

## SENATE BILL No. 378

By Committee on Commerce

2-3

---

1 AN ACT concerning the Kansas bioscience authority; relating to  
2 prohibitions on financial benefits to certain individuals; amending  
3 K.S.A. 2011 Supp. 74-99b04 and 74-99b08 and repealing the existing  
4 sections.  
5

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

7 Section 1. K.S.A. 2011 Supp. 74-99b04 is hereby amended to read as  
8 follows: 74-99b04. (a) There is hereby established a body politic and  
9 corporate, with corporate succession, to be known as the Kansas  
10 bioscience authority. The authority shall be an independent instrumentality  
11 of the state. Its exercise of the rights, powers and privileges conferred by  
12 this act shall be deemed and held to be the performance of an essential  
13 governmental function.

14 (b) In order to accelerate any and all synergy and opportunities for the  
15 growth of the authority, the authority shall be headquartered and establish  
16 its principal operation in the county in the state with the highest number of  
17 bioscience employees associated with bioscience companies as of the  
18 effective date of this act. The exact location of the authority's headquarters  
19 and principal operations in such county shall be at the discretion of the  
20 authority's board.

21 (c) The authority shall be governed by an eleven-member board. One  
22 member of the board shall be an agricultural expert who is recognized for  
23 outstanding knowledge and leadership in the field of bioscience. Eight of  
24 the members of the board shall be representatives of the general public  
25 who are recognized for outstanding knowledge and leadership in the fields  
26 of finance, business, bioscience research, plant biotechnology, basic  
27 research, health care, legal affairs, bioscience manufacturing or product  
28 commercialization, education or government. Of the nine voting members,  
29 five must be residents of the state. The other two members of the board  
30 shall be nonvoting members with research expertise representing state  
31 universities and shall be appointed by the Kansas board of regents.  
32 Nonvoting members shall serve at the pleasure of the board of regents.

33 (d) Of the nine voting members who will be appointed to the  
34 authority's first board, two shall be appointed by the governor for a term of  
35 office of four years, two shall be appointed by the speaker of the house of  
36 representatives, one of which shall be the agricultural expert as authorized

1 in subsection (c), for a term of office of three years, two shall be appointed  
2 by the president of the senate for a term of office of three years, one shall  
3 be appointed by the minority leader of the house of representatives for a  
4 term of office of two years, one shall be appointed by the minority leader  
5 of the senate for a term of office of two years, and one member shall be the  
6 secretary of commerce. Members of the first board shall be appointed by  
7 August 1, 2004. No more than three voting members shall be appointed  
8 from any one congressional district. All voting members of the board shall  
9 be subject to senate confirmation as provided in K.S.A. 75-4315b, and  
10 amendments thereto. Any member of the board whose nomination is  
11 subject to confirmation during a regular session of the legislature shall be  
12 deemed terminated when the senate rejects the nomination. No such  
13 termination shall affect the validity of any action taken by such member of  
14 the board before such termination.

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

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

27 (g) Except for appointments of nonvoting members, each  
28 appointment shall be forwarded to the senate for confirmation as provided  
29 in K.S.A. 75-4315b, and amendments thereto. Except as provided by  
30 K.S.A. 2011 Supp. 46-2601, and amendments thereto, no person appointed  
31 to the board shall exercise any power, duty or function as a member of the  
32 board until confirmed by the senate. In case of a vacancy when the senate  
33 is not in session, the appointing entity may make a temporary appointment  
34 to the board until the next meeting of the senate. Any person who is  
35 temporarily appointed by the appointing entity to the board shall have all  
36 of the powers, duties and functions as a member of the board during such  
37 temporary appointment.

38 (h) The board annually shall elect a voting member as chairperson  
39 and at least one other as vice-chairperson. The board also shall elect a  
40 secretary and treasurer for terms to be determined by the board. The board  
41 may elect the same person to serve as both secretary and treasurer. The  
42 board shall establish an executive committee, nominating committee and  
43 other standing or special committees, and prescribe their duties and

1 powers. Any executive committee of the board may exercise all such  
2 powers and duties of the board as the board may delegate.

3 (i) Members of the board are entitled to compensation and expenses  
4 as provided in K.S.A. 75-3223, and amendments thereto. Members of the  
5 board attending board meetings or subcommittee meetings authorized by  
6 the board, shall be paid mileage and all other applicable expenses,  
7 provided such expenses are consistent with policies established from time-  
8 to-time by the board and as required by subsection (j).

9 (j) (1) No part of the funds of the authority shall inure to the benefit  
10 of, or be distributed to, its employees, officers or members of the board,  
11 except that the authority may make reasonable payments for expenses  
12 incurred on its behalf relating to any of its lawful purposes and the  
13 authority shall be authorized and empowered to pay reasonable  
14 compensation for services rendered to or for its benefit relating to any of  
15 its lawful purposes, including to pay its employees reasonable  
16 compensation.

17 (2) *Except as provided in paragraph (1), no provision of K.S.A. 2011*  
18 *Supp. 74-99b01 et seq., and amendments thereto, shall be construed to*  
19 *permit any employee, officer or member of the board to receive any*  
20 *financial benefit, whether directly or indirectly, from any grant, investment*  
21 *or other expenditure made by the authority which results in funds of the*  
22 *authority being paid to another individual or entity.*

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

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

42 (m) The board shall appoint a president who shall serve at the  
43 pleasure of the board. The president shall serve as the chief executive

1 officer of the authority. The president's salary shall be set by the board.  
2 The board may negotiate and enter into an employment agreement with the  
3 individual selected as president of the authority, which may provide for  
4 compensation allowances, benefits and expenses as may be included in  
5 such agreement. The president shall direct and supervise administrative  
6 affairs and the general management of the authority.

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

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

19 Sec. 2. K.S.A. 2011 Supp. 74-99b08 is hereby amended to read as  
20 follows: 74-99b08. (a) Any member of the board and any employee, other  
21 agent or advisor of the authority, who has a direct or indirect interest in  
22 any contract or transaction with the authority, shall disclose this interest to  
23 the authority in writing. This interest shall be set forth in the minutes of the  
24 authority, and no director, officer, employee, other agent or advisor having  
25 such interest shall participate on behalf of the authority in the authorization  
26 of any such contract or transaction; except that, the provisions of this  
27 section shall not be construed to prohibit any employee of bioscience  
28 research institutions, or any public institute or private enterprise engaged  
29 in the business of bioscience who is a member of the board, who has no  
30 personal interest, from voting on the authorization of any such contract or  
31 transaction between the authority and such employee's employer.

32 (b) All members of the board and all officers of the authority shall  
33 file a written statement pursuant to K.S.A. 46-247 *et seq.*, and amendments  
34 thereto, regarding any substantial interests, within the meaning of K.S.A.  
35 46-229, and amendments thereto, that each director may hold. Any  
36 employee, other agent or advisor of the authority who has a substantial  
37 interest in any contract or transaction with the authority within the  
38 meaning of K.S.A. 46-229, and amendments thereto, shall file a written  
39 statement of substantial interest pursuant to K.S.A. 46-247 *et seq.*, and  
40 amendments thereto.

41 (c) *Nothing in this section shall be construed to permit any employee,*  
42 *officer or member of the board to receive any financial benefit, whether*  
43 *directly or indirectly, from any grant, investment or other expenditure*

1 *made by the authority which results in funds of the authority being paid to*  
2 *another individual or entity.*

3       Sec. 3. K.S.A. 2011 Supp. 74-99b04 and 74-99b08 are hereby  
4 repealed.

5       Sec. 4. This act shall take effect and be in force from and after its  
6 publication in the Kansas register.