucher funding from the authority ~~through KTEC~~, the authority
32 may negotiate with the qualified company the ownership of patents, cop-
33 yrights, trademarks, proprietary technology and any other intellectual
34 property rights, royalties and equity relating to the bioscience research
35 and development project on behalf of the research and development
36 voucher fund for the purpose of reinvesting and sustaining a continuous
37 fund to carry out the provisions of this act.

38 Sec. 50. K.S.A. 2008 Supp. 74-99c03 is hereby amended to read as
39 follows: 74-99c03. (a) There is hereby created a body politic and corporate
40 to be known as the Kansas center for entrepreneurship. The secretary of
41 commerce, after consulting with the board of directors, shall enter into a
42 contractual agreement for the operation of the center. The center’s ex-
43 ercise of all the rights, powers and privileges conferred by this act and

1 shall be deemed and held to be the performance of an essential govern-
2 ment function.

3 (b) The center shall be governed by a board of 11 directors. The
4 board of directors shall be appointed by the secretary of commerce and
5 shall be comprised of individuals who have demonstrated entrepreneurial
6 success, including one member from each of the following organizations:

- 7 (1) ~~Three~~ *Four* at-large entrepreneurs,
- 8 (2) An agricultural entrepreneur knowledgeable in biosciences,
- 9 (3) banking industry,
- 10 (4) travel/tourism industry,
- 11 (5) enterprise facilitation,
- 12 (6) Kansas chamber of commerce and industry,
- 13 (7) Kansas small business development centers, *and*
- 14 (8) ~~Kansas technology enterprise corporation and~~
- 15 ~~(9) national federation of independent businesses.~~

16 (c) (1) Members shall serve for a term of four years and until such
17 members' successors are appointed, except that, of the members first
18 appointed, three shall serve for a term of two years, three shall serve for
19 a term of three years and two shall serve for a term of four years.

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

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

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

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

34 (g) Members of the board of directors, in their dealings with enter-
35 prises that may receive financing through the corporation, shall declare
36 any potential conflict of interest and abstain from voting prior to taking
37 any actions relating to that transaction.

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

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

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

43 (k) A majority of the total voting membership of the board shall con-

1 stitute a quorum for meetings. The board may act by a majority of those
2 at any meeting where a quorum of the board is present.

3 (l) Before assuming office, each person appointed as a member of
4 the board of directors shall complete and file with the office of the sec-
5 retary of state a statement containing the information required in a state-
6 ment of substantial interest pursuant to K.S.A. 46-247, and amendments
7 thereto;

8 (m) The board of directors shall:

9 (1) Consult with and make a recommendation to the secretary con-
10 cerning the awarding of the contract for the Kansas center for
11 entrepreneurship;

12 (2) make recommendations to the Kansas center for entrepreneur-
13 ship regarding its policies and procedures;

14 (3) review and evaluate the Kansas center for entrepreneurs' an-
15 nual report in light of this act's purpose, policy and procedures and cur-
16 rent economic conditions, and, report its conclusions and recommenda-
17 tions to the secretary and the center;

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

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

22 Sec. 51. K.S.A. 2008 Supp. 74-99c07 is hereby amended to read as
23 follows: 74-99c07. (a) The Kansas center for entrepreneurship shall trans-
24 mit annually to the governor, the secretary, the standing committee on
25 commerce in the senate, the standing committee on economic develop-
26 ment in *and tourism* the house of representatives; *and* the joint commit-
27 tee on economic development ~~and Kansas Inc.~~ a report stating what tax
28 credits have been issued during the preceding year and based on infor-
29 mation provided by the regional or local community seed capital fund or
30 economic development agency, describing the following: (1) the manner
31 in which the purpose, as described in this act, has been carried out, (2)
32 the total grants given to community seed capital funds or economic de-
33 velopment agencies during the preceding year and cumulatively since the
34 inception of this act, (3) the number of companies and jobs created or
35 preserved by the grants given under this act and their location, and (4)
36 an estimate of the multiplier effect on the Kansas economy of the grants
37 made pursuant to this act.

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

40 Sec. 52. K.S.A. 2008 Supp. 74-99e02 is hereby amended to read as
41 follows: 74-99e02. (a) There is hereby established a body politic and cor-
42 porate to be known as the Kansas commission on rural policy. The com-
43 mission shall be an independent instrumentality of the state. The exercise

1 by the commission of the powers conferred by this act shall be deemed
2 and held to be the performance of an essential governmental function.

3 (b) (1) The Kansas commission on rural policy shall be governed by
4 a board of directors consisting of ~~12~~ 11 members.

5 (2) Nine members of the board of directors shall be voting members
6 appointed as follows: Three shall be appointed by the governor, two shall
7 be appointed by the speaker of the house of representatives, two shall be
8 appointed by the president of the senate, one shall be appointed by the
9 minority leader of the house of representatives and one shall be appointed
10 by the minority leader of the senate. Each member appointed to the
11 board of directors shall be recognized for outstanding knowledge and
12 leadership in one of the following business sectors or key areas:

13 (A) Agriculture;

14 (B) oil and gas;

15 (C) aviation;

16 (D) finance and banking;

17 (E) tourism;

18 (F) any other primary, job creating, value added business sector;

19 (G) fostering leadership;

20 (H) encouraging wealth retention and generation;

21 (I) developing entrepreneurship;

22 (J) retaining youth in rural communities; and

23 (K) health care.

24 (3) All voting members appointed to the board shall be subject to
25 senate confirmation as provided in K.S.A. 75-4315b, and amendments
26 thereto. Any voting member appointed to the board whose nomination
27 is subject to confirmation during a regular session of the legislature shall
28 be deemed terminated when the senate rejects the nomination. No such
29 termination shall affect the validity of any action taken by such member
30 of the board before such termination.

31 (4) The terms of the nine voting members first appointed to the board
32 of directors shall be as follows: Four years for members appointed by the
33 governor, three years for members appointed by the speaker of the house
34 of representatives and the president of the senate and two years for mem-
35 bers appointed by the minority leader of the house of representatives and
36 the minority leader of the senate. Members of the first board shall be
37 appointed by September 1, 2008. Subsequent terms of all voting mem-
38 bers appointed to the board shall be for four years.

39 (5) The other ~~three~~ two members of the board of directors shall serve
40 ex officio: The secretary of commerce; *and* the secretary of agriculture
41 ~~and the president of Kansas, Inc.~~ Each ex officio member of the com-
42 mission may designate an officer or employee of the state agency ~~or or-~~
43 ~~ganization~~ of the ex officio member to serve on the commission in place

1 of the ex officio member. The ex officio members of the commission, or
2 their designees, shall be nonvoting members of the commission and shall
3 provide information and advice to the commission.

4 (c) The Kansas commission on rural policy board of directors shall
5 elect annually from among its voting members a chairperson, vice-chair-
6 person and secretary. Five voting members of the board shall constitute
7 a quorum and the affirmative vote of five members shall be necessary for
8 any action taken by the board. No vacancy in the membership of the
9 board shall impair the right of a quorum to exercise all the rights and
10 perform all the duties of the board.

11 (d) Members of the commission attending any meeting of the com-
12 mission or any subcommittee meeting authorized by the commission shall
13 be paid amounts as provided in K.S.A. 75-3223, and amendments thereto.

14 (e) All resolutions and orders of the Kansas commission on rural pol-
15 icy board of directors shall be recorded and authenticated by the signature
16 of the secretary or a person designated by the secretary. The book of
17 resolutions, orders, minutes of open meetings, annual reports and annual
18 financial statements of the commission shall be public records as defined
19 by K.S.A. 45-215 et seq., and amendments thereto. All public records
20 shall be subject to regular audit as provided in K.S.A. 46-1106, and
21 amendments thereto.

22 (f) The commission is hereby authorized to engage legal counsel,
23 expert advisers or executive staff to carry out the duties of the commission.
24 Compensation for such counsel, advisers or staff shall be determined by
25 the commission within the limits of available funds.

26 (g) The commission is hereby authorized to accept grants, gifts, be-
27 quests and other financial or in-kind contributions.

28 (h) To facilitate the organization and start-up of the commission, the
29 department of commerce shall provide administrative assistance until
30 such time as the commission has resources to provide staffing on its own.
31 In no event shall such assistance continue beyond September 1, 2010.

32 Sec. 53. K.S.A. 2008 Supp. 75-2935 is hereby amended to read as
33 follows: 75-2935. The civil service of the state of Kansas is hereby divided
34 into the unclassified and the classified services.

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

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

38 (b) members of boards and commissions, heads of departments re-
39 quired by law to be appointed by the governor or by other elective offi-
40 cers, and the executive or administrative heads of offices, departments,
41 divisions and institutions specifically established by law;

42 (c) except as otherwise provided under this section, one personal sec-
43 retary to each elective officer of this state, and in addition thereto, 10

- 1 deputies, clerks or employees designated by such elective officer;
- 2 (d) all employees in the office of the governor;
- 3 (e) officers and employees of the senate and house of representatives
4 of the legislature and of the legislative coordinating council and all officers
5 and employees of the office of revisor of statutes, of the legislative re-
6 search department, of the division of legislative administrative services,
7 of the division of post audit and the legislative counsel;
- 8 (f) chancellor, president, deans, administrative officers, student
9 health service physicians, pharmacists, teaching and research personnel,
10 health care employees and student employees in the institutions under
11 the state board of regents, the executive officer of the board of regents
12 and the executive officer's employees other than clerical employees, and,
13 at the discretion of the state board of regents, directors or administrative
14 officers of departments and divisions of the institution and county exten-
15 sion agents, except that this subsection (1)(f) shall not be construed to
16 include the custodial, clerical or maintenance employees, or any employ-
17 ees performing duties in connection with the business operations of any
18 such institution, except administrative officers and directors; as used in
19 this subsection (1)(f), "health care employees" means employees of the
20 university of Kansas medical center who provide health care services at
21 the university of Kansas medical center and who are medical technicians
22 or technologists or respiratory therapists, who are licensed professional
23 nurses or licensed practical nurses, or who are in job classes which are
24 designated for this purpose by the chancellor of the university of Kansas
25 upon a finding by the chancellor that such designation is required for the
26 university of Kansas medical center to recruit or retain personnel for
27 positions in the designated job classes; and employees of any institution
28 under the state board of regents who are medical technologists;
- 29 (g) operations, maintenance and security personnel employed to im-
30 plement agreements entered into by the adjutant general and the federal
31 national guard bureau, and officers and enlisted persons in the national
32 guard and the naval militia;
- 33 (h) persons engaged in public work for the state but employed by
34 contractors when the performance of such contract is authorized by the
35 legislature or other competent authority;
- 36 (i) persons temporarily employed or designated by the legislature or
37 by a legislative committee or commission or other competent authority
38 to make or conduct a special inquiry, investigation, examination or
39 installation;
- 40 (j) officers and employees in the office of the attorney general and
41 special counsel to state departments appointed by the attorney general,
42 except that officers and employees of the division of the Kansas bureau
43 of investigation shall be in the classified or unclassified service as provided

- 1 in K.S.A. 75-711, and amendments thereto;
- 2 (k) all employees of courts;
- 3 (l) client, patient and inmate help in any state facility or institution;
- 4 (m) all attorneys for boards, commissions and departments;
- 5 (n) the secretary and assistant secretary of the Kansas state historical
6 society;
- 7 (o) physician specialists, dentists, dental hygienists, pharmacists,
8 medical technologists and long term care workers employed by the de-
9 partment of social and rehabilitation services;
- 10 (p) physician specialists, dentists and medical technologists employed
11 by any board, commission or department or by any institution under the
12 jurisdiction thereof;
- 13 (q) student employees enrolled in public institutions of higher
14 learning;
- 15 (r) administrative officers, directors and teaching personnel of the
16 state board of education and the state department of education and of
17 any institution under the supervision and control of the state board of
18 education, except that this subsection (1)(r) shall not be construed to
19 include the custodial, clerical or maintenance employees, or any employ-
20 ees performing duties in connection with the business operations of any
21 such institution, except administrative officers and directors;
- 22 (s) all officers and employees in the office of the secretary of state;
- 23 (t) one personal secretary and one special assistant to the following:
24 The secretary of administration, the secretary of aging, the secretary of
25 agriculture, the secretary of commerce, the secretary of corrections, the
26 secretary of health and environment, the superintendent of the Kansas
27 highway patrol, the secretary of labor, the secretary of revenue, the sec-
28 retary of social and rehabilitation services, the secretary of transportation,
29 the secretary of wildlife and parks and the commissioner of juvenile
30 justice;
- 31 (u) one personal secretary and one special assistant to the chancellor
32 and presidents of institutions under the state board of regents;
- 33 (v) one personal secretary and one special assistant to the executive
34 vice chancellor of the university of Kansas medical center;
- 35 (w) one public information officer and one chief attorney for the fol-
36 lowing: The department of administration, the department on aging, the
37 department of agriculture, the department of commerce, the department
38 of corrections, the department of health and environment, the depart-
39 ment of labor, the department of revenue, the department of social and
40 rehabilitation services, the department of transportation, the Kansas de-
41 partment of wildlife and parks and the commissioner of juvenile justice;
- 42 (x) civil service examination monitors;
- 43 (y) one executive director, one general counsel and one director of

1 public affairs and consumer protection in the office of the state corpo-
2 ration commission;

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

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

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

18 ~~(cc)~~ (bb) positions at state institutions of higher education that have
19 been converted to unclassified positions pursuant to K.S.A. 2008 Supp.
20 76-715a, and amendments thereto.

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

29 (3) For positions involving unskilled, or semiskilled duties, the sec-
30 retary of administration, as provided by law, shall establish rules and reg-
31 ulations concerning certifications, appointments, layoffs and reemploy-
32 ment which may be different from the rules and regulations established
33 concerning these processes for other positions in the classified service.

34 (4) Officers authorized by law to make appointments to positions in
35 the unclassified service, and appointing officers of departments or insti-
36 tutions whose employees are exempt from the provisions of the Kansas
37 civil service act because of the constitutional status of such departments
38 or institutions shall be permitted to make appointments from appropriate
39 pools of eligibles maintained by the division of personnel services.

40 Sec. 54. K.S.A. 75-2935b is hereby amended to read as follows: 75-
41 2935b. Salaries and other compensation of all persons who are within the
42 unclassified service of the Kansas civil service act, and which salaries and
43 other compensation are not fixed by statute, shall be subject to the ap-

1 approval of the governor and such salaries or other compensation shall not
2 be paid until approved by the governor. The provisions of this section
3 shall not apply to the salaries and other compensation of any officer or
4 employee when such salary or other compensation is specifically pre-
5 scribed by law, nor to officers and employees of elected state officials,
6 officers and employees under the jurisdiction of the state board of re-
7 gents, the executive secretary and other employees of the Kansas public
8 employees retirement system that are in the unclassified service as spec-
9 ified under K.S.A. 74-4908, and amendments thereto, ~~officers and em-~~
10 ~~ployees of Kansas, Inc. and the Kansas technology enterprise corporation,~~
11 officers and employees under the jurisdiction of the supreme court, leg-
12 islative officers and employees or officers and employees of any agency
13 performing functions and duties primarily for the legislative branch.

14 Sec. 55. K.S.A. 75-3208 is hereby amended to read as follows: 75-
15 3208. (a) Except as provided in subsection (e) or (f) or as otherwise au-
16 thorized or provided by statute, no claim for expenses for any trip made
17 beyond the borders of the state by any appointive state officer or em-
18 ployee shall be paid by the state unless the trip has been approved as
19 provided by this section.

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

25 (c) Except as otherwise authorized or provided by statute, authority
26 to grant approval for any such trip by a legislator or an officer or employee
27 of an agency of the legislative branch is vested with the legislative coor-
28 dinating council or an individual authorized by the legislative coordinating
29 council to grant written approval in the case of any such trip by an officer
30 or employee of an agency of the legislative branch.

31 (d) Except as otherwise prescribed by the officer, board or commis-
32 sion that appointed an agency head, authority to grant written approval
33 for any such trip by an officer or employee of the executive branch is
34 vested in such officer's or employee's agency head or the agency head's
35 designee.

36 (e) In cases involving such a trip by an agency head or by appointive
37 members of a board, commission or similar body that appoints an agency
38 head, no approval shall be required unless the appointing authority of the
39 agency head or the members of the board, commission or similar body,
40 as the case may be, requires such approval by the appointing authority.

41 (f) Such approval shall not be required for the payment of any claim
42 for expenses 50% or more of which are paid from moneys received from
43 ~~the Kansas technology enterprise corporation,~~ federal agencies or other

1 external sources.

2 (g) As used in this section, “agency head” means the chief adminis-
3 trative officer of a state agency or state institution.

4 Sec. 56. K.S.A. 76-770 is hereby amended to read as follows: 76-770.

5 (a) Each contract entered into by a state educational institution for the
6 acquisition of goods or services for a research and development activity
7 shall be exempt from the provisions of K.S.A. 75-3739 through 75-3744,
8 and amendments thereto, if the contract is financed 50% or more by
9 moneys received from ~~the Kansas technology enterprise corporation~~, federal
10 agencies or other external sources.

11 (b) Nothing contained in article 32 of chapter 75 of the Kansas Stat-
12 utes Annotated shall be construed to limit or prescribe the conduct of
13 any in-state or out-of-state travel or to limit expense allowances for such
14 travel which is undertaken for and funded as a part of any research and
15 development activity of a state educational institution if such expense is
16 funded 50% or more by moneys received from ~~the Kansas technology~~
17 ~~enterprise corporation~~, federal agencies or other external sources. The
18 provisions of K.S.A. 75-3208, and amendments, thereto shall not apply to
19 any such travel.

20 (c) As used in this section:

21 (1) “Research and development activity” means any center of excel-
22 lence at a state educational institution, any research or development pro-
23 ject or activity at the state educational institution funded under a research
24 matching grant program of the ~~Kansas technology enterprise corporation~~
25 *department of commerce*, or any other sponsored research project at a
26 state educational institution; and

27 (2) “state educational institution” means a state educational institu-
28 tion as defined by K.S.A. 76-711 and amendments thereto.

29 Sec. 57. K.S.A. 74-5001a, 74-5007a, 74-5050, 74-50,101, 74-8003,
30 74-8009a, 74-8011, 74-8012, 74-8013, 74-8014, 74-8015, 74-8016, 74-
31 8102, 74-8103, 74-8105, 74-8106, 74-8107, 74-8108, 74-8109, 74-8110,
32 74-8111, 74-8204, 74-8310, 74-8316, 74-8317, 74-8318, 74-8319, 74-
33 8401, 74-9303, 74-9306, 75-2935b, 75-3208 and 76-770 and K.S.A. 2008
34 Supp. 12-17,169, 12-17,177, 74-520a, 74-5005, 74-5049, 74-5089, 74-
35 5095, 74-50,133, 74-50,134, 74-50,151, 74-50,156, 74-8001, 74-8002, 74-
36 8004, 74-8005, 74-8006, 74-8007, 74-8010, 74-8101, 74-8104, 74-8131,
37 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-8405, 74-99b03, 74-
38 99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03, 74-99c07, 74-99c10, 74-
39 99e02 and 75-2935 are hereby repealed.

40 Sec. 58. This act shall take effect and be in force from and after its
41 publication in the statute book.