

As Amended by House Committee

As Amended by Senate Committee

Session of 2018

SENATE BILL No. 335

By Committee on Financial Institutions and Insurance

1-26

1 AN ACT concerning financial institutions; relating to banks and banking;
2 including savings and loan associations and savings banks in the state
3 banking code; repealing the savings and loan code; amending K.S.A.
4 2017 Supp. 9-701, 9-808, 9-809, 9-901a, 9-902, 9-903, 9-904, 9-905, 9-
5 906, 9-907, 9-908, 9-910, 9-911, 9-912, 9-1101, 39-709, 58-3974, 75-
6 3036 and 75-3170a and repealing the existing sections; also repealing
7 K.S.A. 17-5101, 17-5102, 17-5201, 17-5202, 17-5203, 17-5204, 17-
8 5205, 17-5206, 17-5207, 17-5208, 17-5209, 17-5210, 17-5211, 17-
9 5212, 17-5213, 17-5214, 17-5215, 17-5216, 17-5217, 17-5218, 17-
10 5219, 17-5220, 17-5221, 17-5225, 17-5225a, 17-5225b, 17-5225c, 17-
11 5226, 17-5227, 17-5228, 17-5229, 17-5230, 17-5301, 17-5302, 17-
12 5303, 17-5304, 17-5305, 17-5306, 17-5307, 17-5308, 17-5309, 17-
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14 5317, 17-5318, 17-5319, 17-5320, 17-5321, 17-5322, 17-5323, 17-
15 5324, 17-5325, 17-5326, 17-5327, 17-5328, 17-5329, 17-5401, 17-
16 5402, 17-5403, 17-5404, 17-5405, 17-5406, 17-5407, 17-5408, 17-
17 5409, 17-5410, 17-5412, 17-5413, 17-5414, 17-5415, 17-5416, 17-
18 5417, 17-5418, 17-5419, 17-5420, 17-5421, 17-5422, 17-5423, 17-
19 5424, 17-5425, 17-5426, 17-5427, 17-5428, 17-5429, 17-5430, 17-
20 5501, 17-5501c, 17-5502, 17-5502a, 17-5503, 17-5504, 17-5505, 17-
21 5506, 17-5508, 17-5509, 17-5510, 17-5511, 17-5512, 17-5512a, 17-
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28 5556, 17-5557, 17-5558, 17-5559, 17-5560, 17-5561, 17-5562, 17-
29 5563, 17-5564, 17-5565, 17-5566, 17-5567, 17-5568, 17-5569, 17-
30 5570, 17-5571, 17-5572, 17-5601, 17-5602, 17-5603, 17-5604, 17-
31 5605, 17-5606, 17-5607, 17-5609a, 17-5611, 17-5612, 17-5613, 17-
32 5614, 17-5615, 17-5616, 17-5617, 17-5618, 17-5619, 17-5620, 17-
33 5621, 17-5622, 17-5623, 17-5624, 17-5625, 17-5626, 17-5627, 17-
34 5628, 17-5629, 17-5630, 17-5631, 17-5632, 17-5633, 17-5634, 17-

1 5635, 17-5636, 17-5637, 17-5638, 17-5639, 17-5640, 17-5641, 17-
2 5642, 17-5643, 17-5644, 17-5645, 17-5702, 17-5703, 17-5704, 17-
3 5705, 17-5706, 17-5801, 17-5802, 17-5803, 17-5804, 17-5805, 17-
4 5806, 17-5807, 17-5808, 17-5809, 17-5810, 17-5811, 17-5812, 17-
5 5814, 17-5816, 17-5817, 17-5818, 17-5819, 17-5820, 17-5821, 17-
6 5822, 17-5823, 17-5824, 17-5825, 17-5826, 17-5827, 17-5830, 17-
7 5831 and 17-5832 and K.S.A. 2017 Supp. 17-5225d, 17-5610, 17-5701,
8 17-5828 and 17-5829.

9
10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section 1. (a) Subject to the terms of its articles of incorporation
12 and bylaws, and rules and regulations of the commissioner, a mutual-~~state~~
13 bank may:

14 (1) Raise funds through deposit, share or other accounts, including
15 demand deposit accounts, hereafter referred to as "accounts"; and

16 (2) issue passbooks, certificates or other evidence of accounts.

17 (b) No mutual-~~state~~ bank shall permit any overdraft, including an
18 intra-day overdraft, on behalf of an affiliate, or incur any overdraft in its
19 account at a federal reserve bank or federal home loan bank on behalf of
20 an affiliate.

21 (c) A mutual-~~state~~ bank may require no less than a 14-day notice prior
22 to payment of savings accounts, if the articles of incorporation or bylaws
23 of the bank or the rules and regulations of the commissioner so provide.

24 (d) If a mutual-~~state~~ bank does not pay all withdrawals in full, subject
25 to the right of the bank, where applicable, to require notice, the payment of
26 withdrawals from accounts shall be subject to the provisions prescribed by
27 the bank's articles of incorporation or bylaws or the rules and regulations
28 of the commissioner. Except as authorized in writing by the commissioner,
29 any mutual-~~state~~ bank that fails to make full payment of any withdrawal
30 when due shall be deemed to be in an unsafe or unsound condition.

31 (e) A depositor of a mutual-~~state~~ bank shall be a voting member and
32 shall have such ownership interest in the bank as may be provided in the
33 articles of incorporation and bylaws of the bank.

34 (f) The articles of incorporation and the bylaws of a mutual-~~state~~ bank
35 may provide that all borrowers from the bank are members and, if so, shall
36 provide for their rights and privileges.

37 (g) All savings accounts and demand accounts shall have the same
38 priority upon liquidation.

39 (h) This section shall be a part of and supplemental to the state
40 banking code.

41 New Sec. 2. (a) No savings and loan association or savings bank may
42 make any investment under this section if the association's aggregate
43 outstanding investment ~~under this section~~ **in a service corporation** would

1 exceed 3% of the association's assets. Not less than $\frac{1}{2}$ of the investment
2 permitted under this section that exceeds 1% of the association's assets
3 shall be used primarily for community, inner city, and community-
4 development purposes.

5 (b) This section shall be a part of and supplemental to the state
6 banking code.

7 New Sec. 3. (a) A savings and loan association shall apply to the
8 commissioner for approval at least 30 days prior to acquiring, establishing
9 or commencing new activity with an existing service corporation and shall
10 not engage in activity with the service corporation without the
11 commissioner's approval. The application shall include:

12 (1) A complete description of the saving and loan association's
13 investment in the service corporation;

14 (2) the proposed activities of the service corporation;

15 (3) the organizational structure and management of the service
16 corporation;

17 (4) the relationship between the savings and loan association and the
18 service corporation; and

19 (5) any other information that the commissioner deems necessary to
20 describe the proposal.

21 (b) A service corporation shall:

22 (1) Be operated in a manner that demonstrates to the public that it
23 maintains a separate corporate identity from the applicant; and

24 (2) not commingle business transactions, accounts and records with a
25 savings and loan association.

26 (c) In considering an application, the commissioner may:

27 (1) Limit a savings and loan association's investment in a service
28 corporation; or

29 (2) refuse to permit any activity of a service corporation for
30 supervisory, legal or safety and soundness reasons.

31 (d) This section shall be a part of and supplemental to the state
32 banking code.

33 New Sec. 4. (a) A service corporation may engage in any activity that
34 a savings and loan association may conduct directly.

35 (b) A service corporation shall be subject to the commissioner's
36 supervision as the savings and loan association would be if it had
37 conducted the activity itself.

38 (c) If a service corporation fails to meet any of the requirements of
39 this section, the savings and loan association shall notify the
40 commissioner. If the service corporation is unable to comply with the
41 requirements of this section within 90 days of its initial failure to meet
42 such requirements, the savings and loan association shall dispose of its
43 investment in the service corporation.

- 1 (d) After a savings and loan association has received approval from
2 the commissioner, a service corporation may engage in the following:
- 3 (1) Business activities, when such activities are limited to financial
4 documents, financial clients or are generally financially related to:
- 5 (A) Accounting or internal or other auditing;
6 (B) advertising, market research and other marketing;
7 (C) clerical;
8 (D) consulting;
9 (E) courier;
10 (F) data processing;
11 (G) data storage facilities operation and related services;
12 (H) personnel benefit program development or administration;
13 (I) printing and selling forms that require magnetic ink character
14 recognition (MICR) encoding;
15 (J) purchasing and distribution of office supplies, furniture and
16 equipment;
17 (K) relocation of personnel;
18 (L) research studies and surveys;
19 (M) software development and systems integration; and
20 (N) remote service unit operation, leasing, ownership or
21 establishment;
- 22 (2) credit-related activities:
- 23 (A) Abstracting;
24 (B) acquiring and leasing personal property;
25 (C) appraising;
26 (D) collections;
27 (E) credit analysis;
28 (F) check or credit card guaranty and verification;
29 (G) acting as an escrow agent or trustee, under deeds of trust,
30 including executing and delivery of conveyances, reconveyances and
31 transfers of title; and
32 (H) loan inspection;
- 33 (3) consumer services activities:
- 34 (A) Financial advice or consulting;
35 (B) foreign currency exchange;
36 (C) home ownership counseling;
37 (D) income tax return preparation;
38 (E) providing postal services;
39 (F) sales of stored value instruments;
40 (G) welfare benefit distribution;
41 (H) check printing and related services; and
42 (I) remote service unit operation, leasing, ownership or establishment;
- 43 (4) real estate-related service activities:

- 1 (A) Acquiring real estate for:
2 (i) Prompt development or subdivision;
3 (ii) construction of improvements;
4 (iii) resale or leasing to others for such construction of improvements;
5 or
6 (iv) use as manufactured home sites, in accordance with a prudent
7 program of property development;
8 (B) acquiring improved real estate or manufactured homes to be held
9 for:
10 (i) Rental or resale;
11 (ii) remodeling, renovating or demolishing and rebuilding for resale
12 or rental; or
13 (iii) offices and related facilities of a stockholder of the service
14 corporation;
15 (C) maintaining and managing real estate; and
16 (D) real estate brokerage for property owned by a savings and loan
17 association or savings bank that owns capital stock of the service
18 corporation or in which the service corporation otherwise invests;
19 (5) securities, liquidity management and coin purchase activities:
20 (A) Execution of transactions in securities on an agency or riskless
21 principal basis solely upon the order and for the account of customers or
22 the provision of investment advice. The service corporation must register
23 with the securities and exchange commission and office of the securities
24 commissioner, as required by applicable state and federal law and rules
25 and regulations;
26 (B) liquidity management;
27 (C) issuing notes, bonds, debentures or other obligations of securities;
28 and
29 (D) purchase or sale of coins issued by the United States treasury;
30 (6) investments in:
31 (A) Tax-exempt bonds used to finance residential real property for
32 family units;
33 (B) tax-exempt obligations of public housing agencies used to finance
34 housing projects with rental assistance subsidies;
35 (C) small business investment companies and new market venture
36 capital companies licensed by the United States small business
37 administration;
38 (D) rural business investment companies licensed by the U.S.
39 department of agriculture; and
40 (E) savings accounts of an investing savings and loan association;
41 (7) community and economic development or public welfare
42 investment activities that are permissible under federal law;
43 (8) establishing or acquiring a corporation that is recognized by the

1 internal revenue service as organized for charitable purposes under 26
2 U.S.C. § 501(c)(3) of the internal revenue code and making a reasonable
3 contribution to capitalize it, provided that the corporation engages
4 exclusively in activities designed to promote the well-being of
5 communities in which the owners of the service corporation operate;

6 (9) acting as an agent for or engaging in activities conducted on
7 behalf of a customer, other than on an as principal basis; and

8 (10) any activity reasonably incident to those listed in this subsection
9 if the service corporation engages in those activities.

10 (e) This section shall be a part of and supplemental to the state
11 banking code.

12 New Sec. 5. As used in sections 2 through 5, and amendments
13 thereto:

14 (a) "Invest" means any investment in the capital stock, obligations or
15 other securities, and any advance of funds to a service corporation,
16 including the purchase of stock, the making of a loan or other such
17 advance of funds. "Invest" does not include a payment for rent earned,
18 goods sold and delivered or services rendered prior to the making of such
19 payment.

20 (b) "Savings and loan service corporation" or "service corporation"
21 means a corporation or limited liability company organized under the laws
22 of Kansas. The entirety of the capital stock of a savings and loan service
23 corporation shall be available for purchase only by Kansas-chartered
24 savings and loan associations, Kansas chartered savings banks and
25 federally chartered savings and loan associations with home offices in
26 Kansas. Kansas-chartered and federally chartered savings and loan
27 associations and Kansas-chartered and federally chartered savings banks
28 investing in a savings and loan service corporation shall designate the
29 savings and loan service corporation as a service corporation.

30 (c) This section shall be a part of and supplemental to the state
31 banking code.

32 New Sec. 6. (a) For any deposit account, loan account or other
33 banking relationship hereinafter referred to as "account," that is opened by
34 one or more persons acting or purporting to act for or on behalf of an
35 entity with any financial institution transacting business in this state, such
36 person may provide the financial institution with a certificate to provide
37 evidence of the existence of the entity and the authority of the person to
38 act for or on behalf of the entity with respect to the account.

39 (b) The certificate of existence and authority shall be an affidavit
40 executed by such person and shall include the following, as applicable:

41 (1) The name and mailing address of the entity;

42 (2) the type of entity and the state, country or other governmental
43 authority, under which laws, the entity was formed;

1 (3) the organization date of the entity;

2 (4) the name, mailing address and office or other position held by the
3 person executing the certificate; and

4 (5) a statement that the board of directors, managers, members,
5 general partners or other governing body of the entity opening the account
6 has duly taken all action legally required to open the account in the name
7 of the entity and the name, office or other position of the person who has
8 been duly authorized to engage in transactions with respect to the account,
9 including any limitation that may exist upon the authority of such person
10 to bind the entity and any other matters concerning the manner in which
11 such person may deal with the account.

12 (c) If a financial institution accepts a certificate of existence and
13 authority pursuant to this section, the financial institution may open and
14 administer the account in accordance with the information set forth therein
15 and shall not be liable for so doing, even if any such information is
16 inaccurate, unless the financial institution has actual knowledge of such
17 inaccuracy or knowledge sufficient to cause a reasonably prudent person to
18 doubt the accuracy of such information.

19 (d) Nothing in this section shall be construed to prohibit a financial
20 institution from requesting additional information or requiring other
21 agreements in order to establish an account for an entity, including,
22 without limitation, a resolution, certificate of good standing, request for a
23 taxpayer identification number, entity agreements or documents or parts
24 thereof evidencing the existence of the entity or the authority of the person
25 executing the certificate, and an indemnification that is acceptable to the
26 financial institution.

27 (e) As used in this section:

28 (1) "Entity" means any government or governmental subdivision or
29 agency, any domestic or foreign corporation, limited liability company,
30 general partnership, limited liability partnership, joint venture,
31 cooperative, association or other legal entity, whether operated for profit or
32 not-for-profit; and

33 (2) "financial institution" means any federal- or state- chartered
34 commercial bank, savings and loan association or savings bank.

35 (f) This section shall be a part of and supplemental to the state
36 banking code.

37 Sec. 7. K.S.A. 2017 Supp. 9-701 is hereby amended to read as
38 follows: 9-701. Unless otherwise clearly indicated by the context, the
39 following words when used in the state banking code, for the purposes of
40 the state banking code, shall have the meanings respectively ascribed to
41 them in this section:

42 (a) "Bank or state bank" means a ~~state~~ bank, *savings and loan*
43 *association or savings bank* incorporated under the laws of Kansas.

1 (b) "Business of banking" means receiving or accepting money on
2 deposit, and may include the performance of related activities that are not
3 exclusive to banks, including paying drafts or checks, lending money or
4 any other activity authorized by applicable law. "Business of banking"
5 shall not include any activity conducted by a student bank.

6 (c) "Trust company" means a trust company incorporated under the
7 laws of Kansas and which does not accept deposits.

8 (d) "Commissioner" means the Kansas state bank commissioner.

9 (e) "Executive officer" means a person who participates or has
10 authority to participate, other than in the capacity of a director, in major
11 policymaking functions of the bank or trust company, whether or not the
12 officer has an official title, the title designates the officer as an assistant or
13 the officer is serving without salary or other compensation. The
14 chairperson of the board, the president, every vice president, the cashier,
15 the secretary and the treasurer of a company or bank are considered
16 executive officers.

17 (1) A bank may, by resolution of the board of directors or by the
18 bylaws of the bank or trust company, exempt an officer from participation,
19 other than in the capacity of a director, in major policymaking functions of
20 the bank or trust company if the officer does not actually participate
21 therein.

22 (2) The commissioner may make the determination that a person is an
23 executive officer if the commissioner determines that the criteria are met
24 despite the existence of a resolution allowed pursuant to this subsection.

25 (f) "Demand deposit" means a deposit that: (1) (A) Is payable on
26 demand;

27 (B) is issued with an original maturity or required notice period of
28 less than seven days;

29 (C) represents funds for which the depository institution does not
30 reserve the right to require at least seven days' written notice of an
31 intended withdrawal; or

32 (D) represents funds for which the depository institution does reserve
33 the right to require at least seven days' written notice of an intended
34 withdrawal; and

35 (2) is not also a negotiable order of withdraw account.

36 (3) "Demand deposit" does not include "time deposits" or "savings
37 deposits" as defined in this section.

38 (g) "Time deposit," also known as a certificate of deposit, means a
39 deposit that the depositor does not have a right and is not permitted to
40 make withdrawals from within six days after the date of deposit unless the
41 deposit is subject to an early withdrawal penalty of at least seven days'
42 simple interest on amounts withdrawn within the first six days after
43 deposit. A time deposit from which partial early withdrawals are permitted

1 must impose additional early withdrawal penalties for at least seven days'
2 simple interest on amounts withdrawn within six days after each partial
3 withdrawal. If such additional early withdrawal penalties are not
4 contractually imposed, the account ceases to be a time deposit, but may
5 become a savings deposit if the account meets the requirements for a
6 savings deposit.

7 (h) "Savings deposit" means a deposit or account with respect to
8 which the depositor is not required by the deposit contract, but may at any
9 time, be required by the depository institution to give written notice of an
10 intended withdrawal not less than seven days before such withdrawal is
11 made and that is not payable on a specified date or at the expiration of a
12 specified time after the date of deposit.

13 (i) "Public moneys" means all moneys coming into the custody of the
14 United States government or any board, commission or agency thereof,
15 and also shall mean all moneys coming into the custody of any officer of
16 any municipal or quasi-municipal or public corporation, the state or any
17 political subdivision thereof, pursuant to any provision of law authorizing
18 any such official to collect or receive the same.

19 (j) "Municipal corporation" means any city incorporated under the
20 laws of Kansas.

21 (k) "Quasi-municipal corporation" means any county, township,
22 school district, drainage district, rural water district or any other
23 governmental subdivision in the state of Kansas having authority to
24 receive or hold moneys or funds.

25 (l) "Certificate of authority" means a certificate signed and sealed by
26 the commissioner evidencing the authority of a bank or trust company to
27 transact a general banking or trust business as provided by law.

28 (m) "Trust business" means engaging in, or holding out to the public
29 as willing to engage in, the business of acting as a fiduciary for hire,
30 except that no accountant, attorney, credit union, insurance broker,
31 insurance company, investment adviser, real estate broker or sales agent,
32 savings and loan association, savings bank, securities broker or dealer, real
33 estate title insurance company or real estate escrow company shall be
34 deemed to be engaged in a trust company business with respect to
35 fiduciary services customarily performed by those persons or entities for
36 compensation as a traditional incident to their regular business activities.

37 (n) "Community and economic development entity" means an entity
38 that makes investments or conducts activities that primarily benefit low-
39 income and moderate-income individuals, low-income and moderate-
40 income areas, or other areas targeted by a governmental entity for
41 redevelopment, or would receive consideration as "qualified investments"
42 under the community reinvestment act pub. L. 95-128, title VIII, 91 stat.
43 1147, 12 U.S.C. § 2901 et seq., and any state tax credit equity fund

1 established pursuant to K.S.A. 74-8904, and amendments thereto.

2 (o) "Depository institution" means any state bank, national banking
3 association, state savings and loan or federal savings association, without
4 regard to the state where the institution is chartered or the state in which
5 the institution's main office is located.

6 (p) "Student bank" means any nonprofit program offered by a high
7 school accredited by the state board of education, where deposits are
8 received, checks are paid or money is lent for limited in-school purposes.

9 (q) "*Stock bank*" means a bank that has an ownership structure
10 represented by stock.

11 (r) "*Mutual—state bank*" means a bank that does not have an
12 ownership structure represented by stock.

13 (s) "*Savings and loan association*" or "*savings bank*" means a bank
14 that is required to have qualified thrift investments that equal or exceed
15 65% of its portfolio assets, and its qualified thrift investments are required
16 to equal or exceed 65% of its assets on a monthly average basis in nine
17 out of every 12 months. For purposes of this subsection, "*portfolio assets*"
18 and "*qualified thrift investments*" have the same meanings as in 12 U.S.C.
19 § 1467a, as amended.

20 Sec. 8. K.S.A. 2017 Supp. 9-808 is hereby amended to read as
21 follows: 9-808. (a) Any national bank, federal savings association or
22 federal savings bank organized under the laws of the United States and
23 located in this state may become a state bank upon the affirmative vote of
24 not less than $\frac{2}{3}$ of the institution's outstanding voting stock *or members*.
25 Any national bank, federal savings association or federal savings bank
26 desiring to become a state bank shall apply to the commissioner for
27 permission to convert to a state bank and:

28 (1) Shall submit a transcript of the minutes of the meeting of the
29 institution's stockholders *or members* showing approval of the proposed
30 conversion;

31 (2) the name selected for the bank shall not be the name of any other
32 bank: (A) doing business in the same city or town; or

33 (B) within a 15-mile radius of the location of the converted
34 institution. The name shall be accepted or rejected by the commissioner,
35 although any bank may request exemption from the commissioner from
36 this paragraph; and

37 (3) provide any other information required in the application form
38 prescribed by the commissioner.

39 (b) A federal savings association or federal savings bank operating in
40 a mutual form *and which seeks to become a stock bank* must also convert
41 to a stock form prior to converting to a state bank and shall submit
42 appropriate documentation to the commissioner to show that the
43 appropriate federal regulator has approved such mutual to stock

1 conversion.

2 (c) Upon receipt of each of the items required by this section the
3 commissioner shall make or cause to be made such investigation as the
4 commissioner deems necessary to determine whether:

5 (1) All state and federal requirements for a conversion have been
6 satisfied;

7 (2) the conversion or the financial condition of the bank will not
8 adversely affect the interests of the depositors;

9 (3) the resulting state bank will have an adequate capital structure in
10 accordance with K.S.A. 9-901a et seq., and amendments thereto; and

11 (4) the competence, experience or integrity of the proposed
12 management personnel indicates that approving the conversion would be
13 in the interest of the depositors of the bank and in the interest of the public.

14 (d) If the commissioner determines each of the matters in subsection
15 (c) favorably, the conversion shall be approved, and the commissioner
16 shall issue a certificate of authority. Upon issuance of a certificate of
17 authority, the articles of incorporation, duly executed as required by the
18 Kansas corporate code, shall be filed with the Kansas secretary of state's
19 office.

20 (e) In any conversion authorized by this section, the resulting state
21 bank by operation of law shall continue all trust functions being exercised
22 by the national bank, federal savings association or federal savings bank
23 and shall be substituted for the national bank, federal savings association
24 or federal savings bank and shall have the right to exercise trust or
25 fiduciary powers created by any instrument designating the national bank,
26 federal savings association or federal savings bank, even though such
27 instruments are not yet effective.

28 (f) In any conversion authorized by this section, the resulting state
29 bank shall succeed by operation of law without any conveyance or transfer
30 by the act of the national bank, federal savings association or federal
31 savings bank to all the actual or potential assets, real property, tangible
32 personal property, intangible personal property, rights, franchises and
33 interests, including those in a fiduciary capacity of the national bank,
34 federal savings association or federal savings bank and shall be subject to
35 all of the liabilities of the national bank, federal savings association or
36 federal savings bank.

37 (g) In any conversion authorized by this section the corporate
38 existence of the national bank, federal savings association or federal
39 savings bank shall be continued in the resulting state bank, and the
40 resulting state bank shall be deemed to be the identical corporate entity as
41 the national bank, federal savings association or federal savings bank.

42 (h) Within a reasonable time after the effective date of the conversion,
43 the resulting *state* bank shall divest all assets and liabilities that do not

1 conform to state banking laws and rules and regulations. The length of this
2 transition period shall be determined by the commissioner.

3 Sec. 9. K.S.A. 2017 Supp. 9-809 is hereby amended to read as
4 follows: 9-809. (a) Any state bank may convert to a national bank, *federal*
5 *savings and loan association or federal savings bank* upon the affirmative
6 vote of not less than $\frac{2}{3}$ of the bank's outstanding voting stock *or members*.

7 (b) The state bank shall provide a copy of the application submitted to
8 the comptroller of currency to the commissioner within 10 days after the
9 date the state bank applies for approval to convert to a national banking
10 association, *federal savings and loan association or federal savings bank*
11 from the office of the comptroller of the currency.

12 (c) The state bank shall provide to the commissioner written notice of
13 approval by the comptroller of currency to convert to a national bank,
14 *federal savings and loan association or federal savings bank* within 10
15 days of receiving the approval.

16 (d) Within 15 days following the issuance of a charter certificate to
17 the bank by the comptroller, the bank shall surrender its state certificate of
18 authority or charter and shall certify in writing that notice of the
19 conversion has been given to the Kansas secretary of state's office.

20 Sec. 10. K.S.A. 2017 Supp. 9-901a is hereby amended to read as
21 follows: 9-901a. (a) For purposes of this section: (1) "Capital" means: (A)
22 *For a stock bank or trust company*, the total of the aggregate par value of a
23 bank's or trust company's outstanding shares of capital stock, its surplus
24 and its undivided profits; and (B) *for a mutual bank*, the total of the funds
25 *pledged by its members and its undivided profits*;

26 (2) "equity capital" means the total of common stock, preferred stock,
27 surplus and undivided profits less intangibles; and

28 (3) "total assets" means the total of all tangible bank assets as
29 reported on the daily balance sheet of the bank.

30 (b) (1) For *stock* banks organized on or after July 1, 2015, the
31 minimum capital of a *stock* bank at the time of organization shall be the
32 greater of \$3,000,000 or an amount equal to 8% of the proposed bank's
33 estimated deposits five years after its organization. The capital shall be
34 divided with 60% of the amount as the aggregate par value of outstanding
35 shares of capital stock, 30% as surplus and 10% as undivided profits.

36 (2) For trust companies organized on or after July 1, 2015, the
37 minimum capital shall at all times be \$500,000. The capital shall be
38 divided with 60% of the amount as the aggregate par value of outstanding
39 shares of capital stock, 30% as surplus and 10% as undivided profits.

40 (3) *For mutual banks organized on or after July 1, 2018, the*
41 *founding members of the bank must pledge funds at the time of*
42 *organization the greater of \$3,000,000 or an amount equal to 8% of the*
43 *proposed bank's estimated deposits five years after its organization.*

1 (4) The state banking board may require that a bank or trust company
2 have capital in excess of the amounts specified in this subsection if the
3 state banking board determines that excess capital is necessary based on
4 the character and qualifications of the proposed board of directors and the
5 nature of the business of the bank or trust company.

6 (c) The minimum capital of a bank or trust company organized
7 pursuant to K.S.A. 9-801(j), and amendments thereto, shall be determined
8 by the commissioner, provided that the successor bank has obtained
9 deposit insurance from the federal deposit insurance corporation or any
10 successor.

11 (d) All banks shall maintain a capital ratio of at least 5% of equity
12 capital to total assets at all times.

13 (e) Any bank that relocates its main office from one city to another
14 pursuant to K.S.A. 2017 Supp. 9-814, and amendments thereto, shall have
15 equity capital equal to the greater of \$3,000,000 or 8% of its estimated
16 deposits five years after the relocation.

17 (1) The commissioner, in the commissioner's discretion, may approve
18 a relocation with a smaller equity capital amount if the bank can show that
19 the circumstances surrounding the relocation warrant consideration of a
20 lesser amount and the safety of depositors would not be impacted by
21 requiring a lesser amount.

22 (2) If the main office relocation is part of an interchange of the main
23 office with a branch location that has been in operation for at least one
24 year, this equity capital requirement shall not apply.

25 (f) Any national bank, federal savings association or federal savings
26 bank which converts its charter to a state bank pursuant to K.S.A. 9-808,
27 and amendments thereto, shall have a minimum capital ratio of 5% of
28 equity capital to total assets at the time of its conversion. The capital
29 division requirements of subsection (b) shall not apply.

30 (g) The commissioner may require that a bank or trust company have
31 capital in excess of the amounts specified in subsections (b) through (d) if
32 the commissioner determines that excess capital is necessary based on the
33 character and qualifications of the proposed board of directors and nature
34 of the business of the bank or trust company.

35 (h) Any bank that fails to meet the minimum capital ratio of 5% of
36 equity capital to total assets required by this section shall notify the
37 commissioner within three business days. Upon notice, the commissioner
38 may require the bank to submit a written plan for restoring capital
39 approved by the commissioner.

40 Sec. 11. K.S.A. 2017 Supp. 9-902 is hereby amended to read as
41 follows: 9-902. (a) The common and preferred stock of any *stock* bank or
42 trust company hereafter created shall be divided into shares of \$1 each, or
43 any whole number multiple thereof. All subscriptions to such stock shall

1 be paid in cash and any bank or trust company may change the par value
2 of its shares to conform with this section.

3 (b) Any *stock* bank or trust company may reduce the number of
4 shares of common stock and replace the shares of common stock with a
5 like amount of shares of preferred stock, as long as the total dollar amount
6 of capital stock is not changed. In lieu of reducing the number of shares of
7 common stock, the *stock* bank may reduce the par value of the common
8 stock and issue preferred stock with a par value that is equal to the amount
9 of the reduction in the par value of the common stock. When the preferred
10 stock is retired, the par value of the common shares shall be restored.

11 (c) The requirements for a capital reduction pursuant to K.S.A. 9-904,
12 and amendments thereto, and the requirements for new issue of preferred
13 stock pursuant to K.S.A. 9-908, and amendments thereto, shall not apply
14 to the circumstance described in this section.

15 Sec. 12. K.S.A. 2017 Supp. 9-903 is hereby amended to read as
16 follows: 9-903. (a) The shares of stock of any *stock* bank or trust company
17 shall be deemed personal property and shall be transferred on the books of
18 the bank or trust company in such manner as the bylaws thereof may
19 direct.

20 (b) No transfer of stock shall be valid against the issuing *stock* bank
21 or trust company so long as the registered owner thereof shall be liable as
22 principal debtor, surety or otherwise to the *stock* bank or trust company on
23 a matured, charged off or forgiven obligation. No dividend, interest or
24 profit shall be paid on such stock so long as the registered owner thereof is
25 indebted to the bank or trust company on a matured, charged off or
26 forgiven obligation. All such dividends or profits shall be retained by the
27 *stock* bank or trust company and applied to the discharge of any such
28 obligations.

29 (c) No stock shall be transferred on the books of any bank or trust
30 company when the bank or trust company is in a failing condition, or when
31 its capital stock is impaired, except upon approval of the commissioner.

32 (d) The president or other chief executive officer of a bank or trust
33 company shall report to the commissioner within 10 days of the transfer of
34 shares of stock on the books of the bank or trust company if there is a
35 transfer of:

36 (1) Shares of stock that results in the direct or indirect ownership by a
37 stockholder or an affiliated group of stockholders of 10% or more of the
38 outstanding stock of the bank or trust company; or

39 (2) additional shares of stock to stockholders or an affiliated group of
40 stockholders who own 10% or more of the outstanding stock of a bank or
41 trust company.

42 (e) If there is a transfer of shares of stock that results in the direct or
43 indirect ownership by a stockholder or an affiliate group of stockholders of

1 25% or more of the outstanding stock of the bank or trust company, a
2 change of control shall be filed pursuant to K.S.A. 9-1719 et seq., and
3 amendments thereto.

4 Sec. 13. K.S.A. 2017 Supp. 9-904 is hereby amended to read as
5 follows: 9-904. (a) With prior approval of the commissioner, a *stock* bank
6 or trust company may reduce the amount of its capital stock account. No
7 such reduction shall be approved unless the commissioner finds that:

8 (1) The proposed reduction is necessary to provide greater
9 operational flexibility to an adequately capitalized, well-managed
10 institution;

11 (2) the proposed reduction does not result in or is not in furtherance
12 of a reduction in the institution's capital to an amount below the amount
13 required by K.S.A. 9-901(a), and amendments thereto;

14 (3) the proposed reduction is not intended to delay, prevent or be in
15 lieu of capital stock impairment or a stockholder's assessment pursuant to
16 K.S.A. 9-906, and amendments thereto;

17 (4) the proposed reduction poses no significant risk to the financial
18 stability, safety or soundness of the institution;

19 (5) the bank's or trust company's surplus account will be increased in
20 an amount equal to the amount of the proposed reduction in the capital
21 stock account, unless a waiver is granted by the commissioner; and

22 (6) a resolution approving the reduction has been adopted by the
23 stockholders representing $\frac{2}{3}$ of the voting stock of the bank or trust
24 company.

25 (b) Upon completion of the reduction, the *stock* bank or trust
26 company shall file with the commissioner a list of its stockholders and the
27 amount of stock held by each.

28 (c) Whenever the capital stock of any *stock* bank or trust company
29 shall be reduced as herein provided, every stockholder, owner or holder of
30 any stock certificate shall surrender the same for cancellation and shall be
31 entitled to receive a new certificate for such person's proportion of the new
32 stock. No dividends shall be paid to any such stockholder until the old
33 certificate is surrendered.

34 Sec. 14. K.S.A. 2017 Supp. 9-905 is hereby amended to read as
35 follows: 9-905. The capital stock of any *stock* bank or trust company may
36 be increased. The president and cashier shall forward a verified statement
37 to the commissioner showing the amount of the increase, paid in full, the
38 names and addresses of the subscribers and the amount subscribed by
39 each.

40 Sec. 15. K.S.A. 2017 Supp. 9-906 is hereby amended to read as
41 follows: 9-906. (a) Whenever it shall appear that the capital stock of any
42 *stock* bank or trust company is impaired, the commissioner shall notify the
43 *stock* bank or trust company to restore the capital stock within 90 days of

1 receipt of such notice.

2 (b) For purposes of this section, "impairment" means that charges or
3 losses to the bank or trust company's capital accounts have been sufficient
4 to eliminate all of the bank or trust company's allowance for loan and lease
5 loss, undivided profits, surplus fund and any other capital reserves and has
6 brought the book amount of the capital stock below the par value of the
7 capital stock.

8 (c) Within 15 days of receipt of the impairment notice from the
9 commissioner, the board of directors of the bank or trust company shall
10 levy an assessment on the common stockholders sufficient to restore the
11 capital stock.

12 (d) A bank or trust company may reduce its capital stock to the extent
13 of the impairment, if such reduction is conducted pursuant to the
14 requirements of K.S.A. 9-904, and amendments thereto.

15 Sec. 16. K.S.A. 2017 Supp. 9-907 is hereby amended to read as
16 follows: 9-907. (a) Whenever any stockholder of a *stock* bank or trust
17 company or an assignee of such stockholder, fails to pay any assessment as
18 required by K.S.A. 9-906, and amendments thereto, the directors of the
19 bank or trust company may sell the stock of such delinquent stockholder,
20 or so much of the stock as necessary, to satisfy the assessment and any
21 related incidental expenses within 120 days of the bank or trust company's
22 receipt of impairment notice.

23 (b) The sale of stock of a delinquent stockholder may be either public
24 or private. The bank or trust company may sell the stock to any person
25 paying the highest price, however, the price shall not be less than the
26 amount due upon the stock, including any incidental expenses. If the stock
27 is sold at private sale and the price offered by any non-stockholder does
28 not exceed the highest bid of any stockholder, then such stock shall be sold
29 to the stockholder. If the stock is sold at a public sale, then notice of the
30 public sale shall be published on the same day for two consecutive weeks,
31 in a newspaper of general circulation in the city or county where the bank
32 or trust company is located.

33 (c) Any excess moneys realized from the sale of the stock shall be
34 paid to the delinquent stockholder, unless the stockholder is indebted to the
35 bank or trust company. If the stockholder has debt, then the excess may be
36 retained by the bank or trust company as an offset against the debt.

37 (d) If no purchaser can be found for the stock at the public or private
38 sale, the stock shall be forfeited to the bank or trust company to be
39 disposed of as the board of directors shall determine within six months
40 from the date of the public or private sale. If the stock cannot be disposed
41 of within six months, the bank or trust company may request permission
42 from the commissioner for additional time to dispose of the stock.

43 Sec. 17. K.S.A. 2017 Supp. 9-908 is hereby amended to read as

1 follows: 9-908. (a) Upon the affirmative vote of $\frac{2}{3}$ of the voting shares of
2 the common stock of a *stock* bank or trust company, and with the prior
3 approval of the commissioner, a *stock* bank or trust company may issue
4 preferred stock of one or more classes. The stockholders shall have a
5 meeting to vote on the issuance of preferred stock. Notice of this meeting
6 shall be given to all stockholders at least five days in advance of the date
7 of the meeting by registered mail.

8 (b) No preferred stock shall be retired unless the common stock shall
9 be increased in an amount equal to the amount of the preferred stock
10 retired. All preferred stock shall be retired consistent with safety to the
11 depositors.

12 Sec. 18. K.S.A. 2017 Supp. 9-910 is hereby amended to read as
13 follows: 9-910. No dividends shall be paid from the capital stock account
14 of a *stock* bank or trust company. The current dividends of any *stock* bank
15 or trust company *or of any mutual bank* shall be paid from undivided
16 profits after deducting losses. These losses are determined by using
17 generally accepted accounting principles at the time of making the
18 dividend.

19 Sec. 19. K.S.A. 2017 Supp. 9-911 is hereby amended to read as
20 follows: 9-911. (a) The directors of any *stock* bank or trust company *or of*
21 *any mutual bank* may declare cash dividends only from undivided profits.
22 *For a stock bank*, before paying this dividend, the directors shall ensure
23 that the surplus fund equals or exceeds the capital stock account. If the
24 surplus fund is less than the capital stock account, the directors shall
25 transfer 25% of the net profits of the bank or trust company, since the last
26 preceding dividend from undivided profits to the surplus fund, except no
27 additional transfers shall be required once the surplus fund equals the
28 capital stock account.

29 (b) The directors of any bank or trust company may not declare or
30 pay an asset dividend, other than cash dividends allowed pursuant to
31 subsection (a), without prior approval from the commissioner.

32 Sec. 20. K.S.A. 2017 Supp. 9-912 is hereby amended to read as
33 follows: 9-912. (a) Any losses sustained by a bank or trust company in
34 excess of its undivided profits may be charged to its surplus fund.

35 (b) Any *stock* bank or trust company, after receiving approval from
36 the commissioner, may declare a stock dividend from its surplus fund, but
37 no dividend shall reduce the surplus fund to an amount less than 30% of
38 the resulting total capital.

39 (c) Any bank or trust company may reduce its surplus account with
40 permission of the commissioner.

41 Sec. 21. K.S.A. 2017 Supp. 9-1101 is hereby amended to read as
42 follows: 9-1101. (a) Any bank hereby is authorized to exercise by its board
43 of directors or duly authorized officers or agents, subject to law, the

1 following powers:

- 2 (1) To receive and to pay interest on deposits. The commissioner,
3 with approval of the state banking board, may by rules and regulations fix
4 maximum rates of interest to be paid on deposit accounts other than
5 accounts for public moneys;
- 6 (2) to buy, sell, discount or negotiate domestic currency, gold, silver,
7 foreign currency, bullion, commercial paper, bills of exchange, notes and
8 bonds. Foreign currency shall not be bought, sold, discounted or
9 negotiated for investment purposes;
- 10 (3) to make all types of loans, subject to the loan limitations
11 contained in the state banking code;
- 12 (4) (A) to buy and sell:
- 13 (i) Bonds, securities or other evidences of indebtedness, including
14 temporary notes, of the United States of America;
- 15 (ii) bonds, securities or other evidences of indebtedness, including
16 temporary notes, fully guaranteed, directly or indirectly, by the United
17 States of America; or
- 18 (iii) general obligation bonds of any state of the United States of
19 America or any municipality or quasi-municipality thereof.
- 20 (B) No bank shall invest in bonds, securities or other evidences of
21 indebtedness *in excess of 15% of capital stock paid in and unimpaired and*
22 *the unimpaired surplus fund of such bank* if:
- 23 (i) The direct and overlapping indebtedness of such municipality or
24 quasi-municipality is in excess of 10% of its ~~assessed valuation~~ *market*
25 *value*, excluding therefrom all valuations on intangibles and homestead
26 exemption valuation; or
- 27 (ii) any bond, security, or evidence of indebtedness of any such
28 municipality or quasi-municipality that has been in default in the payment
29 of principal or interest within 10 years prior to the time that any bank
30 acquires any such bonds, security or evidence of indebtedness;
- 31 (5) to buy and sell investment securities which are evidences of
32 indebtedness limited to buying and selling without recourse marketable
33 obligations evidencing indebtedness of any state or federal agency,
34 including revenue bonds issued pursuant to K.S.A. 76-6a15, and
35 amendments thereto, or the state armory board in the form of bonds, notes
36 or debentures or both. The total amount of such investment securities of
37 any one obligor or maker held by such bank shall at no time exceed 25%
38 of the capital stock, surplus, undivided profits, 100% of the allowance for
39 loan and lease loss, capital notes and debentures and reserve for
40 contingencies of such bank, except that this limit shall not apply to
41 obligations of the United States government or any agency thereof;
- 42 (6) to buy and sell investment securities which are evidences of
43 indebtedness limited to buying and selling without recourse marketable

- 1 obligations evidencing indebtedness of any person, copartnership,
2 association or corporation. The total amount of such investment securities
3 of any one obligor or maker held by such bank shall at no time exceed
4 25% of the capital stock surplus, undivided profits, 100% of the allowance
5 for loan and lease loss, capital notes and debentures and reserve for
6 contingencies of such bank;
- 7 (7) to subscribe to, buy, hold and sell stock of:
- 8 (A) The federal national mortgage association in accordance with the
9 national housing act;
- 10 (B) the federal home loan mortgage corporation in accordance with
11 the federal home loan mortgage corporation act;
- 12 (C) the federal agricultural mortgage corporation, provided no bank's
13 investment in such corporation shall exceed 5% of the bank's capital stock,
14 surplus and undivided profits; and
- 15 (D) a federal home loan bank. Any bank may also become a member
16 of a federal home loan bank;
- 17 (8) to subscribe to, buy and own stock in one or more small business
18 investment companies in Kansas as otherwise authorized by federal law,
19 except that in no event shall any bank acquire shares in any small business
20 investment company if, upon the acquisition, the aggregate amount of
21 shares in small business investment companies then held by the bank
22 would exceed 5% of the bank's capital and surplus;
- 23 (9) to subscribe to, buy and own stock in any agricultural credit
24 corporation or livestock loan company, or its affiliate, organized pursuant
25 to the provisions of the laws of the United States providing for the
26 information and operation of agricultural credit corporations and livestock
27 loan companies, in an amount not exceeding either the undivided profits or
28 10% of the capital stock and surplus and undivided profits from such bank,
29 whichever is greater;
- 30 (10) to buy, hold and sell any type of investment securities not
31 enumerated in this section with approval of the commissioner and upon
32 such conditions and under such regulations as are prescribed by the state
33 banking board;
- 34 (11) to act as escrow agent;
- 35 (12) to subscribe to, acquire, hold and dispose of stock of a
36 corporation the purpose of which is to acquire, hold and dispose of loans
37 secured by real estate mortgages, and to acquire, hold and dispose of the
38 debentures and capital notes of such corporation. No bank's investment in
39 such stock, debentures and capital notes shall exceed 2% of its capital
40 stock, surplus and undivided profits;
- 41 (13) to purchase and sell securities and stock without recourse solely
42 upon the order, and for the account, of customers;
- 43 (14) to subscribe to, acquire, hold and dispose of any class of stock,

1 debentures and capital notes of MABSCO agricultural services, inc. or any
2 similar corporation the purpose of which is to acquire, hold and dispose of
3 agricultural loans originated by Kansas banks. No bank's investment in
4 such stock, debentures and capital notes shall exceed 2% of its capital
5 stock, surplus and undivided profits;

6 (15) to engage in financial future contracts on United States
7 government and agency securities subject to such rules and regulations as
8 the commissioner may prescribe pursuant to K.S.A. 9-1713, and
9 amendments thereto, to promote safe and sound banking practices;

10 (16) to subscribe to, buy and own stock in a bankers' bank organized
11 under the laws of the United States, this state or any other state, or a one
12 bank holding company which owns or controls such a bankers' bank,
13 except no bank's investment in such stock shall exceed 10% of its capital
14 stock, surplus and undivided profits;

15 (17) to buy, hold and sell shares of an open-end investment company
16 in a manner consistent with the parameters outlined by the office of the
17 comptroller of the currency in banking circular 220, as such circular was
18 issued on November 21, 1986;

19 (18) subject to the prior approval of the commissioner and subject to
20 such rules and regulations as are adopted by the commissioner pursuant to
21 K.S.A. 9-1713, and amendments thereto, to promote safe and sound
22 banking practices, a bank may establish a subsidiary which engages in the
23 following securities activities:

24 (A) Selling or distributing stocks, bonds, debentures, notes, mutual
25 funds and other securities;

26 (B) issuing and underwriting municipal bonds;

27 (C) organizing, sponsoring and operating mutual funds; or

28 (D) acting as a securities broker-dealer;

29 (19) to subscribe to, buy and own stock in an insurance company
30 incorporated prior to 1910, under the laws of Kansas, with corporate
31 headquarters in this state, which only provides insurance to financial
32 institutions. The investment in such stock shall not exceed 2% of the
33 bank's capital stock, surplus and undivided profits;

34 (20) to purchase and hold an interest in life insurance policies and, to
35 the extent applicable, to purchase and hold an annuity in a manner
36 consistent with the parameters outlined in the interagency statement of the
37 purchase and risk management of life insurance, issued by the office of the
38 comptroller of the currency, the board of governors of the federal reserve
39 system, the federal deposit insurance corporation and the office of the
40 thrift supervision on December 7, 2004; and set out in the respective
41 agencies' issuances, including the federal deposit insurance corporation
42 financial institution letter 127-2004, effective December 7, 2004, subject
43 to the following limitations:

1 (A) The cash surrender value of any life insurance policy or policies
2 underwritten by any one life insurance company shall not at any time
3 exceed 15% of the total of the bank's capital stock, surplus, undivided
4 profits, 100% of the allowance for loan and lease losses, capital notes and
5 debentures and reserve for contingencies, unless the bank has obtained the
6 prior approval of the commissioner;

7 (B) the cash surrender value of life insurance policies, in the
8 aggregate from all companies, cannot at any time exceed 25% of the total
9 of the bank's capital stock, surplus, undivided profits, 100% of the
10 allowance for loan and lease losses, capital notes and debentures and
11 reserve for contingencies, unless the bank has obtained the prior approval
12 of the state bank commissioner;

13 (C) the limitations set forth in subparagraphs (A) and (B) shall not
14 apply to any life insurance policy in place prior to July 1, 1993; and

15 (D) for the purposes of subsections (a)(20)(A) and (a)(20)(B),
16 intangibles, such as goodwill, shall not be included in the calculation of
17 capital;

18 (21) act as an agent and receive deposits, renew time deposits, close
19 loans, service loans and receive payments on loans and other obligations
20 for any company which is a subsidiary, as defined in K.S.A. 9-519, and
21 amendments thereto, of the bank holding company which owns the bank.
22 Nothing in this subsection shall authorize a bank to conduct activities as an
23 agent which the bank or the subsidiary would be prohibited from
24 conducting as a principal under any applicable federal or state law. Any
25 bank which enters or terminates any agreement pursuant to this subsection
26 shall within 30 days of the effective date of the agreement or termination
27 provide written notification to the commissioner which details all parties
28 involved and services to be performed or terminated;

29 (22) to make loans to the bank's stockholders or the bank's controlling
30 holding company stockholders on the security of the shares of the bank or
31 the bank's controlling bank holding company, but loans on the security of
32 the shares of the bank may occur only if the bank would have extended
33 credit to such stockholder on exactly the same terms without the bank
34 shares pledged as collateral;

35 (23) to make investments in and loans to community and economic
36 development entities as defined in K.S.A. 9-701, and amendments thereto,
37 subject to the limitations prescribed by community reinvestment act pub. l.
38 95-128, title VIII, 91 Stat. 1147, 12 U.S.C. § 2901 et seq.;

39 (24) to participate in a school savings deposit program authorized
40 under K.S.A. 9-1138, and amendments thereto;

41 (25) with prior approval of the commissioner, to control or hold an
42 interest in a financial subsidiary.

43 (A) The financial subsidiary may engage in one or more of the

1 following activities:

- 2 (i) Lending, exchanging, transferring, investing for others or
3 safeguarding money or securities;
- 4 (ii) acting as agent or broker for purposes of insuring, guaranteeing or
5 indemnifying against loss, harm, damage, illness, disability, death or
6 providing annuities as agent or broker subject to the requirements of
7 chapter 40 of the Kansas Statutes Annotated, and amendments thereto;
- 8 (iii) issuing or selling instruments representing interests in pools or
9 assets permissible for a bank to hold directly;
- 10 (iv) operating a travel agency; and
- 11 (v) activities that are financial in nature as determined by the
12 commissioner.
- 13 (B) Such activities do not include:
- 14 (i) Insuring, guaranteeing or indemnifying against loss, harm,
15 damage, illness, disability, death or providing or issuing annuities the
16 income of which is subject to tax treatment under 26 U.S.C. § 72;
- 17 (ii) real estate development or real estate investment, except as
18 otherwise expressly authorized by Kansas law; or
- 19 (iii) any activity permitted for financial holding companies under 12
20 U.S.C. § 1843(k)(4)(H) and (I).
- 21 (C) As used in subsection (a)(25), "control" means:
- 22 (i) Directly or indirectly owning, controlling or having power to vote
23 25% or more of any class of the voting shares of a financial subsidiary;
- 24 (ii) controlling in any manner the election of a majority of the
25 directors or trustees of the financial subsidiary; or
- 26 (iii) otherwise directly or indirectly exercising a controlling influence
27 over the management or policies of the financial subsidiary, as determined
28 by the commissioner;
- 29 (26) to maintain and operate a postal substation on banking premises,
30 in accordance with the rules and regulations of the United States postal
31 service. The bank may advertise the services of the substation for the
32 purpose of attracting customers to the bank and receive income therefrom.
33 The bank shall keep the books and records of the substation separate from
34 the records of other banking operations;
- 35 (27) with prior approval of the commissioner, to invest in foreign
36 bonds an amount not to exceed 1% of the bank's capital stock and surplus
37 as long as such bonds comply with the form and definition of investment
38 securities;
- 39 (28) to act as an agent for any credit life, health and accident
40 insurance, sometimes referred to as credit life and disability insurance, and
41 mortgage life and disability insurance in connection with extensions of
42 credit and only as a source of protection for such extension of credit;
- 43 (29) to act as agent for any fire, life or other insurance company

1 authorized to do business in this state at any approved office of the bank
2 which is located in any place the population does not exceed 5,000
3 inhabitants. Such insurance may be sold to existing and potential
4 customers of the bank regardless of the geographic location of the
5 customers;

6 (30) to become a stockholder and member of the federal reserve bank
7 of the federal reserve district where such bank is located;

8 (31) with prior approval of the commissioner, to acquire the stock of,
9 or establish and operate a subsidiary to acquire the stock of, another
10 insured depository institution or the holding company of the insured
11 depository institution provided such acquisition is incidental to a
12 reorganization otherwise authorized by the law of this state and which
13 occurs nearly simultaneously with such acquisition;

14 (32) with prior approval of the commissioner, to establish and operate
15 a subsidiary for the purpose of owning, holding and managing all or part
16 of the bank's securities portfolio provided the parent bank owns 100% of
17 the stock of the subsidiary and the subsidiary shall not own, hold or
18 manage securities for any party other than the parent bank. The subsidiary
19 shall be subject to:

20 (A) All banking laws and rules and regulations applicable to the
21 parent bank unless otherwise provided;

22 (B) consolidation with the parent bank of pertinent book figures for
23 the purpose of applying all applicable statutory limitations including, but
24 not limited to, capital requirements, owning and holding real estate and
25 legal lending limitations;

26 (C) examination and supervision by the commissioner, the cost and
27 responsibility of which will be attributable to the parent bank; and

28 (D) any additional terms or conditions required by the commissioner
29 to address any legal or safety and soundness concerns;

30 (33) with prior approval of the commissioner, to establish or acquire
31 operating subsidiaries for the purpose of engaging in any activity which is
32 part or incidental to the business of banking as long as the parent bank
33 owns at least 50% of the stock of the subsidiary. The subsidiary shall be
34 subject to:

35 (A) All banking laws and regulations applicable to the parent bank
36 unless otherwise provided;

37 (B) consolidation with the parent bank of pertinent book figures for
38 the purpose of applying all applicable statutory limitations including, but
39 not limited to, capital requirements, owning and holding real estate and
40 legal lending limitations;

41 (C) examination and supervision by the commissioner the cost and
42 responsibility of which will be attributable to the parent bank; and

43 (D) any additional terms or conditions required by the commissioner

1 to address any legal or safety and soundness concerns;

2 (34) to invest in, without limitation, obligations of or obligations
3 which are insured as to principal and interest by or evidences of
4 indebtedness that are fully collateralized by obligations of the federal
5 home loan banks, the federal national mortgage association, the
6 government national mortgage association, the federal home loan
7 mortgage corporation, the student loan marketing association and the
8 federal farm credit banks;

9 (35) any bank or trust company may invest in bonds or notes secured
10 by mortgages which in turn are insured or upon which there is a
11 commitment to insure by the federal housing administration, or any
12 successor thereto, in debentures issued by the federal housing
13 administration or any successor, and in obligations of national mortgage
14 associations; and

15 (36) to buy tax credits for certain historic structure rehabilitation
16 expenditures pursuant to K.S.A. 2017 Supp. 79-32,211, and amendments
17 thereto. The total amount of such tax credits held by a bank shall at no
18 time exceed 25% of the capital stock, surplus, undivided profits, 100% of
19 the allowance for loan and lease loss, capital notes and debentures and
20 reserve for contingencies of such bank.

21 (b) Any bank hereby is authorized to exercise by the bank's board of
22 directors or duly authorized officers or agents, subject to approval by the
23 commissioner, any incidental power necessary to carry on the business of
24 banking.

25 Sec. 22. K.S.A. 2017 Supp. 39-709 is hereby amended to read as
26 follows: 39-709. (a) *General eligibility requirements for assistance for*
27 *which federal moneys are expended.* Subject to the additional requirements
28 below, assistance in accordance with plans under which federal moneys
29 are expended may be granted to any needy person who:

30 (1) Has insufficient income or resources to provide a reasonable
31 subsistence compatible with decency and health. Where a husband and
32 wife or cohabiting partners are living together, the combined income or
33 resources of both shall be considered in determining the eligibility of
34 either or both for such assistance unless otherwise prohibited by law. The
35 secretary, in determining need of any applicant for or recipient of
36 assistance shall not take into account the financial responsibility of any
37 individual for any applicant or recipient of assistance unless such applicant
38 or recipient is such individual's spouse, cohabiting partner or such
39 individual's minor child or minor stepchild if the stepchild is living with
40 such individual. The secretary in determining need of an individual may
41 provide such income and resource exemptions as may be permitted by
42 federal law. For purposes of eligibility for temporary assistance for needy
43 families, for food assistance and for any other assistance provided through

1 the Kansas department for children and families under which federal
2 moneys are expended, the secretary for children and families shall
3 consider one motor vehicle owned by the applicant for assistance,
4 regardless of the value of such vehicle, as exempt personal property and
5 shall consider any equity in any boat, personal water craft, recreational
6 vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined
7 by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle
8 owned by the applicant for assistance to be a nonexempt resource of the
9 applicant for assistance except that any additional motor vehicle used by
10 the applicant, the applicant's spouse or the applicant's cohabiting partner
11 for the primary purpose of earning income may be considered as exempt
12 personal property in the secretary's discretion.

13 (2) Is a citizen of the United States or is an alien lawfully admitted to
14 the United States and who is residing in the state of Kansas.

15 (b) *Temporary assistance for needy families.* Assistance may be
16 granted under this act to any dependent child, or relative, subject to the
17 general eligibility requirements as set out in subsection (a), who resides in
18 the state of Kansas or whose parent or other relative with whom the child
19 is living resides in the state of Kansas. Such assistance shall be known as
20 temporary assistance for needy families. Where the husband and wife or
21 cohabiting partners are living together, both shall register for work under
22 the program requirements for temporary assistance for needy families in
23 accordance with criteria and guidelines prescribed by rules and regulations
24 of the secretary.

25 (1) As used in this subsection, "family group" or "household" means
26 the applicant or recipient for TANF, child care subsidy or employment
27 services and all individuals living together in which there is a relationship
28 of legal responsibility or a qualifying caretaker relationship. This will
29 include a cohabiting boyfriend or girlfriend living with the person legally
30 responsible for the child. The family group shall not be eligible for TANF
31 if the family group contains at least one adult member who has received
32 TANF, including the federal TANF assistance received in any other state,
33 for 24 calendar months beginning on and after October 1, 1996, unless the
34 secretary determines a hardship exists and grants an extension allowing
35 receipt of TANF until the 36-month limit is reached. No extension beyond
36 36 months shall be granted. Hardship provisions for a recipient include:

37 (A) Is a caretaker of a disabled family member living in the
38 household;

39 (B) has a disability which precludes employment on a long-term basis
40 or requires substantial rehabilitation;

41 (C) needs a time limit extension to overcome the effects of domestic
42 violence/sexual assault;

43 (D) is involved with prevention and protection services (PPS) and has

1 an open social service plan; or

2 (E) is determined by the 24th month to have an extreme hardship other
3 than what is designated in criteria listed in subparagraphs (A) through (D).
4 This determination will be made by the executive review team.

5 (2) All adults applying for TANF shall be required to complete a
6 work program assessment as specified by the Kansas department for
7 children and families, including those who have been disqualified for or
8 denied TANF due to non-cooperation, drug testing requirements or fraud.
9 Adults who are not otherwise eligible for TANF, such as ineligible aliens,
10 relative/non-relative caretakers and adults receiving supplemental security
11 income are not required to complete the assessment process. During the
12 application processing period, applicants must complete at least one
13 module or its equivalent of the work program assessment to be considered
14 eligible for TANF benefits, unless good cause is found to be exempt from
15 the requirements. Good cause exemptions shall only include:

16 (A) The applicant can document an existing certification verifying
17 completion of the work program assessment;

18 (B) the applicant has a valid offer of employment or is employed a
19 minimum of 20 hours a week;

20 (C) the applicant is a parenting teen without a GED or high school
21 diploma;

22 (D) the applicant is enrolled in job corps;

23 (E) the applicant is working with a refugee social services agency; or

24 (F) the applicant has completed the work program assessment within
25 the last 12 months.

26 (3) The department for children and families shall maintain a
27 sufficient level of dedicated work program staff to enable the agency to
28 conduct work program case management services to TANF recipients in a
29 timely manner and in full accordance with state law and agency policy.

30 (4) TANF mandatory work program applicants and recipients shall
31 participate in work components that lead to competitive, integrated
32 employment. Components are defined by the federal government as being
33 either primary or secondary. In order to meet federal work participation
34 requirements, households need to meet at least 30 hours of participation
35 per week, at least 20 hours of which need to be primary and at least 10
36 hours may be secondary components in one parent households where the
37 youngest child is six years of age or older. Participation hours shall be 55
38 hours in two parent households (35 hours per week if child care is not
39 used). The maximum assignment is 40 hours per week per individual. For
40 two parent families to meet the federal work participation rate both parents
41 must participate in a combined total of 55 hours per week, 50 hours of
42 which must be in primary components, or one or both parents could be
43 assigned a combined total of 35 hours per week (30 hours of which must

1 be primary components) if department for children and families paid child
2 care is not received by the family. Single parent families with a child under
3 age six meet the federal participation requirement if the parent is engaged
4 in work or work activities for at least 20 hours per week in a primary work
5 component. The following components meet federal definitions of primary
6 hours of participation: Full or part-time employment, apprenticeship, work
7 study, self-employment, job corps, subsidized employment, work
8 experience sites, on-the-job training, supervised community service,
9 vocational education, job search and job readiness. Secondary components
10 include: Job skills training, education directly related to employment such
11 as adult basic education and English as a second language, and completion
12 of a high school diploma or GED.

13 (5) A parent or other adult caretaker personally providing care for a
14 child under the age of three months in their TANF household is exempt
15 from work participation activities until the month the child turns three
16 months of age. Such three-month limitation shall not apply to a parent or
17 other adult caretaker who is personally providing care for a child born
18 significantly premature, with serious medical conditions or with a
19 disability as defined by the secretary, in consultation with the secretary of
20 health and environment, and adopted in the rules and regulations. The
21 three-month period is defined as two consecutive months starting with the
22 month after childbirth. The exemption for caring for a child under three
23 months cannot be claimed:

24 (A) By either parent when two parents are in the home and the
25 household meets the two-parent definition for federal reporting purposes;

26 (B) by one parent or caretaker when the other parent or caretaker is in
27 the home, and available, capable and suitable to provide care and the
28 household does not meet the two-parent definition for federal reporting
29 purposes;

30 (C) by a person age 19 or younger when such person is pregnant or a
31 parent of a child in the home and the person does not possess a high school
32 diploma or its equivalent. Such person shall become exempt the month
33 such person turns age 20; or

34 (D) by any person assigned to a work participation activity for
35 substance use disorders.

36 (6) TANF work experience placements shall be reviewed after 90
37 days and are limited to six months per 24-month lifetime limit. A client's
38 progress shall be reviewed prior to each new placement regardless of the
39 length of time they are at the work experience site.

40 (7) TANF participants with disabilities shall engage in required
41 employment activities to the maximum extent consistent with their
42 abilities. TANF participants shall provide current documentation by a
43 qualified medical practitioner that details the abilities to engage in

1 employment and any limitations in work activities along with the expected
2 duration of such limitations. Disability is defined as a physical or mental
3 impairment constituting or resulting in a substantial impediment to
4 employment for such individual.

5 (8) Non-cooperation is the failure of the applicant or recipient to
6 comply with all requirements provided in state and federal law, federal and
7 state rules and regulations and agency policy. The period of ineligibility
8 for TANF benefits based on non-cooperation with work programs shall be
9 as follows:

10 (A) For a first penalty, three months and full cooperation with work
11 program activities;

12 (B) for a second penalty, six months and full cooperation with work
13 program activities;

14 (C) for a third penalty, one year and full cooperation with work
15 program activities; and

16 (D) for a fourth or subsequent penalty, 10 years.

17 (9) Individuals that have not cooperated with TANF work programs
18 shall be ineligible to participate in the food assistance program. The
19 comparable penalty shall be applied to only the individual in the food
20 assistance program who failed to comply with the TANF work
21 requirement. The agency shall impose the same penalty to the member of
22 the household who failed to comply with TANF requirements. The penalty
23 periods are three months, six months, one year, or 10 years.

24 (10) Non-cooperation is the failure of the applicant or recipient to
25 comply with all requirements provided in state and federal law, federal and
26 state rules and regulations and agency policy. The period of ineligibility
27 for child care subsidy or TANF benefits based on parents' non-cooperation
28 with child support services shall be as follows:

29 (A) For the first penalty, three months and cooperation with child
30 support services prior to regaining eligibility;

31 (B) for a second penalty, six months and cooperation with child
32 support services prior to regaining eligibility;

33 (C) for a third penalty, one year and cooperation with child support
34 services prior to regaining eligibility; and

35 (D) for a fourth penalty, 10 years.

36 (11) Individuals that have not cooperated without good cause with
37 child support services shall be ineligible to participate in the food
38 assistance program. The period of disqualification ends once it has been
39 determined that such individual is cooperating with child support services.

40 (12) (A) Any individual who is found to have committed fraud or is
41 found guilty of the crime of theft pursuant to K.S.A. 39-720 and K.S.A.
42 2017 Supp. 21-5801, and amendments thereto, in either the TANF or child
43 care program shall render all adults in the family unit ineligible for TANF

1 assistance. Adults in the household who were determined to have
2 committed fraud or were convicted of the crime of theft pursuant to K.S.A.
3 39-720 and K.S.A. 2017 Supp. 21-5801, and amendments thereto, shall
4 render themselves and all adult household members ineligible for their
5 lifetime for TANF, even if fraud was committed in only one program.
6 Households who have been determined to have committed fraud or were
7 convicted of the crime of theft pursuant to K.S.A. 39-720 and K.S.A. 2017
8 Supp. 21-5801, and amendments thereto, shall be required to name a
9 protective payee as approved by the secretary or the secretary's designee to
10 administer TANF benefits or food assistance on behalf of the children. No
11 adult in a household may have access to the TANF cash assistance benefit.

12 (B) Any individual that has failed to cooperate with a fraud
13 investigation shall be ineligible to participate in the TANF cash assistance
14 program and the child care subsidy program until the department for
15 children and families determines that such individual is cooperating with
16 the fraud investigation. The department for children and families shall
17 maintain a sufficient level of fraud investigative staff to enable the
18 department to conduct fraud investigations in a timely manner and in full
19 accordance with state law and department rules and regulations or policies.

20 (13) (A) Food assistance shall not be provided to any person
21 convicted of a felony offense occurring on or after July 1, 2015, which
22 includes as an element of such offense the manufacture, cultivation,
23 distribution, possession or use of a controlled substance or controlled
24 substance analog. For food assistance, the individual shall be permanently
25 disqualified if they have been convicted of a state or federal felony offense
26 occurring on or after July 1, 2015, involving possession or use of a
27 controlled substance or controlled substance analog.

28 (B) Notwithstanding the provisions of subparagraph (A), an
29 individual shall be eligible for food assistance if the individual enrolls in
30 and participates in a drug treatment program approved by the secretary,
31 submits to and passes a drug test and agrees to submit to drug testing if
32 requested by the department pursuant to a drug testing plan.

33 An individual's failure to submit to testing or failure to successfully
34 pass a drug test shall result in ineligibility for food assistance until a drug
35 test is successfully passed. Failure to successfully complete a drug
36 treatment program shall result in ineligibility for food assistance until a
37 drug treatment plan approved by the secretary is successfully completed,
38 the individual passes a drug test and agrees to submit to drug testing if
39 requested by the department pursuant to a drug testing plan.

40 (C) The provisions of subparagraph (B) shall not apply to any
41 individual who has been convicted for a second or subsequent felony
42 offense as provided in subparagraph (A).

43 (14) No TANF cash assistance shall be used to purchase alcohol,

1 cigarettes, tobacco products, lottery tickets, concert tickets, professional or
2 collegiate sporting event tickets or tickets for other entertainment events
3 intended for the general public or sexually oriented adult materials. No
4 TANF cash assistance shall be used in any retail liquor store, casino,
5 gaming establishment, jewelry store, tattoo parlor, massage parlor, body
6 piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store,
7 vapor cigarette store, psychic or fortune telling business, bail bond
8 company, video arcade, movie theater, swimming pool, cruise ship, theme
9 park, dog or horse racing facility, parimutuel facility, or sexually oriented
10 business or any retail establishment which provides adult-oriented
11 entertainment in which performers disrobe or perform in an unclothed
12 state for entertainment, or in any business or retail establishment where
13 minors under age 18 are not permitted. No TANF cash assistance shall be
14 used for purchases at points of sale outside the state of Kansas.

15 (15) (A) The secretary for children and families shall place a
16 photograph of the recipient, if agreed to by such recipient of public
17 assistance, on any Kansas benefits card issued by the Kansas department
18 for children and families that the recipient uses in obtaining food, cash or
19 any other services. When a recipient of public assistance is a minor or
20 otherwise incapacitated individual, a parent or legal guardian of such
21 recipient may have a photograph of such parent or legal guardian placed
22 on the card.

23 (B) Any Kansas benefits card with a photograph of a recipient shall
24 be valid for voting purposes as a public assistance identification card in
25 accordance with the provisions of K.S.A. 25-2908, and amendments
26 thereto.

27 (C) As used in this paragraph and its subparagraphs, "Kansas benefits
28 card" means any card issued to provide food assistance, cash assistance or
29 child care assistance, including, but not limited to, the vision card, EBT
30 card and Kansas benefits card.

31 (D) The Kansas department for children and families shall monitor all
32 recipient requests for a Kansas benefits card replacement and, upon the
33 fourth such request in a 12-month period, send a notice alerting the
34 recipient that the recipient's account is being monitored for potential
35 suspicious activity. If a recipient makes an additional request for
36 replacement subsequent to such notice, the department shall refer the
37 investigation to the department's fraud investigation unit.

38 (16) The secretary for children and families shall adopt rules and
39 regulations:

40 (A) In determining eligibility for the child care subsidy program,
41 including an income of a cohabiting partner in a child care household; and

42 (B) in determining and maintaining eligibility for non-TANF child
43 care, requiring that all included adults shall be employed a minimum of 20

1 hours per week or more as defined by the secretary or meet the following
2 specific qualifying exemptions:

3 (i) Adults who are not capable of meeting the requirement due to a
4 documented physical or mental condition;

5 (ii) adults who are former TANF recipients who need child care for
6 employment after their TANF case has closed and earned income is a
7 factor in the closure in the two months immediately following TANF
8 closure;

9 (iii) adult parents included in a case in which the only child receiving
10 benefits is the child of a minor parent who is working on completion of
11 high school or obtaining a GED;

12 (iv) adults who are participants in a food assistance employment and
13 training program; or

14 (v) adults who are participants in an early head start child care
15 partnership program and are working or in school or training.

16 The department for children and families shall provide child care for
17 the pursuit of any degree or certification if the occupation has at least an
18 average job outlook listed in the occupational outlook of the U.S.
19 department of labor, bureau of labor statistics. For occupations with less
20 than an average job outlook, educational plans shall require approval of
21 the secretary or secretary's designee. Child care may also be approved if
22 the student provides verification of a specific job offer that will be
23 available to such student upon completion of the program. Child care for
24 post-secondary education shall be allowed for a lifetime maximum of 24
25 months per adult. The 24 months may not have to be consecutive. Students
26 shall be engaged in paid employment for a minimum of 15 hours per
27 week. In a two-parent adult household, child care would not be allowed if
28 both parents are adults and attending a formal education or training
29 program at the same time. The household may choose which one of the
30 parents is participating as a post-secondary student. The other parent shall
31 meet another approvable criteria for child care subsidy.

32 (17) (A) The secretary for children and families is prohibited from
33 requesting or implementing a waiver or program from the U.S. department
34 of agriculture for the time limited assistance provisions for able-bodied
35 adults aged 18 through 49 without dependents in a household under the
36 food assistance program. The time on food assistance for able-bodied
37 adults aged 18 through 49 without dependents in the household shall be
38 limited to three months in a 36-month period if such adults are not meeting
39 the requirements imposed by the U.S. department of agriculture that they
40 must work for at least 20 hours per week or participate in a federally
41 approved work program or its equivalent.

42 (B) Each food assistance household member who is not otherwise
43 exempt from the following work requirements shall: Register for work;

1 participate in an employment and training program, if assigned to such a
2 program by the department; accept a suitable employment offer; and not
3 voluntarily quit a job of at least 30 hours per week.

4 (C) Any recipient who has not complied with the work requirements
5 under subparagraph (B) shall be ineligible to participate in the food
6 assistance program for the following time period and until the recipient
7 complies with such work requirements:

8 (i) For a first penalty, three months;

9 (ii) for a second penalty, six months; and

10 (iii) for a third penalty and any subsequent penalty, one year.

11 (18) Eligibility for the food assistance program shall be limited to
12 those individuals who are citizens or who meet qualified non-citizen status
13 as determined by U.S. department of agriculture. Non-citizen individuals
14 who are unable or unwilling to provide qualifying immigrant
15 documentation, as defined by the U.S. department of agriculture, residing
16 within a household shall not be included when determining the household's
17 size for the purposes of assigning a benefit level to the household for food
18 assistance or comparing the household's monthly income with the income
19 eligibility standards. The gross non-exempt earned and unearned income
20 and resources of disqualified individuals shall be counted in its entirety as
21 available to the remaining household members.

22 (19) The secretary for children and families shall not enact the state
23 option from the U.S. department of agriculture for broad-based categorical
24 eligibility for households applying for food assistance according to the
25 provisions of 7 C.F.R. § 273.2(j)(2)(ii).

26 (20) No federal or state funds shall be used for television, radio or
27 billboard advertisements that are designed to promote food assistance
28 benefits and enrollment. No federal or state funding shall be used for any
29 agreements with foreign governments designed to promote food
30 assistance.

31 (21) (A) The secretary for children and families shall not apply gross
32 income standards for food assistance higher than the standards specified in
33 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical
34 eligibility exempting households from such gross income standards
35 requirements shall not be granted for any non-cash, in-kind or other
36 benefit unless expressly required by federal law.

37 (B) The secretary for children and families shall not apply resource
38 limits standards for food assistance that are higher than the standards
39 specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal
40 law. Categorical eligibility exempting households from such resource
41 limits shall not be granted for any non-cash, in-kind or other benefit unless
42 expressly required by federal law.

43 (c) (1) On and after January 1, 2017, the department for children and

1 families shall conduct an electronic check for any false information
2 provided on an application for TANF and other benefits programs
3 administered by the department. For TANF cash assistance, food
4 assistance and the child care subsidy program, the department shall verify
5 the identity of all adults in the assistance household.

6 (2) The department of administration shall provide monthly to the
7 Kansas department for children and families the social security numbers or
8 alternate taxpayer identification numbers of all persons who claim a
9 Kansas lottery prize in excess of \$5,000 during the reported month. The
10 Kansas department for children and families shall verify if individuals
11 with such winnings are receiving TANF cash assistance, food assistance or
12 assistance under the child care subsidy program and take appropriate
13 action. The Kansas department for children and families shall use data
14 received under this subsection solely, and for no other purpose, to
15 determine if any recipient's eligibility for benefits has been affected by
16 lottery prize winnings. The Kansas department for children and families
17 shall not publicly disclose the identity of any lottery prize winner,
18 including recipients who are determined to have illegally received
19 benefits.

20 (d) *Temporary assistance for needy families; assignment of support*
21 *rights and limited power of attorney.* By applying for or receiving
22 temporary assistance for needy families such applicant or recipient shall be
23 deemed to have assigned to the secretary on behalf of the state any
24 accrued, present or future rights to support from any other person such
25 applicant may have in such person's own behalf or in behalf of any other
26 family member for whom the applicant is applying for or receiving aid. In
27 any case in which an order for child support has been established and the
28 legal custodian and obligee under the order surrenders physical custody of
29 the child to a caretaker relative without obtaining a modification of legal
30 custody and support rights on behalf of the child are assigned pursuant to
31 this section, the surrender of physical custody and the assignment shall
32 transfer, by operation of law, the child's support rights under the order to
33 the secretary on behalf of the state. Such assignment shall be of all
34 accrued, present or future rights to support of the child surrendered to the
35 caretaker relative. The assignment of support rights shall automatically
36 become effective upon the date of approval for or receipt of such aid
37 without the requirement that any document be signed by the applicant,
38 recipient or obligee. By applying for or receiving temporary assistance for
39 needy families, or by surrendering physical custody of a child to a
40 caretaker relative who is an applicant or recipient of such assistance on the
41 child's behalf, the applicant, recipient or obligee is also deemed to have
42 appointed the secretary, or the secretary's designee, as an attorney-in-fact
43 to perform the specific act of negotiating and endorsing all drafts, checks,

1 money orders or other negotiable instruments representing support
2 payments received by the secretary in behalf of any person applying for,
3 receiving or having received such assistance. This limited power of
4 attorney shall be effective from the date the secretary approves the
5 application for aid and shall remain in effect until the assignment of
6 support rights has been terminated in full.

7 (e) *Requirements for medical assistance for which federal moneys or*
8 *state moneys or both are expended.* (1) When the secretary has adopted a
9 medical care plan under which federal moneys or state moneys or both are
10 expended, medical assistance in accordance with such plan shall be
11 granted to any person who is a citizen of the United States or who is an
12 alien lawfully admitted to the United States and who is residing in the state
13 of Kansas, whose resources and income do not exceed the levels
14 prescribed by the secretary. In determining the need of an individual, the
15 secretary may provide for income and resource exemptions and protected
16 income and resource levels. Resources from inheritance shall be counted.
17 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and
18 amendments thereto, shall constitute a transfer of resources. The secretary
19 shall exempt principal and interest held in irrevocable trust pursuant to
20 K.S.A. 16-303(c), and amendments thereto, from the eligibility
21 requirements of applicants for and recipients of medical assistance. Such
22 assistance shall be known as medical assistance.

23 (2) For the purposes of medical assistance eligibility determinations
24 on or after July 1, 2004, if an applicant or recipient owns property in joint
25 tenancy with some other party and the applicant or recipient of medical
26 assistance has restricted or conditioned their interest in such property to a
27 specific and discrete property interest less than 100%, then such
28 designation will cause the full value of the property to be considered an
29 available resource to the applicant or recipient. Medical assistance
30 eligibility for receipt of benefits under the title XIX of the social security
31 act, commonly known as medicaid, shall not be expanded, as provided for
32 in the patient protection and affordable care act, public law 111-148, 124
33 stat. 119, and the health care and education reconciliation act of 2010,
34 public law 111-152, 124 stat. 1029, unless the legislature expressly
35 consents to, and approves of, the expansion of medicaid services by an act
36 of the legislature.

37 (3) (A) Resources from trusts shall be considered when determining
38 eligibility of a trust beneficiary for medical assistance. Medical assistance
39 is to be secondary to all resources, including trusts, that may be available
40 to an applicant or recipient of medical assistance.

41 (B) If a trust has discretionary language, the trust shall be considered
42 to be an available resource to the extent, using the full extent of discretion,
43 the trustee may make any of the income or principal available to the

1 applicant or recipient of medical assistance. Any such discretionary trust
2 shall be considered an available resource unless: (i) At the time of creation
3 or amendment of the trust, the trust states a clear intent that the trust is
4 supplemental to public assistance; and (ii) the trust: (a) Is funded from
5 resources of a person who, at the time of such funding, owed no duty of
6 support to the applicant or recipient of medical assistance; or (b) is funded
7 not more than nominally from resources of a person while that person
8 owed a duty of support to the applicant or recipient of medical assistance.

9 (C) For the purposes of this paragraph, "public assistance" includes,
10 but is not limited to, medicaid, medical assistance or title XIX of the social
11 security act.

12 (4) (A) When an applicant or recipient of medical assistance is a party
13 to a contract, agreement or accord for personal services being provided by
14 a nonlicensed individual or provider and such contract, agreement or
15 accord involves health and welfare monitoring, pharmacy assistance, case
16 management, communication with medical, health or other professionals,
17 or other activities related to home health care, long term care, medical
18 assistance benefits, or other related issues, any moneys paid under such
19 contract, agreement or accord shall be considered to be an available
20 resource unless the following restrictions are met: (i) The contract,
21 agreement or accord must be in writing and executed prior to any services
22 being provided; (ii) the moneys paid are in direct relationship with the fair
23 market value of such services being provided by similarly situated and
24 trained nonlicensed individuals; (iii) if no similarly situated nonlicensed
25 individuals or situations can be found, the value of services will be based
26 on federal hourly minimum wage standards; (iv) such individual providing
27 the services will report all receipts of moneys as income to the appropriate
28 state and federal governmental revenue agencies; (v) any amounts due
29 under such contract, agreement or accord shall be paid after the services
30 are rendered; (vi) the applicant or recipient shall have the power to revoke
31 the contract, agreement or accord; and (vii) upon the death of the applicant
32 or recipient, the contract, agreement or accord ceases.

33 (B) When an applicant or recipient of medical assistance is a party to
34 a written contract for personal services being provided by a licensed health
35 professional or facility and such contract involves health and welfare
36 monitoring, pharmacy assistance, case management, communication with
37 medical, health or other professionals, or other activities related to home
38 health care, long term care, medical assistance benefits or other related
39 issues, any moneys paid in advance of receipt of services for such
40 contracts shall be considered to be an available resource.

41 (5) Any trust may be amended if such amendment is permitted by the
42 Kansas uniform trust code.

43 (f) *Eligibility for medical assistance of resident receiving medical*

1 *care outside state.* A person who is receiving medical care including long-
2 term care outside of Kansas whose health would be endangered by the
3 postponement of medical care until return to the state or by travel to return
4 to Kansas, may be determined eligible for medical assistance if such
5 individual is a resident of Kansas and all other eligibility factors are met.
6 Persons who are receiving medical care on an ongoing basis in a long-term
7 medical care facility in a state other than Kansas and who do not return to
8 a care facility in Kansas when they are able to do so, shall no longer be
9 eligible to receive assistance in Kansas unless such medical care is not
10 available in a comparable facility or program providing such medical care
11 in Kansas. For persons who are minors or who are under guardianship, the
12 actions of the parent or guardian shall be deemed to be the actions of the
13 child or ward in determining whether or not the person is remaining
14 outside the state voluntarily.

15 (g) *Medical assistance; assignment of rights to medical support and*
16 *limited power of attorney; recovery from estates of deceased recipients.* (1)
17 (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
18 amendments thereto, or as otherwise authorized on and after September
19 30, 1989, under section 303 of the federal medicare catastrophic coverage
20 act of 1988, whichever is applicable, by applying for or receiving medical
21 assistance under a medical care plan in which federal funds are expended,
22 any accrued, present or future rights to support and any rights to payment
23 for medical care from a third party of an applicant or recipient and any
24 other family member for whom the applicant is applying shall be deemed
25 to have been assigned to the secretary on behalf of the state. The
26 assignment shall automatically become effective upon the date of approval
27 for such assistance without the requirement that any document be signed
28 by the applicant or recipient. By applying for or receiving medical
29 assistance the applicant or recipient is also deemed to have appointed the
30 secretary, or the secretary's designee, as an attorney in fact to perform the
31 specific act of negotiating and endorsing all drafts, checks, money orders
32 or other negotiable instruments, representing payments received by the
33 secretary in on behalf of any person applying for, receiving or having
34 received such assistance. This limited power of attorney shall be effective
35 from the date the secretary approves the application for assistance and
36 shall remain in effect until the assignment has been terminated in full. The
37 assignment of any rights to payment for medical care from a third party
38 under this subsection shall not prohibit a health care provider from directly
39 billing an insurance carrier for services rendered if the provider has not
40 submitted a claim covering such services to the secretary for payment.
41 Support amounts collected on behalf of persons whose rights to support
42 are assigned to the secretary only under this subsection and no other shall
43 be distributed pursuant to K.S.A. 39-756(d), and amendments thereto,

1 except that any amounts designated as medical support shall be retained by
2 the secretary for repayment of the unreimbursed portion of assistance.
3 Amounts collected pursuant to the assignment of rights to payment for
4 medical care from a third party shall also be retained by the secretary for
5 repayment of the unreimbursed portion of assistance.

6 (B) Notwithstanding the provisions of subparagraph (A), the
7 secretary of health and environment, or the secretary's designee, is hereby
8 authorized to and shall exercise any of the powers specified in
9 subparagraph (A) in relation to performance of such secretary's duties
10 pertaining to medical subrogation, estate recovery or any other duties
11 assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes
12 Annotated, and amendments thereto.

13 (2) The amount of any medical assistance paid after June 30, 1992,
14 under the provisions of subsection (e) is: (A) A claim against the property
15 or any interest therein belonging to and a part of the estate of any deceased
16 recipient or, if there is no estate, the estate of the surviving spouse, if any,
17 shall be charged for such medical assistance paid to either or both; and (B)
18 a claim against any funds of such recipient or spouse in any account under
19 K.S.A. 9-1215, 17-2263, ~~17-2264~~, ~~17-5828~~ or ~~17-5829~~ or 17-2264, and
20 amendments thereto. There shall be no recovery of medical assistance
21 correctly paid to or on behalf of an individual under subsection (e) except
22 after the death of the surviving spouse of the individual, if any, and only at
23 a time when the individual has no surviving child who is under 21 years of
24 age or is blind or permanently and totally disabled. Transfers of real or
25 personal property by recipients of medical assistance without adequate
26 consideration are voidable and may be set aside. Except where there is a
27 surviving spouse, or a surviving child who is under 21 years of age or is
28 blind or permanently and totally disabled, the amount of any medical
29 assistance paid under subsection (e) is a claim against the estate in any
30 guardianship or conservatorship proceeding. The monetary value of any
31 benefits received by the recipient of such medical assistance under long-
32 term care insurance, as defined by K.S.A. 40-2227, and amendments
33 thereto, shall be a credit against the amount of the claim provided for such
34 medical assistance under this subsection. The secretary of health and
35 environment is authorized to enforce each claim provided for under this
36 subsection. The secretary of health and environment shall not be required
37 to pursue every claim, but is granted discretion to determine which claims
38 to pursue. All moneys received by the secretary of health and environment
39 from claims under this subsection shall be deposited in the social welfare
40 fund. The secretary of health and environment may adopt rules and
41 regulations for the implementation and administration of the medical
42 assistance recovery program under this subsection.

43 (3) By applying for or receiving medical assistance under the

1 provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and
2 amendments thereto, such individual or such individual's agent, fiduciary,
3 guardian, conservator, representative payee or other person acting on
4 behalf of the individual consents to the following definitions of estate and
5 the results therefrom:

6 (A) If an individual receives any medical assistance before July 1,
7 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
8 and amendments thereto, which forms the basis for a claim under
9 paragraph (2), such claim is limited to the individual's probatable estate as
10 defined by applicable law; and

11 (B) if an individual receives any medical assistance on or after July 1,
12 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated,
13 and amendments thereto, which forms the basis for a claim under
14 paragraph (2), such claim shall apply to the individual's medical assistance
15 estate. The medical assistance estate is defined as including all real and
16 personal property and other assets in which the deceased individual had
17 any legal title or interest immediately before or at the time of death to the
18 extent of that interest or title. The medical assistance estate includes,
19 without limitation assets conveyed to a survivor, heir or assign of the
20 deceased recipient through joint tenancy, tenancy in common,
21 survivorship, transfer-on-death deed, payable-on-death contract, life estate,
22 trust, annuities or similar arrangement.

23 (4) The secretary of health and environment or the secretary's
24 designee is authorized to file and enforce a lien against the real property of
25 a recipient of medical assistance in certain situations, subject to all prior
26 liens of record and transfers for value to a bona fide purchaser of record.
27 The lien must be filed in the office of the register of deeds of the county
28 where the real property is located within one year from the date of death of
29 the recipient and must contain the legal description of all real property in
30 the county subject to the lien.

31 (A) After the death of a recipient of medical assistance, the secretary
32 of health and environment or the secretary's designee may place a lien on
33 any interest in real property owned by such recipient.

34 (B) The secretary of health and environment or the secretary's
35 designee may place a lien on any interest in real property owned by a
36 recipient of medical assistance during the lifetime of such recipient. Such
37 lien may be filed only after notice and an opportunity for a hearing has
38 been given. Such lien may be enforced only upon competent medical
39 testimony that the recipient cannot reasonably be expected to be
40 discharged and returned home. A six-month period of compensated
41 inpatient care at a nursing home or other medical institution shall
42 constitute a determination by the department of health and environment
43 that the recipient cannot reasonably be expected to be discharged and

1 returned home. To return home means the recipient leaves the nursing or
2 medical facility and resides in the home on which the lien has been placed
3 for a continuous period of at least 90 days without being readmitted as an
4 inpatient to a nursing or medical facility. The amount of the lien shall be
5 for the amount of assistance paid by the department of health and
6 environment until the time of the filing of the lien and for any amount paid
7 thereafter for such medical assistance to the recipient. After the lien is filed
8 against any real property owned by the recipient, such lien will be
9 dissolved if the recipient is discharged, returns home and resides upon the
10 real property to which the lien is attached for a continuous period of at
11 least 90 days without being readmitted as an inpatient to a nursing or
12 medical facility. If the recipient is readmitted as an inpatient to a nursing or
13 medical facility for a continuous period of less than 90 days, another
14 continuous period of at least 90 days shall be completed prior to
15 dissolution of the lien.

16 (5) The lien filed by the secretary of health and environment or the
17 secretary's designee for medical assistance correctly received may be
18 enforced before or after the death of the recipient by the filing of an action
19 to foreclose such lien in the Kansas district court or through an estate
20 probate court action in the county where the real property of the recipient
21 is located. However, it may be enforced only:

22 (A) After the death of the surviving spouse of the recipient;

23 (B) when there is no child of the recipient, natural or adopted, who is
24 20 years of age or less residing in the home;

25 (C) when there is no adult child of the recipient, natural or adopted,
26 who is blind or disabled residing in the home; or

27 (D) when no brother or sister of the recipient is lawfully residing in
28 the home, who has resided there for at least one year immediately before
29 the date of the recipient's admission to the nursing or medical facility, and
30 has resided there on a continuous basis since that time.

31 (6) The lien remains on the property even after a transfer of the title
32 by conveyance, sale, succession, inheritance or will unless one of the
33 following events occur:

34 (A) The lien is satisfied. The recipient, the heirs, personal
35 representative or assigns of the recipient may discharge such lien at any
36 time by paying the amount of the lien to the secretary of health and
37 environment or the secretary's designee;

38 (B) the lien is terminated by foreclosure of prior lien of record or
39 settlement action taken in lieu of foreclosure; or

40 (C) the value of the real property is consumed by the lien, at which
41 time the secretary of health and environment or the secretary's designee
42 may force the sale for the real property to satisfy the lien.

43 (7) If the secretary for aging and disability services or the secretary of

1 health and environment, or both, or such secretary's designee has not filed
2 an action to foreclose the lien in the Kansas district court in the county
3 where the real property is located within 10 years from the date of the
4 filing of the lien, then the lien shall become dormant, and shall cease to
5 operate as a lien on the real estate of the recipient. Such dormant lien may
6 be revived in the same manner as a dormant judgment lien is revived under
7 K.S.A. 60-2403 et seq., and amendments thereto.

8 (8) Within seven days of receipt of notice by the secretary for
9 children and families or the secretary's designee of the death of a recipient
10 of medical assistance under this subsection, the secretary for children and
11 families or the secretary's designee shall give notice of such recipient's
12 death to the secretary of health and environment or the secretary's
13 designee.

14 (9) All rules and regulations adopted on and after July 1, 2013, and
15 prior to July 1, 2014, to implement this subsection shall continue to be
16 effective and shall be deemed to be duly adopted rules and regulations of
17 the secretary of health and environment until revised, amended, revoked or
18 nullified pursuant to law.

19 (h) *Placement under the revised Kansas code for care of children or*
20 *revised Kansas juvenile justice code; assignment of support rights and*
21 *limited power of attorney.* In any case in which the secretary for children
22 and families pays for the expenses of care and custody of a child pursuant
23 to K.S.A. 2017 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments
24 thereto, including the expenses of any foster care placement, an
25 assignment of all past, present and future support rights of the child in
26 custody possessed by either parent or other person entitled to receive
27 support payments for the child is, by operation of law, conveyed to the
28 secretary. Such assignment shall become effective upon placement of a
29 child in the custody of the secretary or upon payment of the expenses of
30 care and custody of a child by the secretary without the requirement that
31 any document be signed by the parent or other person entitled to receive
32 support payments for the child. When the secretary pays for the expenses
33 of care and custody of a child or a child is placed in the custody of the
34 secretary, the parent or other person entitled to receive support payments
35 for the child is also deemed to have appointed the secretary, or the
36 secretary's designee, as attorney in fact to perform the specific act of
37 negotiating and endorsing all drafts, checks, money orders or other
38 negotiable instruments representing support payments received by the
39 secretary on behalf of the child. This limited power of attorney shall be
40 effective from the date the assignment to support rights becomes effective
41 and shall remain in effect until the assignment of support rights has been
42 terminated in full.

43 (i) No person who voluntarily quits employment or who is fired from

1 employment due to gross misconduct as defined by rules and regulations
2 of the secretary or who is a fugitive from justice by reason of a felony
3 conviction or charge or violation of a condition of probation or parole
4 imposed under federal or state law shall be eligible to receive public
5 assistance benefits in this state. Any recipient of public assistance who
6 fails to timely comply with monthly reporting requirements under criteria
7 and guidelines prescribed by rules and regulations of the secretary shall be
8 subject to a penalty established by the secretary by rules and regulations.

9 (j) If the applicant or recipient of temporary assistance for needy
10 families is a mother of the dependent child, as a condition of the mother's
11 eligibility for temporary assistance for needy families the mother shall
12 identify by name and, if known, by current address the father of the
13 dependent child except that the secretary may adopt by rules and
14 regulations exceptions to this requirement in cases of undue hardship. Any
15 recipient of temporary assistance for needy families who fails to cooperate
16 with requirements relating to child support services under criteria and
17 guidelines prescribed by rules and regulations of the secretary shall be
18 subject to a penalty established by the secretary.

19 (k) By applying for or receiving child care benefits or food
20 assistance, the applicant or recipient shall be deemed to have assigned,
21 pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on
22 behalf of the state only accrued, present or future rights to support from
23 any other person such applicant may have in such person's own behalf or
24 in behalf of any other family member for whom the applicant is applying
25 for or receiving aid. The assignment of support rights shall automatically
26 become effective upon the date of approval for or receipt of such aid
27 without the requirement that any document be signed by the applicant or
28 recipient. By applying for or receiving child care benefits or food
29 assistance, the applicant or recipient is also deemed to have appointed the
30 secretary, or the secretary's designee, as an attorney in fact to perform the
31 specific act of negotiating and endorsing all drafts, checks, money orders
32 or other negotiable instruments representing support payments received by
33 the secretary in behalf of any person applying for, receiving or having
34 received such assistance. This limited power of attorney shall be effective
35 from the date the secretary approves the application for aid and shall
36 remain in effect until the assignment of support rights has been terminated
37 in full. An applicant or recipient who has assigned support rights to the
38 secretary pursuant to this subsection shall cooperate in establishing and
39 enforcing support obligations to the same extent required of applicants for
40 or recipients of temporary assistance for needy families.

41 (l) (1) A program of drug screening for applicants for cash assistance
42 as a condition of eligibility for cash assistance and persons receiving cash
43 assistance as a condition of continued receipt of cash assistance shall be

1 established, subject to applicable federal law, by the secretary for children
2 and families on and before January 1, 2014. Under such program of drug
3 screening, the secretary for children and families shall order a drug
4 screening of an applicant for or a recipient of cash assistance at any time
5 when reasonable suspicion exists that such applicant for or recipient of
6 cash assistance is unlawfully using a controlled substance or controlled
7 substance analog. The secretary for children and families may use any
8 information obtained by the secretary for children and families to
9 determine whether such reasonable suspicion exists, including, but not
10 limited to, an applicant's or recipient's demeanor, missed appointments and
11 arrest or other police records, previous employment or application for
12 employment in an occupation or industry that regularly conducts drug
13 screening, termination from previous employment due to unlawful use of a
14 controlled substance or controlled substance analog or prior drug screening
15 records of the applicant or recipient indicating unlawful use of a controlled
16 substance or controlled substance analog.

17 (2) Any applicant for or recipient of cash assistance whose drug
18 screening results in a positive test may request that the drug screening
19 specimen be sent to a different drug testing facility for an additional drug
20 screening. Any applicant for or recipient of cash assistance who requests
21 an additional drug screening at a different drug testing facility shall be
22 required to pay the cost of drug screening. Such applicant or recipient who
23 took the additional drug screening and who tested negative for unlawful
24 use of a controlled substance and controlled substance analog shall be
25 reimbursed for the cost of such additional drug screening.

26 (3) Any applicant for or recipient of cash assistance who tests
27 positive for unlawful use of a controlled substance or controlled substance
28 analog shall be required to complete a substance abuse treatment program
29 approved by the secretary for children and families, secretary of labor or
30 secretary of commerce, and a job skills program approved by the secretary
31 for children and families, secretary of labor or secretary of commerce.
32 Subject to applicable federal laws, any applicant for or recipient of cash
33 assistance who fails to complete or refuses to participate in the substance
34 abuse treatment program or job skills program as required under this
35 subsection shall be ineligible to receive cash assistance until completion of
36 such substance abuse treatment and job skills programs. Upon completion
37 of both substance abuse treatment and job skills programs, such applicant
38 for or recipient of cash assistance may be subject to periodic drug
39 screening, as determined by the secretary for children and families. Upon a
40 second positive test for unlawful use of a controlled substance or
41 controlled substance analog, a recipient of cash assistance shall be ordered
42 to complete again a substance abuse treatment program and job skills
43 program, and shall be terminated from cash assistance for a period of 12

1 months, or until such recipient of cash assistance completes both substance
2 abuse treatment and job skills programs, whichever is later. Upon a third
3 positive test for unlawful use of a controlled substance or controlled
4 substance analog, a recipient of cash assistance shall be terminated from
5 cash assistance, subject to applicable federal law.

6 (4) If an applicant for or recipient of cash assistance is ineligible for
7 or terminated from cash assistance as a result of a positive test for
8 unlawful use of a controlled substance or controlled substance analog, and
9 such applicant for or recipient of cash assistance is the parent or legal
10 guardian of a minor child, an appropriate protective payee shall be
11 designated to receive cash assistance on behalf of such child. Such parent
12 or legal guardian of the minor child may choose to designate an individual
13 to receive cash assistance for such parent's or legal guardian's minor child,
14 as approved by the secretary for children and families. Prior to the
15 designated individual receiving any cash assistance, the secretary for
16 children and families shall review whether reasonable suspicion exists that
17 such designated individual is unlawfully using a controlled substance or
18 controlled substance analog.

19 (A) In addition, any individual designated to receive cash assistance
20 on behalf of an eligible minor child shall be subject to drug screening at
21 any time when reasonable suspicion exists that such designated individual
22 is unlawfully using a controlled substance or controlled substance analog.
23 The secretary for children and families may use any information obtained
24 by the secretary for children and families to determine whether such
25 reasonable suspicion exists, including, but not limited to, the designated
26 individual's demeanor, missed appointments and arrest or other police
27 records, previous employment or application for employment in an
28 occupation or industry that regularly conducts drug screening, termination
29 from previous employment due to unlawful use of a controlled substance
30 or controlled substance analog or prior drug screening records of the
31 designated individual indicating unlawful use of a controlled substance or
32 controlled substance analog.

33 (B) Any designated individual whose drug screening results in a
34 positive test may request that the drug screening specimen be sent to a
35 different drug testing facility for an additional drug screening. Any
36 designated individual who requests an additional drug screening at a
37 different drug testing facility shall be required to pay the cost of drug
38 screening. Such designated individual who took the additional drug
39 screening and who tested negative for unlawful use of a controlled
40 substance and controlled substance analog shall be reimbursed for the cost
41 of such additional drug screening.

42 (C) Upon any positive test for unlawful use of a controlled substance
43 or controlled substance analog, the designated individual shall not receive

1 cash assistance on behalf of the parent's or legal guardian's minor child,
2 and another designated individual shall be selected by the secretary for
3 children and families to receive cash assistance on behalf of such parent's
4 or legal guardian's minor child.

5 (5) If a person has been convicted under federal or state law of any
6 offense which is classified as a felony by the law of the jurisdiction and
7 which has as an element of such offense the manufacture, cultivation,
8 distribution, possession or use of a controlled substance or controlled
9 substance analog, and the date of conviction is on or after July 1, 2013,
10 such person shall thereby become forever ineligible to receive any cash
11 assistance under this subsection unless such conviction is the person's first
12 conviction. First-time offenders convicted under federal or state law of any
13 offense which is classified as a felony by the law of the jurisdiction and
14 which has as an element of such offense the manufacture, cultivation,
15 distribution, possession or use of a controlled substance or controlled
16 substance analog, and the date of conviction is on or after July 1, 2013,
17 such person shall become ineligible to receive cash assistance for five
18 years from the date of conviction.

19 (6) Except for hearings before the Kansas department for children
20 and families or, the results of any drug screening administered as part of
21 the drug screening program authorized by this subsection shall be
22 confidential and shall not be disclosed publicly.

23 (7) The secretary for children and families may adopt such rules and
24 regulations as are necessary to carry out the provisions of this subsection.

25 (8) Any authority granted to the secretary for children and families
26 under this subsection shall be in addition to any other penalties prescribed
27 by law.

28 (9) As used in this subsection:

29 (A) "Cash assistance" means cash assistance provided to individuals
30 under the provisions of article 7 of chapter 39 of the Kansas Statutes
31 Annotated, and amendments thereto, and any rules and regulations adopted
32 pursuant to such statutes.

33 (B) "Controlled substance" means the same as in K.S.A. 2017 Supp.
34 21-5701, and amendments thereto, and 21 U.S.C. § 802.

35 (C) "Controlled substance analog" means the same as in K.S.A. 2017
36 Supp. 21-5701, and amendments thereto.

37 Sec. 23. K.S.A. 2017 Supp. 58-3974 is hereby amended to read as
38 follows: 58-3974. (a) The provisions of this act shall not apply to any
39 tangible or intangible personal property which is subject to the provisions
40 of K.S.A. 8-1101, 8-1102, 9-1918, 10-815, 17-2206a, ~~17-5564~~, 19-320,
41 47-229, 47-230, 47-232, 47-236 ~~to through~~ 47-239, ~~inclusive~~, 59-514, 59-
42 901 ~~to through~~ 59-905, ~~inclusive~~, 70-101, ~~70-102, 70-103 and through~~ 70-
43 104, and amendments thereto.

1 (b) This act shall not apply to any personal property which is being
2 administered or has been distributed under the provisions of K.S.A. 59-
3 2701 ~~to through 59-2707, inclusive,~~ and amendments thereto.

4 (c) This act shall not apply to any patronage dividend or capital credit
5 held or owing by any cooperative association, society or corporation
6 organized under the provisions of K.S.A. 17-1501 et seq., 17-1601 et seq.
7 or 17-4601 et seq., and amendments thereto.

8 (d) This act shall not apply to any patronage dividend or any capital
9 credit held or owing by any public utility which is a member-owned
10 nonprofit corporation organized under the provisions of K.S.A. 17-6001 et
11 seq., and amendments thereto.

12 Sec. 24. K.S.A. 2017 Supp. 75-3036 is hereby amended to read as
13 follows: 75-3036. (a) The state general fund is exclusively defined as the
14 fund into which shall be placed all public moneys and revenue coming into
15 the state treasury not specifically authorized by the constitution or by
16 statute to be placed in a separate fund, and not given or paid over to the
17 state treasurer in trust for a particular purpose, which unallocated public
18 moneys and revenue shall constitute the general fund of the state. Moneys
19 received or to be used under constitutional or statutory provisions or under
20 the terms of a gift or payment for a particular and specific purpose are to
21 be kept as separate funds and shall not be placed in the general fund or
22 ever become a part of it.

23 (b) The following funds shall be used for the purposes set forth in the
24 statutes concerning such funds and for no other governmental purposes. It
25 is the intent of the legislature that the following funds and the moneys
26 deposited in such funds shall remain intact and inviolate for the purposes
27 set forth in the statutes concerning such funds: Board of accountancy fee
28 fund, K.S.A. 1-204 and 75-1119b, and amendments thereto, and special
29 litigation reserve fund of the board of accountancy; bank commissioner fee
30 fund, K.S.A. 9-1703, 16a-2-302, ~~17-5610, 17-5701~~ and 75-1308, and
31 amendments thereto, bank investigation fund, K.S.A. 9-1111b, and
32 amendments thereto, consumer education settlement fund and litigation
33 expense fund of the state bank commissioner; securities act fee fund and
34 investor education and protection fund, K.S.A. 17-12a601, and
35 amendments thereto, of the office of the securities commissioner of
36 Kansas; credit union fee fund, K.S.A. 17-2236, and amendments thereto,
37 of the state department of credit unions; court reporters fee fund, K.S.A.
38 20-1a02, and amendments thereto, and bar admission fee fund, K.S.A. 20-
39 1a03, and amendments thereto, of the judicial branch; fire marshal fee
40 fund, K.S.A. 31-133a and 31-134, and amendments thereto, and boiler
41 inspection fee fund, K.S.A. 44-926, and amendments thereto, of the state
42 fire marshal; food service inspection reimbursement fund, K.S.A. 36-512,
43 and amendments thereto, of the Kansas department of agriculture; wage

1 claims assignment fee fund, K.S.A. 44-324, and amendments thereto, and
2 workmen's compensation fee fund, K.S.A. 74-715, and amendments
3 thereto, of the department of labor; veterinary examiners fee fund, K.S.A.
4 47-820, and amendments thereto, of the state board of veterinary
5 examiners; mined-land reclamation fund, K.S.A. 49-420, and amendments
6 thereto, of the department of health and environment; conservation fee
7 fund and well plugging assurance fund, K.S.A. 55-155, 55-176, 55-609,
8 55-711 and 55-901, and amendments thereto, gas pipeline inspection fee
9 fund, K.S.A. 66-1,155, and amendments thereto, and public service
10 regulation fund, K.S.A. 66-1503, and amendments thereto, of the state
11 corporation commission; land survey fee fund, K.S.A. 58-2011, and
12 amendments thereto, of the state historical society; real estate recovery
13 revolving fund, K.S.A. 58-3074, and amendments thereto, of the Kansas
14 real estate commission; appraiser fee fund, K.S.A. 58-4107, and
15 amendments thereto, and appraisal management companies fee fund of the
16 real estate appraisal board; amygdalin (laetrile) enforcement fee fund,
17 K.S.A. 65-6b10, and amendments thereto; mortuary arts fee fund, K.S.A.
18 65-1718, and amendments thereto, of the state board of mortuary arts;
19 board of barbering fee fund, K.S.A. 65-1817a, and amendments thereto, of
20 the Kansas board of barbering; cosmetology fee fund, K.S.A. 65-1951 and
21 74-2704, and amendments thereto, of the Kansas state board of
22 cosmetology; healing arts fee fund, K.S.A. 65-2011, 65-2855, 65-2911, 65-
23 5413, 65-5513, 65-6910, 65-7210 and 65-7309, and amendments thereto,
24 and medical records maintenance trust fund, of the state board of healing
25 arts; other state fees fund, K.S.A. 2017 Supp. 65-4024b, and amendments
26 thereto, of the Kansas department for aging and disability services; board
27 of nursing fee fund, K.S.A. 74-1108, and amendments thereto, of the board
28 of nursing; dental board fee fund, K.S.A. 74-1405, and amendments
29 thereto, and special litigation reserve fund, of the Kansas dental board;
30 optometry fee fund, K.S.A. 74-1503, and amendments thereto, and
31 optometry litigation fund, of the board of examiners in optometry; state
32 board of pharmacy fee fund, K.S.A. 74-1609, and amendments thereto,
33 and state board of pharmacy litigation fund, of the state board of
34 pharmacy; abstracters' fee fund, K.S.A. 74-3903, and amendments thereto,
35 of the abstracters' board of examiners; athletic fee fund, K.S.A. 2017 Supp.
36 74-50,188, and amendments thereto, of the department of commerce;
37 hearing instrument board fee fund, K.S.A. 74-5805, and amendments
38 thereto, and hearing instrument litigation fund of the Kansas board of
39 examiners in fitting and dispensing of hearing instruments; commission on
40 disability concerns fee fund, K.S.A. 74-6708, and amendments thereto, of
41 the governor's department; technical professions fee fund, K.S.A. 74-7009,
42 and amendments thereto, and special litigation reserve fund of the state
43 board of technical professions; behavioral sciences regulatory board fee

1 fund, K.S.A. 74-7506, and amendments thereto, of the behavioral sciences
2 regulatory board; governmental ethics commission fee fund, K.S.A. 25-
3 4119e, and amendments thereto, of the governmental ethics commission;
4 emergency medical services board operating fund, K.S.A. 75-1514, and
5 amendments thereto, of the emergency medical services board; fire service
6 training program fund, K.S.A. 75-1514, and amendments thereto, of the
7 university of Kansas; uniform commercial code fee fund, K.S.A. 2017
8 Supp. 75-448, and amendments thereto, of the secretary of state; prairie
9 spirit rails-to-trails fee fund of the Kansas department of wildlife, parks
10 and tourism; water marketing fund, K.S.A. 82a-1315c, and amendments
11 thereto, of the Kansas water office; insurance department service
12 regulation fund, K.S.A. 40-112, and amendments thereto, of the insurance
13 department; state fair special cash fund, K.S.A. 2-220, and amendments
14 thereto, of the state fair board; scrap metal theft reduction fee fund, K.S.A.
15 2017 Supp. 50-6,109a, and amendments thereto; and any other fund in
16 which fees are deposited for licensing, regulating or certifying a person,
17 profession, commodity or product.

18 (c) If moneys received pursuant to statutory provisions for a specific
19 purpose by a fee agency are proposed to be transferred to the state general
20 fund or a special revenue fund to be expended for general government
21 services and purposes in the governor's budget report submitted pursuant
22 to K.S.A. 75-3721, and amendments thereto, or any introduced house or
23 senate bill, the person or business entity who paid such moneys within the
24 preceding 24-month period shall be notified by the fee agency within 30
25 days of such submission or introduction:

26 (1) By electronic means, if the fee agency has an electronic address
27 on record for such person or business entity. If no such electronic address
28 is available, the fee agency shall send written notice by first class mail; or

29 (2) any agency that receives fees from a tax, fee, charge or levy paid
30 to the commissioner of insurance shall post the notification required by
31 this subsection on such agency's website.

32 (d) Any such moneys which are wrongfully or by mistake placed in
33 the general fund shall constitute a proper charge against such general fund.
34 All legislative appropriations which do not designate a specific fund from
35 which they are to be paid shall be considered to be proper charges against
36 the general fund of the state. All revenues received by the state of Kansas
37 or any department, board, commission, or institution of the state of
38 Kansas, and required to be paid into the state treasury shall be placed in
39 and become a part of the state general fund, except as otherwise provided
40 by law.

41 (e) The provisions of this section shall not apply to the 10% credited
42 to the state general fund to reimburse the state general fund for accounting,
43 auditing, budgeting, legal, payroll, personnel and purchasing services, and

1 any and all other state governmental services, as provided in K.S.A. 75-
2 3170a, and amendments thereto.

3 (f) Beginning on January 8, 2018, the director of the budget shall
4 prepare a report listing the unencumbered balance of each fund in
5 subsection (b) on June 30 of the previous fiscal year and January 1 of the
6 current fiscal year. Such report shall be delivered to the secretary of the
7 senate and the chief clerk of the house of representatives on or before the
8 first day of the regular legislative session each year.

9 (g) As used in this section, "fee agency" shall include the state
10 agencies specified in K.S.A. 75-3717(f), and amendments thereto, and any
11 other state agency that collects fees for licensing, regulating or certifying a
12 person, profession, commodity or product.

13 Sec. 25. K.S.A. 2017 Supp. 75-3170a is hereby amended to read as
14 follows: 75-3170a. (a) The 10% credit to the state general fund required by
15 K.S.A. 1-204, 9-1703, 16a-2-302, 17-12a601, 17-2236, ~~17-5610, 17-5701,~~
16 20-1a02, 20-1a03, 31-133a, 31-134, 36-512, 44-324, 44-926, 47-820, 49-
17 420, 55-155, 55-176, 55-609, 55-711, 55-901, 58-2011, 58-3074, 58-4107,
18 65-6b10, 65-1718, 65-1817a, 65-1951, 65-2011, 65-2855, 65-2911, 65-
19 4024b, 65-5413, 65-5513, 65-6910, 65-7210, 65-7309, 66-1,155, 66-1503,
20 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, 74-3903, 74-
21 50,188, 74-5805, 74-6708, 74-7009, 74-7506, 75-1119b, 75-1308, 75-
22 1514, 84-9-801, and amendments thereto, is to reimburse the state general
23 fund for accounting, auditing, budgeting, legal, payroll, personnel and
24 purchasing services, and any and all other state governmental services,
25 which are performed on behalf of the state agency involved by other state
26 agencies which receive appropriations from the state general fund to
27 provide such services.

28 (b) Nothing in this act or in the sections amended by this act or
29 referred to in subsection (a), shall be deemed to authorize remittances to be
30 made less frequently than is authorized under K.S.A. 75-4215, and
31 amendments thereto.

32 (c) Notwithstanding any provision of any statute referred to in or
33 amended by this act or referred to in subsection (a), whenever in any fiscal
34 year such 10% credit to the state general fund in relation to any particular
35 fee fund is \$100,000, in that fiscal year the 10% credit no longer shall
36 apply to moneys received from sources applicable to such fee fund and for
37 the remainder of such year the full 100% so received shall be credited to
38 such fee fund.

39 Sec. 26. K.S.A. 17-5101, 17-5102, 17-5201, 17-5202, 17-5203, 17-
40 5204, 17-5205, 17-5206, 17-5207, 17-5208, 17-5209, 17-5210, 17-5211,
41 17-5212, 17-5213, 17-5214, 17-5215, 17-5216, 17-5217, 17-5218, 17-
42 5219, 17-5220, 17-5221, 17-5225, 17-5225a, 17-5225b, 17-5225c, 17-
43 5226, 17-5227, 17-5228, 17-5229, 17-5230, 17-5301, 17-5302, 17-5303,

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24 5703, 17-5704, 17-5705, 17-5706, 17-5801, 17-5802, 17-5803, 17-5804,
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27 17-5822, 17-5823, 17-5824, 17-5825, 17-5826, 17-5827, 17-5830, 17-
28 5831 and 17-5832 and K.S.A. 2017 Supp. 9-701, 9-808, 9-809, 9-901a, 9-
29 902, 9-903, 9-904, 9-905, 9-906, 9-907, 9-908, 9-910, 9-911, 9-912, 9-
30 1101, 17-5225d, 17-5610, 17-5701, 17-5828, 17-5829, 39-709, 58-3974,
31 75-3036 and 75-3170a are hereby repealed.

32 Sec. 27. This act shall take effect and be in force from and after its
33 publication in the statute book.