

HOUSE BILL No. 2054

AN ACT concerning certain state agencies; pertaining to the Kansas technology enterprise corporation and the abolishing thereof; pertaining to the transfer of the powers and duties thereof to the department of commerce and the board of regents; pertaining to the membership of the Kansas bioscience authority; amending K.S.A. 74-5001a, 74-8102, 74-8103, 74-8106, 74-8107, 74-8108, 74-8108a, 74-8109, 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and K.S.A. 2010 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-99b03, 74-99b04, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and 75-2935 and repealing the existing sections; also repealing K.S.A. 74-5050, 74-8101 and 74-8105.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Officers and employees of the Kansas technology enterprise corporation transferred by this act shall retain all retirement benefits and leave

balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this act shall affect the classified status of any transferred person employed by the Kansas technology enterprise corporation.

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

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

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

(1) All powers, duties and functions under K.S.A. 74-8102 through 74-8111, and amendments thereto, relating to the strategic technology and research (STAR) fund; and

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

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

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

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

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

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

(d) The board of regents shall have the legal custody of all records, memoranda, writings, entries, prints, representations, electronic data or combinations thereof of any act, transaction, occurrence or event of the

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

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

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

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

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

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

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

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

New Sec. 9. New Sections 1 through 8, inclusive, shall become effective on July 1, 2011.

Sec. 10. From and after July 1, 2011, K.S.A. 2010 Supp. 74-520a is hereby amended to read as follows: 74-520a. (a) On and after March 15, 1995, the Kansas state fair board is hereby established. The Kansas state fair board shall consist of the following members:

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

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

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

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

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

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

(7) ~~one person appointed by the Kansas technology enterprise corpo-~~

~~ration from among the board of directors of the Kansas technology enterprise corporation; and~~

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

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

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

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

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

Sec. 11. From and after July 1, 2011, K.S.A. 74-5001a is hereby amended to read as follows: 74-5001a. The purpose of the department of commerce shall be to develop and implement strategies to:

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

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

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

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

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

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

Sec. 12. From and after July 1, 2011, K.S.A. 2010 Supp. 74-5005 is hereby amended to read as follows: 74-5005. The department shall be the lead agency of the state for economic development of commerce through the promotion of business, industry, trade and tourism within the state. In general, but not by way of limitation, the department shall have, exercise and perform the following powers and duties:

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

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

(c) to advise and cooperate with all federal departments, research institutions, educational institutions and agencies, quasi-public professional societies, private business and agricultural organizations and associations, and any other party, public or private, and to call upon such parties for consultation; and assistance in their respective fields of interest, to the end that all ~~up-to-date~~ *up-to-date* available technical advice, information and assistance be gathered for the use of the department, the governor, the legislature; and the people of this state;

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

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

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

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

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

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

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

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

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

(m) to assist counties and cities in industrial development through the establishment of industrial development corporations, including site sur-

veys, small business administration situations, and render such other similar assistance as may be required; and in those instances where it is deemed appropriate, to contract with and make a service charge to the county or city involved for such services rendered;

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

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

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

(q) to organize, or cause to be organized, an advisory board or boards representing interested groups, including industry, labor, agriculture, scientific research, the press, the professions, industrial associations, civic groups, etc.; and such board or boards shall advise with the department as to its work and the department shall, as far as practicable, cooperate with such board or boards, and secure the active aid thereof in the accomplishment of the aims and objectives of the department;

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

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

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

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

(v) *except as otherwise provided by law, perform the duties and carry out the purposes of K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto.*

Sec. 13. From and after July 1, 2011, K.S.A. 2010 Supp. 74-50,133 is hereby amended to read as follows: 74-50,133. There is hereby created within the department of commerce the “high performance incentive fund” to provide matching funds for business assistance and consulting services to qualified firms under the provisions of K.S.A. 74-50,131, *and amendments thereto*, that are entitled to a workforce training tax credit under the provisions of K.S.A. 74-50,132, *and amendments thereto*, or have received written approval for and are participating, at the time the funds are sought, in the Kansas industrial training, Kansas industrial retraining or state of Kansas investments in lifelong learning program, subject to appropriation of funds and program criteria, as hereinafter provided. The department of commerce may provide funds to qualified firms, on a matching basis, to

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

Sec. 14. From and after July 1, 2011, K.S.A. 2010 Supp. 74-50,151 is hereby amended to read as follows: 74-50,151. (a) There is hereby created in the state treasury the Kansas economic opportunity initiatives fund. Subject to acts of the legislature applicable thereto, the moneys in the Kansas economic opportunity initiatives fund shall be used only for the purposes prescribed by this section.

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

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

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

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

(e) The director of the budget and the director of the legislative research department shall consult periodically and review the balance credited to and the estimated receipts to be credited to the state economic development initiatives fund during the fiscal year. During any period when the legislature is not in session, upon a finding by the director of the budget in consultation with the director of the legislative research department that the total of the unencumbered balance and estimated receipts to be credited to the state economic development initiatives fund during a fiscal year are insufficient to fund the budgeted expenditures and transfers from the state economic development initiatives fund for the fiscal year in accordance with the provisions of appropriation acts, the director of the budget shall make a certification of such finding to the governor. Upon approval by the governor, the director of accounts and reports shall transfer the amount of moneys from the Kansas economic opportunity initiatives fund to the state economic development initiatives fund that is required, in accordance with a certification by the director of the budget under this subsection, to fund the budgeted expenditures and transfers from the state economic development initiatives fund for the fiscal year in accordance with the provisions of appropriation acts, as specified by the director of the budget pursuant to such certification.

(f) On or before the 10th day of each month, the director of accounts

and reports shall transfer from the state general fund to the state economic development initiatives fund interest earnings based on:

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

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

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

Sec. 15. From and after July 1, 2011, K.S.A. 2010 Supp. 74-50,156 is hereby amended to read as follows: 74-50,156. (a) There is hereby established within and as a part of the department of commerce the agriculture products development division. The secretary of commerce shall appoint a director of such division and such director shall be in the unclassified service of the Kansas civil service act. Subject to and in accordance with appropriations acts, the agriculture products development division shall include: (1) All powers, duties and functions related to the agricultural value added center pursuant to subsections (b) and (c); (2) all powers and duties created regarding the division of markets pursuant to K.S.A. 74-530, and amendments thereto, which are hereby transferred; (3) all powers and duties created regarding registered trademarks pursuant to K.S.A. 74-540a, and amendments thereto, which are hereby transferred; (4) all powers and duties regarding the trademark fund pursuant to K.S.A. 74-540b, and amendments thereto, which are hereby transferred; and (5) all powers and duties created regarding expenditures and moneys credited to the market development fund pursuant to K.S.A. 74-540c, and amendments thereto, which are hereby transferred.

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

(c) Subject to the provisions of appropriations acts, the functions of the agricultural value added center within the agriculture products development division shall include, but not be limited to, developing a market referral program, matching distribution to buyers in coordination with other state agencies concerned with marketing Kansas products; assisting private en-

trepreneurs in the establishment of facilities and markets for new agricultural value added endeavors; and introducing coordinated programs to develop marketing skills of existing agricultural value adding processors in Kansas.

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

- (A) Investigate the subject of marketing farm products;
- (B) promote their sales distribution and merchandising;
- (C) furnish information and assistance to the public;
- (D) study and recommend efficient and economical methods of marketing;
- (E) provide for such studies and research as may be deemed necessary and proper;
- (F) gather and diffuse timely and useful information concerning the supply, demand, prevailing prices and commercial movement of farm products including quantity in common storage and cold storage, in cooperation with other public or private agencies;
- (G) conduct market development activities and assist and coordinate participation by companies, commodity organizations, trade organizations, producer organizations and other interested organizations to develop new markets and sales for Kansas agricultural commodities and food products;
- (H) render assistance to any of the entities listed in subsection (G) and development activities and make a reasonable service charge for such services rendered by the division; and
- (I) make agreements with other states and with the United States government, or its agencies, and accept funds from the federal government, or its agencies, or any other source for research studies, investigation, market development and other purposes related to the duties of the division.

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

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

- (A) Promulgate policy regarding the use of any such trademark;
- (B) print, reproduce or use the trademark in or on educational, promotional or other material;
- (C) fix, charge and collect fees for the use of the trademark provided that the fees shall be fixed in an amount necessary to recover all direct costs associated with the production of educational, promotional and other materials associated with a trademark program; and
- (D) enter into any contracts necessary to carry out the purposes of this subsection, which contracts shall not be subject to the bidding requirements of K.S.A. 75-3739, and amendments thereto.

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

(f) On or before February 1 of each year, the agriculture products development division shall present an oral and written report to the house and senate agriculture committees concerning the performance indicators, performance outcomes, activities and functions of the division for the previous year. Such report shall include a budget of how moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture products development division of

the department of commerce for the previous fiscal year were spent and a projected budget of moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture products development division of the department of commerce for the current fiscal year. Such report shall further include the full-time equivalent number of positions financed from appropriations and allocated for the agriculture products development division of the department of commerce for each fiscal year. In the report to the 1997 legislature, the division's report shall include a mission statement for the reorganized division.

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

Sec. 16. From and after July 1, 2011, K.S.A. 74-8102 is hereby amended to read as follows: 74-8102. (a) The purpose of ~~the Kansas technology enterprise corporation~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*, is to foster innovation in existing and developing businesses, especially the creation, growth and expansion of Kansas enterprises in a diversified range of primary sectors, which develop value-added products, processes and services including, but not limited to:

- (1) Existing resource-based industries of agriculture, oil, gas, coal and helium;
- (2) existing advanced technology industries of aviation, pharmaceuticals, computers and electronics; and
- (3) emerging industries of telecommunications, computer software, information services and research services.

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

- (1) Financing basic research, applied research and development, and technology transfer at Kansas educational institutions which meet competitive standards of excellence as measured by national and international peers, and which create innovative collaboration between Kansas educational institutions and Kansas enterprises;
- (2) awarding applied research matching grants to Kansas educational institutions and Kansas private enterprises in order to move innovation and applied research toward commercial application;
- (3) engaging in seed-capital financing for the development and implementation of innovations or new technologies for existing resource, technology-based and emerging Kansas businesses; and
- (4) providing technical referral services to such small, new, emerging or mature businesses and encouraging Kansas educational institutions to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector Kansas organizations.

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

Sec. 17. From and after July 1, 2011, K.S.A. 74-8103 is hereby amended to read as follows: 74-8103. As used in this act, unless the context clearly requires otherwise:

- (a) "Applied research" means those research activities occurring at educational institutions and in private enterprises, which have potential commercial application;
- (b) "basic research" means research that has long range generic value to an industry classification or group of companies. Basic research is distinguished from applied research which has more short range present value to a single company or project;
- (c) ~~"corporation" means the Kansas technology enterprise corporation;~~ "board" means the Kansas technology enterprise advisory board;
- (d) "department" means the department of commerce;
- ~~(d)~~ (e) "educational institutions" means public and private community colleges, colleges and universities in the state;
- ~~(e)~~ (f) "enterprise" means a firm with its principal place of business in Kansas which is engaged or proposes to be engaged in this state in agri-

cultural, natural resource-based or other manufacturing, research and development, or the provision of technology-based services;

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

(g) (h) “person” means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

(h) (i) “product” means any product, device, technique or process, which is or may be developed or marketed commercially; however, “product” does not refer to basic research but shall apply to such products, devices, techniques or processes which have advanced beyond the theoretical stage and are in a prototype or practice stage;

(i) (j) “qualified security” means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a “security” or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

(k) “secretary” means the secretary of commerce; and

(l) (l) “seed capital” means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the startup of a new firm, the expansion or the restructuring of a small firm.

Sec. 18. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8104 is hereby amended to read as follows: 74-8104. (a) The ~~corporation~~ secretary shall have all the powers necessary to achieve the purposes, specified in K.S.A. 74-8102, and amendments thereto, including the power to:

(1) ~~Make, amend and repeal bylaws, rules and regulations for the management of its affairs~~ Adopt rules and regulations as deemed necessary for the implementation of K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto;

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

(3) ~~make contracts and execute all instruments necessary or convenient for carrying out its business~~ the powers and duties under K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto;

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

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

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

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

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

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

(10) (9) appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

~~(14)~~ (10) appear in its own behalf before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

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

~~(13)~~ (12) consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the fulfillment of the purposes of ~~this act~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the corporation is a party;

~~(14)~~ (13) accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the purposes specified in ~~this act~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*, in accordance with the terms and conditions of any such grant;

~~(15)~~ (14) trade, buy or sell qualified securities, including without limitation, the powers to guarantee, purchase, take, receive, subscribe for or otherwise acquire, to own, hold, use or otherwise employ; to sell, lease, exchange, transfer or otherwise dispose of; to mortgage, lend, pledge or otherwise deal in and with, qualified securities issued by any other domestic or foreign corporation, partnership, association, limited liability company, or business trust, whether or not such issuer was organized or caused to be organized by the ~~corporation~~ *secretary*. The ~~corporation~~ *secretary*, while owner of any such qualified securities, may exercise all of the rights, powers and privileges of ownership, including without limitation the right to vote;

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

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

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

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

~~(20)~~ (19) provide and pay for such advisory services and technical assistance that may be necessary or desirable to carry out the purposes of ~~this act~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*;

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

~~(22)~~ (21) negotiate royalty payments to the ~~corporation~~ *department* on patents and licenses for innovations or inventions arising in the course of research sponsored by the ~~corporation~~ *department* at educational institutions under the jurisdiction of the Kansas board of regents; such negotiated royalty arrangements should reflect an appropriate sharing of legal risk as

well as financial return between the ~~corporation~~ *department* and educational institution; such patents and licenses shall be in keeping with the patent policies of the Kansas board of regents;

~~(23)~~ (22) exercise any other powers necessary for the operation and functioning of the ~~corporation within the purposes authorized in this act~~ *department within the purposes of K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto;*

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

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

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

(25) *dispose of any direct or indirect stock or other equity or investment asset transferred to the department pursuant to this act except that such disposition shall be made in the best interests of the state of Kansas and solely at the discretion of the secretary and shall not be required otherwise.*

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

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

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

Sec. 19. From and after July 1, 2011, K.S.A. 74-8106 is hereby amended to read as follows: 74-8106. (a) The purpose of this section is to authorize the establishment of three types of centers of excellence at educational institutions: Centers of excellence for basic research, centers of excellence for applied research and development, and centers of excellence for technology transfer.

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

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

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

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

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

(2) The ~~corporation~~ *department of commerce* may use the Kansas technology enterprise applied research and development fund to carry out the purposes of this act by awarding funds to establish new centers of excellence for applied research and development or to increase funding to such already established centers of excellence so long as those centers are determined to be carrying out primarily applied research and development, and to be meeting the standards of excellence required by this act. Awards of funds shall be made on a competitive basis, and all proposals for new centers of excellence shall be subject to external peer review on the basis of scientific merit which meets national standards of excellence and subsequent potential for commercial application.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) an itemized operations budget; and

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

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

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

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

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

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

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

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

Sec. 20. From and after July 1, 2011, K.S.A. 74-8107 is hereby amended to read as follows: 74-8107. (a) The Kansas technology enterprise applied research matching grant fund is hereby created, to which shall be credited any state funds specifically so designated.

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

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

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

(2) reviewing applied research proposals which present:

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

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

(ii) verifying that the equipment or machinery is donated and has only

been used in testing to insure quality control, or used by a wholesaler or retailer for demonstration purposes only; or

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 21. From and after July 1, 2011, K.S.A. 74-8108 is hereby amended to read as follows: 74-8108. (a) The ~~corporation~~ secretary is directed to develop a small business innovation research (SBIR) matching grant program which meets the highest current standards for state matching grants to federal phase I SBIR program. Prior to establishing the SBIR matching grant program, the ~~corporation~~ secretary shall conduct a survey and analysis of the most effective SBIR matching grant programs existing in other states.

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

Sec. 22. From and after July 1, 2011, K.S.A. 74-8108a is hereby amended to read as follows: 74-8108a. Five years from the effective date of this act, the ~~corporation~~ secretary shall conduct a review of the small business innovation research bridge financing program and report the results of the review to the legislature. Such review shall determine the extent to which the program has achieved the following outcomes:

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

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

(c) stimulated subsequent investments by industry venture capital and other federal sources;

(d) encouraged development of industry partners with researchers; and

(e) encouraged development of business or commercialization plans for new technology.

Sec. 23. From and after July 1, 2011, K.S.A. 74-8109 is hereby amended to read as follows: 74-8109. (a) There is hereby created the technology enterprise seed-capital fund to which shall be credited any state funds specifically so designated. The ~~corporation~~ *secretary* may credit the fund with unrestricted appropriations, gifts, donations or grants received from any source and with payments on loans made from the fund.

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

(1) To carry out the purposes of ~~this act~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*, through investments in qualified securities and through the forms of financial assistance authorized by ~~this act~~ *K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto*, including:

(A) Loans, loans convertible to equity, and equity;
(B) leaseholds;
(C) management or consultant service agreements;
(D) loans with warrants attached that are beneficially owned by the ~~corporation~~ *department*;

(E) loans with warrants attached that are beneficially owned by a party other than the ~~corporation~~ *department*; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(H) binding commitments have been made to the ~~corporation~~ *department* by the enterprise for adequate reporting of financial data to the ~~corporation~~ *department*, which shall include a requirement for an annual report, or if required by the board, an annual audit of the financial and operational records of the enterprise, and for such control on the part of the ~~corporation~~ *department* as the ~~board of directors~~ *department* shall consider prudent over the management of the enterprise, so as to protect the investment of the ~~corporation~~ *department*, including in the discretion of the ~~board~~ *secretary* and without limitation, right of access to financial and other records of the enterprise.

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

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

Sec. 24. From and after July 1, 2011, K.S.A. 74-8110 is hereby amended to read as follows: 74-8110. (a) The ~~Kansas technology enterprise~~ ~~corporation~~ *secretary* shall establish a clearinghouse to provide technology transfer and technical referral services and shall fund educational institutions to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

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

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

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

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

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

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

Sec. 25. From and after July 1, 2011, K.S.A. 74-8111 is hereby amended to read as follows: 74-8111. (a) The ~~corporation~~ *secretary* shall publish an annual report which shall include an audit in accordance with generally accepted accounting principles as of June 30 of each year, and present the report to the governor, the legislature and Kansas, Inc., setting forth in detail the operations and transactions conducted by it pursuant to ~~this act~~ K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto, or to other legislation. The annual report shall specifically account for the ways in which the ~~purpose of the corporation~~ *purposes* and the programs described in ~~this act~~ K.S.A. 74-8102 through

74-8104 and 74-8107 through 74-8111, and amendments thereto, have been carried out, and the recommendations shall specifically note what changes in the activities of the ~~corporation~~ department and the programs it administers, and of state government are necessary to better address the purposes described in ~~this act~~ K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto. The ~~corporation~~ secretary shall distribute its annual report by such means that will make it widely available to those innovative enterprises of special importance to the Kansas economy.

(b) The ~~corporation~~ secretary shall annually review and prepare a report showing how ~~and~~ and at what level other states fund the programs provided for under ~~this act~~ K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto. The ~~corporation~~ secretary shall recommend an appropriate funding level for Kansas which will make these programs nationally competitive with those of other states. The ~~corporation's~~ secretary's findings and recommendations shall be submitted to the governor and the legislature.

(c) The ~~corporation~~ secretary shall adopt a threshold funding level for each of the programs provided for under ~~this act~~ K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto. The threshold amount shall provide for funding that is great enough to have a significant impact and carry out the intent of ~~this act~~ K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto. If the appropriation to fund these programs falls below the threshold, then no funding shall be provided by the ~~corporation~~ department to the program funded below threshold level.

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

Sec. 26. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8131 is hereby amended to read as follows: 74-8131. (a) The purpose of the Kansas angel investor tax credit act is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses, which are job and wealth creating enterprises, by granting tax credits against the Kansas income tax liability of investors investing in these businesses. The Kansas angel investor tax credit act shall be administered by the ~~Kansas technology enterprise corporation (KTEC)~~ secretary with the primary goal of encouraging individuals to provide seed-capital financing for emerging, Kansas businesses engaged in the development, implementation and commercialization of innovative technologies, products and services.

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

Sec. 27. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8132 is hereby amended to read as follows: 74-8132. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

Sec. 28. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8133 is hereby amended to read as follows: 74-8133. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors’ cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors’ liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a permitted entity investor, the credit provided by this section shall be claimed by the owners of the permitted entity investor in proportion to their ownership share of the permitted entity investor.

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

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

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

(e) Any investor who has not owed any Kansas income tax under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated for the immediate past three taxable years, who does not reasonably believe that it will owe any such tax for the current taxable year and who makes a

cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to any natural person of net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the effective date of this act whether or not such person is then an investor and be claimed by the transferee as a credit against the transferee's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.

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

Sec. 29. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8134 is hereby amended to read as follows: 74-8134. (a) Before an angel investor may be entitled to receive tax credits, as authorized by this act, such investor must have made a cash investment in a qualified security of a qualified Kansas business. This business must have been approved by ~~KTEC~~ *the secretary* as a qualified Kansas business prior to the date on which the cash investment was made. To be designated as a qualified Kansas business, a business must make application to ~~KTEC~~ *the secretary* in accordance with the provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) the business must not be engaged primarily in any one or more of the following enterprises: (A) Any service provider set forth in K.S.A. 17-2707, and amendments thereto; (B) the business of banking, savings and loan or lending institutions, credit or finance, or financial brokerage or

investments; (C) the provision of professional services, such as legal, accounting or engineering services; (D) governmental, charitable, religious or trade organizations; (E) the ownership, development, brokerage, sales or leasing of real estate; (F) insurance; (G) construction or construction management or contracting; (H) business consulting or brokerage; (I) any business engaged primarily as a passive business, having irregular or noncontinuous operations, or deriving substantially all of the income of the business from passive investments that generate interest, dividends, royalties, or capital gains, or any business arrangements the effect of which is to immunize an investor from risk of loss; (J) any Kansas certified capital formation company; (K) any activity that is in violation of the law; and (L) any business raising money primarily to purchase real estate, land or fixtures; and

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

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

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

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

Sec. 30. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8135 is hereby amended to read as follows: 74-8135. (a) The designation of a business as a qualified Kansas business shall be made by ~~KTEC~~ *the secretary*, and such designation must be renewed annually. A business shall be so designated if ~~KTEC~~ *the secretary* determines, based upon the application submitted by the business and any additional investigation the staff of ~~KTEC~~ *the department* shall make, that the following criteria have been or shall be satisfied:

- (1) The business has a reasonable chance of success;
- (2) the business has the reasonable potential to create measurable employment within the state;
- (3) the business has an innovative and proprietary technology, product and service;
- (4) the existing owners of the business and other founders have made or are committed to make a substantial financial and time commitment to the business;
- (5) the securities to be issued and purchased are qualified securities; and

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

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

uals and what percentage was claimed by investment firms; the types of businesses that benefited from the tax credits; and any aggregate job creation or capital investment in Kansas that resulted from the use of the tax credits for a period of five years beginning from the date on which the tax credits were awarded. In addition, the annual report will provide information regarding what businesses which derived benefit from the tax credits remained in Kansas and what businesses ceased business, what businesses were purchased and what businesses may have moved out-of-state and why.

Sec. 31. From and after July 1, 2011, K.S.A. 2010 Supp. 74-8136 is hereby amended to read as follows: 74-8136. (a) Tax credits for qualified Kansas businesses are a limited resource of the state for which ~~KTEC~~ *the secretary* is designated as the administrator. The purpose of such tax credits is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses which are job and wealth creating enterprises. To achieve this purpose and to optimize the use of the limited resources of the state, ~~KTEC~~ *the secretary* is authorized to issue tax credits to qualified investors in qualified Kansas businesses. Such tax credits shall be awarded to those qualified Kansas businesses which, as determined by ~~KTEC~~ *the secretary*, are most likely to provide the greatest economic benefit to the state. ~~KTEC~~ *The secretary* may issue whole or partial tax credits based on an assessment of the qualified businesses. ~~KTEC~~ *The secretary* may consider numerous factors in such assessment, including, but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model and the quality and reasonableness of financial projections for the business.

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

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

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

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

(f) If the secretary ~~of commerce~~ determines that a business is not in

substantial compliance with the requirements of this act to maintain its designation, the secretary, by written notice, shall inform the officers of the qualified Kansas business and the business that such business will lose designation as a qualified Kansas business in 120 days from the date of mailing of the notice unless such business corrects the deficiencies and is once again in compliance with the requirements for designation.

(g) At the end of the 120-day period, if the qualified Kansas business is still not in substantial compliance, the secretary of ~~commerce~~ shall send a notice of loss of designation to the business, ~~KTEC~~, the secretary of the department of revenue and to all known investors in the business. Loss of designation of a qualified Kansas business shall preclude the issuance of any additional tax credits with respect to this business and ~~KTEC~~ *the secretary* shall not approve the application of such business as a qualified Kansas business. Upon loss of the designation as a qualified Kansas business or if a business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within 10 years after receiving financial assistance under this act, such business shall repay such financial assistance to ~~KTEC~~ *the department*, in an amount determined by ~~KTEC~~ *the secretary*. Each qualified Kansas business that loses such designation shall enter into a repayment agreement with ~~KTEC~~ *the secretary* specifying the terms of such repayment obligation.

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

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

Sec. 32. From and after July 1, 2011, K.S.A. 74-8316 is hereby amended to read as follows: 74-8316. (a) The ~~Kansas technology enterprise corporation~~ *secretary* is hereby authorized to facilitate the establishment of a technology-based venture-capital fund in which the ~~corporation~~ *department* may invest only moneys from the economic development initiatives fund specifically so allocated. The ~~corporation may credit also~~ *department may also credit* the fund with gifts, donations or grants received from any source other than state government and with proceeds from the fund. Investments in the fund shall qualify for the income tax credit allowed pursuant to K.S.A. 74-8304, and amendments thereto.

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

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

- (A) Loans, loans convertible to equity, and equity;
- (B) leaseholds;
- (C) management or consultant service agreements;
- (D) loans with warrants attached that are beneficially owned by the fund;
- (E) loans with warrants attached that are beneficially owned by a party other than the fund; and

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

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

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

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

- (1) Receipt of an application from the enterprise which contains:
 - (A) A business plan including a description of the enterprise and its management, product and market;
 - (B) a statement of the amount, timing and projected use of the capital required;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 33. From and after July 1, 2011, K.S.A. 74-8317 is hereby amended to read as follows: 74-8317. The ~~corporation~~ *secretary* shall transmit annually to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives, the joint committee on economic development and Kansas, Inc.:

(a) The annual statement of the fund; and

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

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

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

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

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

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

Sec. 34. From and after July 1, 2011, K.S.A. 74-8318 is hereby amended to read as follows: 74-8318. ~~No enterprise shall be eligible to receive investment pursuant to this act if an officer, employee or member~~

~~of the board of directors of the corporation, the fund or any other entity in which the corporation has a majority interest has a substantial interest in the corporation. No enterprise shall be eligible to receive investment pursuant to this act if the secretary or any employee of the department, or any officer, employee or member of the board of directors of either the fund or any other entity which has a substantial interest in the enterprise. For the purposes of this section, the term "substantial interest" shall have the meaning ascribed to it in K.S.A. 46-229, and amendments thereto.~~

Sec. 35. From and after July 1, 2011, K.S.A. 74-8319 is hereby amended to read as follows: 74-8319. For purposes of this act:

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

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

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

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

Sec. 36. From and after July 1, 2011, K.S.A. 74-8401 is hereby amended to read as follows: 74-8401. (a) There shall be allowed as a credit against the tax imposed by the Kansas income tax act on the Kansas taxable income of a taxpayer and against the tax imposed by K.S.A. 40-252, and amendments thereto, on insurance companies for cash investment in a certified local seed capital pool an amount equal to 25% of such taxpayer's cash investment in any such pool in the taxable year in which such investment is made and the taxable years following such taxable year until the total amount of the credit is used. The amount by which that portion of the credit allowed by this section exceeds the taxpayer's liability in any one taxable year may be carried forward until the total amount of the credit is used. If the taxpayer is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of such corporation or the partners of such partnership in the same manner as such shareholders or partners account for their proportionate shares of the income or loss of the corporation or partnership.

(b) The total amount of credits allowable pursuant to this section and credits allowable pursuant to K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto, shall be attributable to not more than \$50,000,000 of cash investments in Kansas venture capital companies, Kansas Venture Capital, Inc. and local seed capital pools. With respect to the additional amount of cash investments made eligible for tax credits by this act, \$10,000,000 of such amount shall be dedicated and reserved until December 31, 1990, for cash investments in a seed capital fund or funds in which the ~~Kansas technology enterprise corporation, or its subsidiaries, department of commerce~~ is an investor. The \$50,000,000 amount of cash investments now eligible for the tax credits allowed pursuant to this section and K.S.A. 74-8205, 74-8206 and 74-8304, and amendments thereto, shall be reduced to the extent that the total amount of cash investments received by such seed capital fund or funds before January 1, 1991, is less than \$10,000,000. However, any such credits which were not claimed for investments made prior to January 1, 1991, may be allowed to a taxpayer for cash investment made in Kansas Venture Capital, Inc. pursuant to K.S.A. 74-8205 and 74-8206, and amendments thereto, not to exceed \$2,595,236 of the \$10,000,000 reserved under this subsection for investment in seed capital funds in which the ~~Kansas technology enterprise corporation or its subsidiaries~~ department of commerce was an investor. A taxpayer may also be allowed a credit for cash investment made pursuant to K.S.A. 74-8304, and amendments thereto not to exceed \$6,012,345 of the \$10,000,000 reserved under this subsection if such taxpayer first purchases the entire interest of the ~~Kansas technology enterprise corporation or its subsidiaries~~ department of commerce in Kansas venture capital companies established prior to January 1, 1991. However, no credit shall be allowed for cash investment which results in the purchase of the interest of the Kansas technology enterprise corporation or its subsidiaries in Kansas venture capital companies established prior to January 1, 1991.

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

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

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

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

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

Sec. 37. From and after July 1, 2011, K.S.A. 2010 Supp. 74-99b03 is hereby amended to read as follows: 74-99b03. As used in the bioscience authority act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) “Authority” means the Kansas bioscience authority created by this act.

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

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

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

(e) “Bioscience development project” means an approved project to implement a project plan in a bioscience development district.

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

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

(h) “Biotechnology” means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, ge-

nomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing and bioinformatics.

(i) “Board” means the board of directors of the authority created by this act.

(j) “Bonds” has the same meaning as in K.S.A. 74-8902, and amendments thereto.

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

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

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

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

~~(o)~~ (n) “NAICS” means the north American industry classification system.

~~(p)~~ (o) “NISTAC” means the national institute for strategic technology acquisition and commercialization.

~~(q)~~ (p) “President” means the chief executive officer of the authority.

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

~~(s)~~ (r) “Qualified company” means a Kansas company conducting bioscience research and development that may be granted a funding voucher.

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

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

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

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

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

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

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

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

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

Sec. 38. K.S.A. 2010 Supp. 74-99b04 is hereby amended to read as follows: 74-99b04. (a) There is hereby established a body politic and corporate, with corporate succession, to be known as the Kansas bioscience

authority. The authority shall be an independent instrumentality of the state. Its exercise of the rights, powers and privileges conferred by this act shall be deemed and held to be the performance of an essential governmental function.

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

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

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

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

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

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

(h) The board annually shall elect a voting member as chairperson and at least one other as vice-chairperson. The board also shall elect a secretary and treasurer for terms to be determined by the board. The board may elect the same person to serve as both secretary and treasurer. The board shall

establish an executive committee, nominating committee and other standing or special committees, and prescribe their duties and powers. Any executive committee of the board may exercise all such powers and duties of the board as the board may delegate.

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

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

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

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

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

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

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

Sec. 39. From and after July 1, 2011, K.S.A. 2010 Supp. 74-99b09 is hereby amended to read as follows: 74-99b09. (a) The authority shall have all of the powers necessary to carry out the purposes and provisions of this act, including, without limitation, the following powers to:

- (1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;
- (2) have the duties, privileges, immunities, rights, liabilities and disabilities of a body politic and corporate and independent instrumentality of the state;
- (3) have perpetual existence and succession;
- (4) adopt, have and use a seal and to alter the same at its pleasure;

- (5) sue and be sued in its own name;
- (6) work with bioscience research institutions to identify and recruit eminent scholars and rising star scholars who shall become employed by bioscience research institutions or the authority, or both, to perform bioscience research, development and commercialization at bioscience research institutions or at authority facilities, or both;
- (7) transfer funds to bioscience research institutions in amounts to be determined by the board for the purpose of attracting and then supplementing the compensation of eminent scholars and rising star scholars;
- (8) work with and collaborate with bioscience research institutions to determine the types of bioscience research that will be conducted by eminent scholars and rising star scholars;
- (9) work with bioscience research institutions to determine the types of facilities that may be constructed at bioscience research institutions or at authority premises, or elsewhere, for eminent scholars and rising star scholars to perform bioscience research and development;
- (10) employ personnel to assist or complement the research of eminent scholars and rising star scholars;
- (11) establish policies and procedures to facilitate integrated bioscience research activities by the authority and bioscience research institutions;
- (12) make and execute contracts, guarantees or any other instruments and agreements necessary or convenient for the exercise of its powers and functions including, without limitation, to make and execute contracts with bioscience enterprises, including start-up companies, other public and private persons and entities, health care businesses, state universities and colleges, and to incur liabilities and secure the obligations of any entity or individual;
- (13) partner with the bioscience research institutions to provide matching funds for federal grants;
- (14) borrow money and to pledge all or any part of the authority's assets therefore;
- (15) purchase, lease, trade, exchange or otherwise acquire, maintain, hold, improve, mortgage, sell and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease, trade, exchange or otherwise acquire real property or any interest therein, and to maintain, hold, improve, mortgage, sell, lease and otherwise transfer such real property to the universities, colleges, public institutions and private enterprises in the state, so long as such transactions do not conflict with the mission of the authority as specified in this act;
- (16) own, acquire, construct, renovate, equip, improve, operate, maintain, sell or lease any land, buildings or facilities in the state that can be used in researching, developing, sponsoring or commercializing bioscience in the state including, without limitation, a state-of-the-art facility, laboratory or commercial wet lab space incubator to be used by the authority, and also to be made available for use by bioscience research institutions or Kansas companies conducting bioscience research and development for bioscience research, commercialization and technology transfer of bioscience products, processes and other intellectual property in accordance with the provisions of this act;
- (17) incur or assume indebtedness to, and enter into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for the authority;
- (18) develop policies and procedures generally applicable to the procurement of goods, services and construction, based upon sound business practices;
- (19) solicit, study and assist in the preparation of business plans and proposals of new or established businesses to advance the biosciences in the state;
- (20) own and possess patents, copyrights, trademarks and proprietary technology and to enter into contracts for the purposes of commercializing and establishing charges for the use of such patents, copyrights, trademarks and proprietary technology involving bioscience;
- (21) contract for and to accept any gifts, grants and loans of funds, property or any other aid in any form from the federal government, the state, any state agency or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;
- (22) acquire space, equipment, services, supplies and insurance necessary to carry out the purposes of this act;

(23) deposit any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority;

(24) procure such insurance, participate in such insurance plans or provide such self-insurance or both as it deems necessary or convenient to carry out the purposes and provisions of this act; the purchase of insurance, participation in an insurance plan or creation of a self-insurance fund by the authority shall not be deemed as a waiver or relinquishment of any sovereign immunity to which the authority or its officers, directors, employees or agents are otherwise entitled;

(25) appoint, supervise and set the salary and compensation of the president, who shall be appointed by and serve at the pleasure of the board;

(26) fix, revise, charge and collect rates, rentals, fees and other charges for the services or facilities furnished by or on behalf of the authority, and to establish policies and procedures regarding any such service rendered for the use, occupancy or operation of any such facility; such charges and policies and procedures not to be subject to supervision or regulation by any commission, board, bureau or agency of the state; and

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(l) The authority shall prepare an annual report to the legislature and~~

the governor on all distributions from the bioscience development and investment fund, and income, investment and income tax credits and exemptions attributed to bioscience authority activity. The authority with assistance from the department of revenue shall prepare an annual report summarizing the growth of bioscience research and industry in Kansas.

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

Sec. 40. From and after July 1, 2011, K.S.A. 2010 Supp. 74-99b63 is hereby amended to read as follows: 74-99b63. As used in the bioscience research and development voucher program act, and amendments thereto, the following words and phrases have the following meanings unless a different meaning clearly appears from the content:

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

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

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

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

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

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

~~(g)~~ (f) “Life sciences” means the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

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

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

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

Sec. 41. From and after July 1, 2011, K.S.A. 2010 Supp. 74-99b66 is hereby amended to read as follows: 74-99b66. ~~(a) On terms mutually acceptable to the authority and KTEC the authority may contract with KTEC, to~~ The authority shall review applications and to certify whether an applicant is a qualified company.

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

- (1) Produce a measurable result and be technically sound;
- (2) lead to innovative technology or new knowledge;
- (3) lead to commercially successful products, processes or services;
- (4) stimulate economic growth; or
- (5) enhance employment opportunities within the state.

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

- (1) Verification that the applicant is a Kansas company conducting bioscience research and development;
- (2) a technical research plan that is sufficient for outside expert review;

(3) a detailed financial analysis that includes the commitment of resources by the applicant and others;

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

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

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

Sec. 42. From and after July 1, 2011, K.S.A. 2010 Supp. 74-99c03 is hereby amended to read as follows: 74-99c03. (a) There is hereby created a body politic and corporate to be known as the Kansas center for entrepreneurship. The secretary of commerce, after consulting with the board of directors, shall enter into a contractual agreement for the operation of the center. The center's exercise of all the rights, powers and privileges conferred by this act and shall be deemed and held to be the performance of an essential government function.

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

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

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

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

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

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

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

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

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

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

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

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

(l) Before assuming office, each person appointed as a member of the board of directors shall complete and file with the office of the secretary

of state a statement containing the information required in a statement of substantial interest pursuant to K.S.A. 46-247, and amendments thereto.

(m) The board of directors shall:

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

(2) make recommendations to the Kansas center for entrepreneurship regarding its policies and procedures;

(3) review and evaluate the Kansas center for entrepreneurship' annual report in light of this act's purpose, policy and procedures and current economic conditions, and, report its conclusions and recommendations to the secretary and the center;

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

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

Sec. 43. From and after July 1, 2011, K.S.A. 2010 Supp. 75-2935 is hereby amended to read as follows: 75-2935. The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

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

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

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

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

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

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

(j) officers and employees in the office of the attorney general and

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

(k) all employees of courts;

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

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

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

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

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

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

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

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

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary of aging, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary of social and rehabilitation services, the secretary of transportation, the secretary of wildlife and parks and the commissioner of juvenile justice;

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

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

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

(x) civil service examination monitors;

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

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

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

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

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

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer,

clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

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

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

Sec. 44. From and after July 1, 2011, K.S.A. 75-2935b is hereby amended to read as follows: 75-2935b. Salaries and other compensation of all persons who are within the unclassified service of the Kansas civil service act, and which salaries and other compensation are not fixed by statute, shall be subject to the approval of the governor and such salaries or other compensation shall not be paid until approved by the governor. The provisions of this section shall not apply to the salaries and other compensation of any officer or employee when such salary or other compensation is specifically prescribed by law, nor to officers and employees of elected state officials, officers and employees under the jurisdiction of the state board of regents, the executive secretary and other employees of the Kansas public employees retirement system that are in the unclassified service as specified under K.S.A. 74-4908, and amendments thereto, officers and employees of Kansas, Inc. ~~and the Kansas technology enterprise corporation~~, officers and employees under the jurisdiction of the supreme court, legislative officers and employees or officers and employees of any agency performing functions and duties primarily for the legislative branch.

Sec. 45. From and after July 1, 2011, K.S.A. 75-3208 is hereby amended to read as follows: 75-3208. (a) Except as provided in subsection (e) or (f) or as otherwise authorized or provided by statute, no claim for expenses for any trip made beyond the borders of the state by any appointive state officer or employee shall be paid by the state unless the trip has been approved as provided by this section.

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

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

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

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

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

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

Sec. 46. From and after July 1, 2011, K.S.A. 76-770 is hereby amended to read as follows: 76-770. (a) Each contract entered into by a state educational institution for the acquisition of goods or services for a research and development activity shall be exempt from the provisions of K.S.A. 75-3739 through 75-3744, and amendments thereto if the contract is fi-

nanced 50% or more by moneys received from ~~the Kansas technology enterprise corporation~~, federal agencies or other external sources.

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

(c) As used in this section:

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

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

Sec. 47. From and after July 1, 2011, K.S.A. 74-5001a, 74-5050, 74-8102, 74-8103, 74-8105, 74-8106, 74-8107, 74-8108, 74-8108a, 74-8109, 74-8110, 74-8111, 74-8316, 74-8317, 74-8318, 74-8319, 74-8401, 75-2935b, 75-3208 and 76-770 and K.S.A. 2010 Supp. 74-520a, 74-5005, 74-50,133, 74-50,151, 74-50,156, 74-8101, 74-8104, 74-8131, 74-8132, 74-8133, 74-8134, 74-8135, 74-8136, 74-99b03, 74-99b09, 74-99b63, 74-99b66, 74-99c03 and 75-2935 are hereby repealed.

Sec. 48. K.S.A. 2010 Supp 74-99b04 is hereby repealed.

Sec. 49. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in _____
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.