

HOUSE BILL No. 2454

By Committee on Taxation

3-21

AN ACT concerning certain business entities; imposing an occupation tax; franchise fees; amending K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-1a608 and K.S.A. 2002 Supp. 17-2036, 17-2718, 17-4634, 17-7503, 17-7504, 17-7505, 17-7507, 17-7509, 17-76,125, 17-76,139, 40-5008, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 56a-1203 and repealing the existing sections; also repealing K.S.A. 2002 Supp. 17-7508.

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

New Section 1. (a) (1) For any foreign or domestic for profit corporation, or professional corporation or association, duly registered and authorized to do business in Kansas by the secretary of state, and for any national or state banking, or savings and loan corporation or association located in or doing business in this state, and for any insurance corporation or association or any firemen's relief association under the jurisdiction and supervision of the insurance commissioner, if such entity has total assets valued in excess of \$250,000 according to such entity's books and records as of the last day of such entity's most recent taxable year, such entity shall pay an annual occupation tax to the secretary of revenue at the rate of .1% of such entity's taxable equity attributable to Kansas.

(2) For any foreign or domestic limited liability company, foreign or domestic limited partnership or foreign or domestic limited liability partnership duly registered and authorized to do business in Kansas by the secretary of state, if such entity has total assets valued in excess of \$250,000 according to such entity's books and records as of the last day of such entity's most recent taxable year, such entity shall pay an annual occupation tax to the secretary of revenue at the rate of .1% of the adjusted net capital accounts located in or used in this state at the end of the preceding taxable year as required to be reported on the federal partnership return of income, or for a one-member LLC taxed as a sole proprietorship, .1% of adjusted net book value of the LLC as calculated on an income tax basis located in or used in this state at the end of the preceding taxable year.

(3) For any business trust duly registered and authorized to do business in Kansas by the secretary of state, if such entity has total assets

1 valued in excess of \$250,000 according to such entity's books and records
2 as of the last day of such entity's most recent taxable year, such entity
3 shall pay an annual occupation tax to the secretary of revenue at the rate
4 of .1% of the adjusted corpus as shown on its balance sheet at the end of
5 the preceding taxable year as required to be reported on its annual report
6 filed with the secretary of state pursuant to K.S.A. 17-2036, and amend-
7 ments thereto, or in the case of a foreign business trust, .1% of the ad-
8 justed corpus which is located in or which it uses or intends to use in this
9 state as shown on its balance sheet at the end of the preceding taxable
10 year as required to be reported on the annual report filed with the sec-
11 retary of state pursuant to K.S.A. 17-2036, and amendments thereto. For
12 purposes of this subsection, "adjusted corpus" shall mean the corpus less
13 \$100,000.

14 (b) (1) Every corporation or association, business trust, limited lia-
15 bility company, limited partnership or limited liability partnership subject
16 to taxation under this act, shall make a return, or statement stating spe-
17 cifically such items as may be required by the forms and regulations of
18 the secretary of revenue. The return of a corporation or association shall
19 be signed by the president, vice-president, treasurer, assistant treasurer,
20 chief accounting officer or any other officer so authorized to act. The fact
21 that an individual's name is signed on a return shall be *prima facie* evi-
22 dence that such individual is authorized to sign such return on behalf of
23 such corporation. In cases where receivers, trustees in bankruptcy or as-
24 signees are operating the property or business of corporations, such re-
25 ceivers, trustees, or assignees shall make returns for such corporations in
26 the same manner and form as corporations are required to make returns.
27 Any tax due on the basis of such returns shall be collected in the same
28 manner as if collected from the corporation for which the return is made.
29 The returns of a limited liability partnership shall be signed by a partner
30 of the limited liability partnership. The returns of a limited liability com-
31 pany shall be signed by a member of the limited liability partnership.

32 (2) All returns shall be filed in the office of the director of taxation
33 on or before the 15th day of the fourth month following the close of the
34 taxable year, except as provided in subsection (b) (3).

35 (3) The director of taxation may grant a reasonable extension of time
36 for filing returns in accordance with rules and regulations of the secretary
37 of revenue. Whenever any such extension of time to file is requested by
38 a taxpayer and granted by the director, no penalty authorized by K.S.A.
39 79-3228, and amendments thereto, shall be imposed if 90% of the liability
40 is paid on or before the original due date.

41 (c) (1) All taxes imposed under the provisions of the Kansas occu-
42 pation tax act shall be paid on the 15th day of the fourth month following
43 the close of the taxable year. When the tax as shown to be due on a return

1 is less than \$5, such tax shall be canceled and no payment need be re-
2 mitted by the taxpayer.

3 (2) The director of taxation may extend the time for payment of the
4 tax, or any installment thereof, for a reasonable period of time not to
5 exceed six months from the date fixed for payment thereof. Such exten-
6 sion may exceed six months in the case of a taxpayer who is abroad.
7 Interest shall be charged at the rate prescribed by K.S.A. 79-2968, and
8 amendments thereto, for the period of such extension.

9 (d) The provisions of K.S.A. 79-3226, 79-3228, 79-3228a, 79-3229,
10 79-3230, 79-3233, 79-3233a, 79-3233b, 79-3233g, 79-3233h, 79-3233i,
11 79-3234, 79-3235 and 79-3236, and amendments thereto, shall apply to
12 the administration and enforcement of this section.

13 (e) All taxes paid pursuant to the provisions of this act shall be
14 rounded off to the nearest \$1, and unless other disposition is specifically
15 provided by law, the taxes collected under the provisions of this act and
16 all overpayments which may not be refunded under this section shall be
17 remitted to the state treasurer in accordance with the provisions of K.S.A.
18 75-4215, and amendments thereto. Upon receipt of each such remittance,
19 the state treasurer shall deposit the entire amount in the state treasury
20 to the credit of the state general fund. The secretary of revenue shall not
21 refund any overpayment of occupation taxes which is equal to \$1 or less,
22 shall not credit any domestic corporation or foreign corporation with any
23 amount which may not be refunded under this section, and shall not
24 require reimbursement for any underpayment of occupation taxes which
25 is less than \$1.

26 (f) As used in this section: (1) "Act" means the Kansas occupation tax
27 act;

28 (2) "adjusted net book value of an LLC as calculated on an income
29 tax basis located in or used in this state" means the net book value of an
30 LLC as calculated on an income tax basis located in or used in this state
31 less \$100,000;

32 (3) "adjusted net capital accounts located in or used in this state"
33 means the net capital accounts located in or used in this state less
34 \$100,000;

35 (4) "net book value as calculated on an income tax basis located in or
36 used in this state" means the net book value of a limited liability company
37 multiplied by a percentage which is the average of the following three
38 percentages: (A) The average value of the limited liability company's real
39 and tangible personal property owned or rented and used in this state
40 during the next preceding tax period divided by the average total value
41 of the limited liability company's real and tangible personal property
42 owned or rented and used during the next preceding tax period; (B) the
43 total amount of compensation paid by the limited liability company in this

1 state during the next preceding tax period divided by the total amount of
2 compensation paid everywhere by the limited liability company during
3 the next preceding tax period; and (C) the total sales of the limited liability
4 company in this state during the next preceding tax period divided by the
5 total sales of the limited liability company everywhere during the next
6 preceding tax period. If a limited liability company has no property or
7 activity mentioned in one of the above factors, the appropriate percentage
8 for that factor is 100%;

9 (5) “net capital accounts located in or used in this state” means the
10 net capital accounts of a limited partnership or limited liability partner-
11 ship as stated on the federal income tax return multiplied by a percentage
12 which is the average of the following three percentages: (A) The average
13 value of such entity’s real and tangible personal property owned or rented
14 and used in this state during the next preceding tax period divided by the
15 average total value of such entity’s real and tangible personal property
16 owned or rented and used during the next preceding tax period; (B) the
17 total amount of compensation paid by such entity in this state during the
18 next preceding tax period divided by the total amount of compensation
19 paid everywhere by such entity during the next preceding tax period; and
20 (C) the total sales of such entity in this state during the next preceding
21 tax period divided by the total sales of such entity everywhere during the
22 next preceding tax period. If such entity has no property or activity men-
23 tioned in one of the about factors, the appropriate percentage for that
24 factor is 100%;

25 (6) “shareholder’s equity” means the sum of: (1) Paid-in capital stock,
26 except that paid-in capital stock shall not include any capital stock issued
27 by a corporation and reacquired by such corporation through gift, pur-
28 chase or otherwise and available for resale or retirement; (2) capital paid
29 in, in excess of par; and (3) retained earnings, all as stated on such cor-
30 poration’s federal income tax return; and

31 (7) “taxable equity attributable to Kansas” means shareholder’s equity
32 attributable to Kansas, minus \$100,000.

33 (g) The provisions of this section shall be known and may be cited as
34 the Kansas occupation tax act.

35 Sec. 2. K.S.A. 17-1513 is hereby amended to read as follows: 17-
36 1513. Each corporation organized under the provisions of this act shall
37 make an annual report to the secretary of state, and pay the annual fran-
38 chise ~~tax~~ fee, as prescribed by K.S.A. 17-7503 *and amendments thereto*.

39 Sec. 3. K.S.A. 17-1618 is hereby amended to read as follows: 17-
40 1618. Each association formed under this act, or acts amendatory thereto,
41 shall prepare and make an annual report to the secretary of state, and pay
42 the annual franchise ~~tax~~ fee, as prescribed by K.S.A. 17-7504 and amend-
43 ments thereto, except that the report shall be filed at the time prescribed

1 by law for filing the association's annual Kansas income tax return. If any
2 such association shall apply for an extension of time for filing its annual
3 income tax return pursuant to the internal revenue code or subsection
4 (c) of K.S.A. 79-3221 and amendments thereto, such association shall also
5 apply, not more than 90 days after the due date of its annual report, to
6 the secretary of state for an extension of time for filing the annual report.
7 Such application for an extension of time for filing the annual report shall
8 include a copy of the application for extension for filing its annual income
9 tax return filed pursuant to the internal revenue code or K.S.A. 79-3221
10 and amendments thereto.

11 Sec. 4. K.S.A. 2002 Supp. 17-2036 is hereby amended to read as
12 follows: 17-2036. Every business trust shall make an annual report in
13 writing to the secretary of state, showing its financial condition at the
14 close of business on the last day of its tax period under the Kansas income
15 tax act next preceding the date of filing, but if a business trust's tax period
16 is other than the calendar year, it shall give notice thereof to the secretary
17 of state prior to December 31 of the year it commences such tax period.
18 The reports shall be made on forms provided by the secretary of state
19 and shall be filed at the time prescribed by law for filing the business
20 trust's annual Kansas income tax return, except that if any such business
21 trust shall receive an extension of time for filing its annual income tax
22 return from the internal revenue service or pursuant to subsection (c) of
23 K.S.A. 79-3221, and amendments thereto, the time for filing the report
24 hereunder shall be extended, correspondingly, upon filing with the sec-
25 retary of state a copy of the extension granted by the internal revenue
26 service or the director of taxation. The report shall contain the following:

27 (a) Executed copies of all amendments to the instrument by which
28 the business trust was created, or to prior amendments thereto, which
29 have been adopted and have not theretofore been filed under K.S.A. 17-
30 2033, and amendments thereto, and accompanied by the fee prescribed
31 therein for each such amendment;

32 (b) a verified list of the names and addresses of its trustees as of the
33 end of its tax period; and

34 (c) a balance sheet as of the end of its tax period, certified by the
35 trustee, fairly and truly reflecting its assets and liabilities and specifically
36 setting out its corpus, and, in the case of a foreign business trust, fairly
37 and truly reflecting an allocation of its moneys and other assets as between
38 those located, used, or to be used in this state and those located, used or
39 to be used elsewhere.

40 At the time of filing its annual report, the business trust shall pay to
41 the secretary of state an annual franchise ~~tax fee~~ in an amount equal to
42 ~~\$2 for each \$1,000 of its corpus as shown by its balance sheet, or, in the~~
43 ~~case of a foreign business trust, in an amount equal to \$2 for each \$1,000~~

1 of that portion of its corpus which is located in or which it uses or intends
2 to use in this state as shown by its balance sheet, except that in any case
3 no such tax shall be less than \$40 nor more than \$5,000 not to exceed
4 \$40.

5 The failure of any domestic or foreign business trust to file its annual
6 report and pay its annual franchise ~~tax~~ fee within 90 days from the date
7 on which they are due, as aforesaid, shall work a forfeiture of its authority
8 to transact business in this state and all of the remedies, procedures, and
9 penalties specified in K.S.A. 17-7509 and 17-7510, and amendments
10 thereto, with respect to a corporation which fails to file its annual report
11 or pay its annual franchise ~~tax~~ fee within 90 days after they are due, shall
12 be applicable to such business trust.

13 Sec. 5. K.S.A. 2002 Supp. 17-2718 is hereby amended to read as
14 follows: 17-2718. (a) Each professional corporation organized under the
15 laws of this state shall file with the secretary of state an annual report in
16 writing and a copy or duplicate thereof, stating the prescribed information
17 concerning the corporation at the close of business on the last day of its
18 tax period next preceding the date of filing, but if any such corporation's
19 tax period is other than the calendar year it shall give notice thereof to
20 the secretary of state prior to December 31 of the year it commences
21 such tax period. The report shall be filed at the time prescribed by law
22 for filing the corporation's annual Kansas income tax return, except that
23 such corporation may apply to the secretary of state not more than 90
24 days after the due date of its annual report for an extension of the time
25 for filing the report, and an extension shall be granted for a period of
26 time corresponding to that granted under the internal revenue code or
27 K.S.A. 79-3221, and amendments thereto. The report shall be made on
28 a form provided by the secretary of state, containing the following
29 information:

30 (1) The names and residence addresses of all officers, directors and
31 shareholders of the professional corporation;

32 (2) a statement that each officer, director and shareholder is or is not
33 a qualified person as defined in K.S.A. 17-2707, and amendments thereto,
34 and setting forth the date on which any shares of the corporation were
35 no longer owned by a qualified person; and

36 (3) the amount of capital stock issued.

37 (b) The report shall be signed by its president, secretary, treasurer
38 or other officer duly authorized so to act, or by any two of its directors,
39 or by an incorporator in the event its board of directors shall not have
40 been elected. The fact that an individual's name is signed on such report
41 shall be prima facie evidence that such individual is authorized to sign
42 the report on behalf of the corporation; however, the official title or po-
43 sition of the individual signing the report shall be designated. This report

1 will be dated and subscribed by the person as true, under penalty of
2 perjury. The copy of the annual report or the duplicate original copy of
3 the annual report shall be forwarded to the regulatory board which li-
4 censes the shareholders described in the report. At the time of filing its
5 annual report, each professional corporation shall pay the annual fran-
6 chise ~~tax~~ fee prescribed by K.S.A. 17-7503, and amendments thereto.

7 Sec. 6. K.S.A. 2002 Supp. 17-4634 is hereby amended to read as
8 follows: 17-4634. (a) Every corporation organized under the electric co-
9 operative act of this state shall make an annual report in writing to the
10 secretary of state, showing the financial condition of the corporation at
11 the close of business on the last day of its tax period next preceding the
12 date of filing, but if any such corporation's tax period is other than the
13 calendar year, it shall give notice thereof to the secretary of state prior to
14 December 31 of the year it commences such tax period. The report shall
15 be filed on or before the fifteenth day of the fourth month following the
16 close of the tax year of the electric cooperative. An extension for filing
17 the annual report may be granted upon the filing of a written application
18 with the secretary of state prior to the due date of the report, except that
19 no such extension may be granted for a period of more than ~~ninety (90)~~
20 90 days. The report shall be made on a form provided by the secretary
21 of state, containing the following information:

- 22 (1) The name of the corporation;
- 23 (2) the location of the principal office;
- 24 (3) the name of the president, secretary and treasurer and the names
25 of directors with the residence address of each;
- 26 (4) the number of memberships issued;
- 27 (5) a balance sheet showing the financial condition of the corporation
28 at the close of business on the last day of its tax period next preceding
29 the date of filing; and
- 30 (6) the change or changes, if any, in the particulars made since the
31 last annual report.

32 (b) Such reports shall be signed by the president, vice-president or
33 secretary of the corporation, sworn to before an officer duly authorized
34 to administer oaths and forwarded to the secretary of state. At the time
35 of filing such annual report, each such corporation shall pay an annual
36 franchise ~~tax of~~ fee in an amount not to exceed \$40.

37 Sec. 7. K.S.A. 2002 Supp. 17-7503 is hereby amended to read as
38 follows: 17-7503. (a) Every domestic corporation organized for profit shall
39 make an annual report in writing to the secretary of state, stating the
40 prescribed information concerning the corporation at the close of busi-
41 ness on the last day of its tax period next preceding the date of filing, but
42 if a corporation's tax period is other than the calendar year, it shall give
43 notice thereof to the secretary of state prior to December 31 of the year

1 it commences such tax period. The reports shall be made on forms pre-
2 scribed by the secretary of state. The report shall be filed at the time
3 prescribed by law for filing the corporation's annual Kansas income tax
4 return, except that if any such corporation shall apply for an extension of
5 time for filing its annual income tax return under the internal revenue
6 service or under subsection (c) of K.S.A. 79-3221, and amendments
7 thereto, such corporation shall also apply, not more than 90 days after
8 the due date of its annual report, to the secretary of state for an extension
9 of the time for filing the report and an extension shall be granted for a
10 period of time corresponding to that granted under the internal revenue
11 code or K.S.A. 79-3221, and amendments thereto. Such application shall
12 include a copy of the application to income tax authorities. The report
13 shall contain the following information:

- 14 (1) The name of the corporation;
- 15 (2) the location of the principal office;
- 16 (3) the names of the president, secretary, treasurer and members of
17 the board of directors, with the residence address of each;
- 18 (4) the number of shares of capital stock issued and the amount of
19 capital stock paid up;
- 20 (5) the nature and kind of business in which the corporation is en-
21 gaged; and
- 22 (6) a list of stockholders owning at least 5% of the capital stock of the
23 corporation, with the post office address of each.

24 (b) Every corporation subject to the provisions of this section which
25 holds agricultural land, as defined in K.S.A. 17-5903, and amendments
26 thereto, within this state shall show the following additional information
27 on the report:

- 28 (1) The acreage and location listed by section, range, township and
29 county of each lot, tract or parcel of agricultural land in this state owned
30 or leased by or to the corporation;
- 31 (2) the purposes for which such agricultural land is owned or leased
32 and, if leased, to whom such agricultural land is leased;
- 33 (3) the value of the nonagricultural assets and the agricultural assets,
34 stated separately, owned and controlled by the corporation both within
35 and without the state of Kansas and where situated;
- 36 (4) the total number of stockholders of the corporation;
- 37 (5) the number of acres owned or operated by the corporation, the
38 number of acres leased by the corporation and the number of acres leased
39 to the corporation;
- 40 (6) the number of acres of agricultural land, held and reported in
41 each category under provision (5), state separately, being irrigated; and
42 (7) whether any of the agricultural land held and reported under this
43 subsection was acquired after July 1, 1981.

1 (c) The report shall be signed by its president, secretary, treasurer or
2 other officer duly authorized so to act, or by any two of its directors, or
3 by an incorporator in the event its board of directors shall not have been
4 elected. The fact that an individual's name is signed on such report shall
5 be prima facie evidence that such individual is authorized to sign the
6 report on behalf of the corporation; however, the official title or position
7 of the individual signing the report shall be designated. This report will
8 be dated and subscribed by the person as true, under penalty of perjury.
9 At the time of filing such annual report it shall be the duty of each do-
10 mestic corporation organized for profit to pay to the secretary of state an
11 annual franchise ~~tax fee~~ in an amount equal to \$2 for each \$1,000 of the
12 corporation's shareholder's equity attributable to Kansas, except that no
13 such tax shall be less than \$40 or more than \$5,000. The amount of any
14 such franchise tax paid by the corporation to the secretary as provided by
15 this subsection shall not be disclosed by the secretary *not to exceed \$40*.

16 Sec. 8. K.S.A. 2002 Supp. 17-7504 is hereby amended to read as
17 follows: 17-7504. (a) Every corporation organized not for profit shall make
18 an annual report in writing to the secretary of state, stating the prescribed
19 information concerning the corporation at the close of business on the
20 last day of its tax period next preceding the date of filing, but if a cor-
21 poration's tax period is other than the calendar year, it shall give notice
22 thereof to the secretary of state prior to December 31 of the year it
23 commences such tax period. The reports shall be made on forms pre-
24 scribed by the secretary of state. The report shall be filed on the 15th day
25 of the sixth month following the close of the taxable year, except that such
26 corporation may apply to the secretary of state not more than 90 days
27 after the due date of its annual report for an extension of the time for
28 filing the report, and an extension shall be granted for a period of time
29 corresponding to that granted under the internal revenue code or K.S.A.
30 79-3221, and amendments thereto. The report shall contain the following
31 information:

- 32 (1) The name of the corporation;
- 33 (2) the location of the principal office;
- 34 (3) the names of the president, secretary and treasurer, and the mem-
35 bers of the board of directors, with the residence address of each;
- 36 (4) the number of memberships or the number of shares of capital
37 stock issued and the amount of capital stock paid up.

38 (b) Every corporation subject to the provisions of this section which
39 holds agricultural land, as defined in K.S.A. 17-5903, and amendments
40 thereto, within this state shall show the following additional information
41 on the report:

- 42 (1) The acreage and location listed by section, range, township and
43 county of each lot, tract or parcel of agricultural land in this state owned

1 or leased by or to the corporation;

2 (2) the purposes for which such agricultural land is owned or leased
3 and, if leased, to whom such agricultural land is leased;

4 (3) the value of the nonagricultural assets and the agricultural assets,
5 stated separately, owned and controlled by the corporation both within
6 and without the state of Kansas and where situated;

7 (4) the total number of stockholders of the corporation;

8 (5) the number of acres owned or operated by the corporation, the
9 number of acres leased by the corporation and the number of acres leased
10 to the corporation;

11 (6) the number of acres of agricultural land, held and reported in
12 each category under paragraph (5) of this subsection (b), stated sepa-
13 rately, being irrigated; and

14 (7) whether any of the agricultural land held and reported under this
15 subsection was acquired after July 1, 1981.

16 (c) The report shall be signed by its president, secretary, treasurer or
17 other officer duly authorized so to act, or by any two of its directors, or
18 by an incorporator in the event its board of directors shall not have been
19 elected. The fact that an individual's name is signed on such report shall
20 be prima facie evidence that such individual is authorized to sign the
21 report on behalf of the corporation; however, the official title or position
22 of the individual signing the report shall be designated. This report will
23 be dated and subscribed by the person as true, under penalty of perjury.
24 At the time of filing such report, each nonprofit corporation shall pay an
25 annual ~~privilege franchise fee of~~ *in an amount not to exceed* \$40 for all
26 tax years commencing after December 31, ~~2001~~ 2002.

27 Sec. 9. K.S.A. 2002 Supp. 17-7505 is hereby amended to read as
28 follows: 17-7505. (a) Every foreign corporation organized for profit, or
29 organized under the cooperative type statutes of the state, territory or
30 foreign country of incorporation, now or hereafter doing business in this
31 state, and owning or using a part or all of its capital in this state, and
32 subject to compliance with the laws relating to the admission of foreign
33 corporations to do business in Kansas, shall make an annual report in
34 writing to the secretary of state, stating the prescribed information con-
35 cerning the corporation at the close of business on the last day of its tax
36 period next preceding the date of filing, but if a corporation operates on
37 a fiscal year other than the calendar year it shall give written notice thereof
38 to the secretary of state prior to December 31 of the year commencing
39 such fiscal year. The report shall be made on a form prescribed by the
40 secretary of state. The report shall be filed at the time prescribed by law
41 for filing the corporation's annual Kansas income tax return, except that
42 if any such corporation shall apply for an extension of time for filing its
43 annual income tax return under the internal revenue service or under

1 subsection (c) of K.S.A. 79-3221, and amendments thereto, such corpo-
2 ration shall also apply, not more than 90 days after the due date of its
3 annual report, to the secretary of state for an extension of the time for
4 filing the report and an extension shall be granted for a period of time
5 corresponding to that granted under the internal revenue code or K.S.A.
6 79-3221, and amendments thereto. Such application shall include a copy
7 of the application to income tax authorities. The report shall contain the
8 following facts:

9 (1) The name of the corporation and under the laws of what state or
10 country organized;

11 (2) the location of its principal office;

12 (3) the names of the president, secretary, treasurer and members of
13 the board of directors, with the residence address of each;

14 (4) the number of shares of capital stock issued and the amount of
15 capital stock paid up;

16 (5) the nature and kind of business in which the company is engaged
17 and its place or places of business both within and without the state of
18 Kansas;

19 (6) the value of the property owned and used by the company in
20 Kansas, where situated, and the value of the property owned and used
21 outside of Kansas and where situated; and

22 (7) the corporation's shareholder's equity attributable to Kansas.

23 (b) Every corporation subject to the provisions of this section which
24 holds agricultural land, as defined in K.S.A. 17-5903, and amendments
25 thereto, within this state shall show the following additional information
26 on the report:

27 (1) The acreage and location listed by section, range, township and
28 county of each lot, tract or parcel of agricultural land in this state owned
29 or leased by or to the corporation;

30 (2) the purposes for which such agricultural land is owned or leased
31 and, if leased, to whom such agricultural land is leased;

32 (3) the value of the nonagricultural assets and the agricultural assets,
33 stated separately, owned and controlled by the corporation both within
34 and without the state of Kansas and where situated;

35 (4) the total number of stockholders of the corporation;

36 (5) the number of acres owned or operated by the corporation, the
37 number of acres leased by the corporation and the number of acres leased
38 to the corporation;

39 (6) the number of acres of agricultural land, held and reported in
40 each category under paragraph (5) of this subsection (b), stated sepa-
41 rately, being irrigated; and

42 (7) whether any of the agricultural land held and reported under this
43 subsection was acquired after July 1, 1981.

1 The report shall be signed by its president, secretary, treasurer or other
2 officer duly authorized so to act, or by any two of its directors, or by an
3 incorporator in the event its board of directors shall not have been
4 elected. The fact that an individual's name is signed on such report shall
5 be prima facie evidence that such individual is authorized to sign the
6 report on behalf of the corporation; however, the official title or position
7 of the individual signing the report shall be designated. This report will
8 be dated and subscribed by the person as true, under penalty of perjury.
9 At the time of filing its annual report, each such foreign corporation shall
10 pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal
11 to \$2 for each \$1,000 of the corporation's shareholder's equity attributable
12 to Kansas, except that no such tax shall be less than \$40 or more than
13 \$5,000. The amount of any such franchise tax paid by the foreign cor-
14 poration to the secretary as provided by this subsection shall not be dis-
15 closed by the secretary *not to exceed \$40.*

16 Sec. 10. K.S.A. 2002 Supp. 17-7507 is hereby amended to read as
17 follows: 17-7507. No corporation shall be required to file its first annual
18 report under this act, or pay any annual franchise ~~tax fee~~ required to
19 accompany such report, unless such corporation has filed its articles of
20 incorporation or certificate of good standing at least six months prior to
21 the last day of its tax period. ~~If any corporation shall file with the secretary~~
22 ~~of state a notice of change in its tax period, and the next annual report~~
23 ~~filed by such corporation subsequent to such notice is based on a tax~~
24 ~~period of less than 12 months. The annual tax liability shall be determined~~
25 ~~by multiplying the annual franchise tax liability for such year by a fraction~~
26 ~~the numerator of which is the number of months, or any portion thereof,~~
27 ~~covered by the annual report and the denominator of which is 12. Not-~~
28 ~~withstanding the foregoing, the minimum annual franchise tax shall be~~
29 ~~\$40.~~

30 Sec. 11. K.S.A. 2002 Supp. 17-7509 is hereby amended to read as
31 follows: 17-7509. (a) In case any corporation organized for profit which
32 is required to file an annual report and pay the annual franchise ~~tax fee~~
33 prescribed by this act shall fail or neglect to make such report at the time
34 prescribed, such corporation shall be subject to a penalty of \$75. Such
35 penalty and the annual ~~tax or taxes fee or fees~~ required to be paid by this
36 act may be recovered by an action in the name of the state, and all moneys
37 recovered shall be remitted to the state treasurer in accordance with the
38 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
39 each such remittance, the state treasurer shall deposit the entire amount
40 in the state treasury to the credit of the state general fund.

41 (b) ~~On complaint of the secretary of state that any corporation has~~
42 ~~failed to pay the annual taxes prescribed by this act, it shall be the duty~~
43 ~~of the county or district attorney, or the attorney general, to institute such~~

1 ~~action in the district court of Shawnee county, Kansas, or of any county~~
2 ~~in which such corporation has an office or place of business.~~

3 —(e) The penalties provided for in subsection (a) also may be assessed
4 against any corporation for the reason that such corporation has been
5 canceled or its existence forfeited pursuant to the Kansas general cor-
6 poration code. No penalty shall be charged pursuant to this subsection,
7 if a corporation is assessed penalties pursuant to grounds specified in
8 subsection (a).

9 Sec. 12. K.S.A. 17-7510 is hereby amended to read as follows: 17-
10 7510. (a) In addition to any other penalties, the failure of any domestic
11 corporation to file the annual report in accordance with the provisions of
12 this act or to pay the annual ~~taxes herein~~ *franchise fee* provided for within
13 90 days of the time for filing and paying the same shall work the forfeiture
14 of the articles of incorporation of such domestic corporation. Within 60
15 days after the date such annual report and ~~taxes~~ *fee* are due, the secretary
16 of state, by mail, shall notify any corporation that has failed to submit
17 such report and ~~taxes~~ *fee* when due that its articles of incorporation shall
18 be forfeited unless the annual report is filed and the ~~taxes thereon are~~ *fee*
19 *is* paid within 90 days from the date such report and ~~taxes~~ *fee* were due.
20 Any corporation that fails to submit such report and ~~taxes~~ *fee* within such
21 time shall forfeit its articles of incorporation, and the secretary of state
22 shall notify the attorney general that the articles of incorporation of such
23 corporation have been forfeited.

24 (b) In addition to any other penalties, the failure of any foreign cor-
25 poration to file the annual report or pay the annual franchise ~~taxes~~ *fee*
26 prescribed by this act within 90 days from the time provided for filing
27 and paying the same shall work a forfeiture of its right or authority to do
28 business in this state. Within 60 days after the date such annual report
29 and ~~taxes~~ *fee* are due, the secretary of state, by mail, shall notify any
30 corporation that has failed to submit such report and ~~taxes~~ *fee* when due
31 that its authority to do business in this state shall be forfeited unless the
32 annual report and ~~taxes thereon are~~ *fee is* paid within 90 days from the
33 date such report and ~~taxes~~ *fee* were due. Any corporation that fails to
34 submit such report and ~~taxes~~ *fees* within such time shall forfeit its au-
35 thority to do business in this state, and the secretary of state shall publish
36 a notice of such forfeiture in the Kansas register.

37 This section shall not be construed to restrict the state from invoking
38 any other remedies provided by law.

39 Sec. 13. K.S.A. 17-7511 is hereby amended to read as follows: 17-
40 7511. Pursuant to the authority granted by subsection (c) of K.S.A. 79-
41 3234, the secretary of state, as a legal representative of the state, may
42 inspect the annual Kansas income tax return of any corporation for the
43 purpose of verifying any information contained in the annual report filed

1 by such corporation with the secretary of state pursuant to this act. The
2 secretary of state shall not disclose any information obtained from any
3 such return, except as may be necessary to commence an appropriate
4 administrative or judicial proceeding against the corporation filing the
5 same *and disclose to the secretary of revenue any information and allow*
6 *the secretary to inspect as necessary the annual report for purposes of*
7 *verifying any information contained on the occupation tax return as pro-*
8 *vided in section 1 and amendments thereto.*

9 Sec. 14. K.S.A. 17-7512 is hereby amended to read as follows: 17-
10 7512. The provisions of this act relating to the filing of annual reports
11 and the payment of franchise ~~taxes~~ *fees* shall not apply to banking, insur-
12 ance or savings and loan corporations or associations or to credit unions
13 or any firemen's relief association under the jurisdiction and supervision
14 of the insurance commissioner or to Kansas Venture Capital, Inc. or to
15 venture capital companies certified by the secretary of commerce pur-
16 suant to article 83 of chapter 74 of the Kansas Statutes Annotated and
17 amendments thereto.

18 Sec. 15. K.S.A. 2002 Supp. 17-76,125 is hereby amended to read as
19 follows: 17-76,125. A foreign limited liability company may cancel its reg-
20 istration by filing with the secretary of state a certificate of cancellation
21 executed by the members, together with the fee required by this act and
22 the annual report and franchise ~~tax~~ *fee* for any tax period which has ended.
23 A cancellation does not terminate the authority of the secretary of state
24 to accept service of process on the foreign limited liability company with
25 respect to causes of action arising out of the doing of business in the state
26 of Kansas.

27 Sec. 16. K.S.A. 2002 Supp. 17-76,139 is hereby amended to read as
28 follows: 17-76,139. (a) Every limited liability company organized under
29 the laws of this state shall make an annual report in writing to the secretary
30 of state, stating the prescribed information concerning the limited liability
31 company at the close of business on the last day of its tax period next
32 preceding the date of filing. If the limited liability company's tax period
33 is other than the calendar year, it shall give notice of its different tax
34 period in writing to the secretary of state prior to December 31 of the
35 year it commences the different tax period. The annual report shall be
36 filed at the time prescribed by law for filing the limited liability company's
37 annual Kansas income tax return. If the limited liability company applies
38 for an extension of time for filing its annual income tax return under the
39 internal revenue code, the limited liability company shall also apply, not
40 more than 90 days after the due date of its annual report, to the secretary
41 of state for an extension of the time for filing its report and an extension
42 shall be granted for a period of time corresponding to that granted under
43 the internal revenue code. The application shall include a copy of the

1 application to income tax authorities. The annual report shall be made on
2 a form prescribed by the secretary of state. The report shall contain the
3 following information:

4 (1) The name of the limited liability company; and

5 (2) a list of the members owning at least 5% of the capital of the
6 company, with the post office address of each.

7 (b) Every foreign limited liability company shall make an annual re-
8 port in writing to the secretary of state, stating the prescribed information
9 concerning the limited liability company at the close of business on the
10 last day of its tax period next preceding the date of filing. If the limited
11 liability company's tax period is other than the calendar year, it shall give
12 notice in writing of its different tax period to the secretary of state prior
13 to December 31 of the year it commences the different tax period. The
14 annual report shall be filed at the time prescribed by law for filing the
15 limited liability company's annual Kansas income tax return. If the limited
16 liability company applies for an extension of time for filing its annual
17 income tax return under the internal revenue code, the limited liability
18 company also shall apply, not more than 90 days after the due date of its
19 annual report, to the secretary of state for an extension of the time for
20 filing its report and an extension shall be granted for a period of time
21 corresponding to that granted under the internal revenue code. The ap-
22 plication shall include a copy of the application to income tax authorities.
23 The annual report shall be made on a form prescribed by the secretary
24 of state. The report shall contain the name of the limited liability
25 company.

26 (c) The annual report required by this section shall be signed by a
27 member of the limited liability company and forwarded to the secretary
28 of state. At the time of filing the report, the limited liability company shall
29 pay to the secretary of state an annual franchise ~~tax~~ fee in an amount equal
30 to ~~\$2 for each \$1,000 of the net capital accounts located in or used in this~~
31 ~~state at the end of the preceding taxable year as required to be reported~~
32 ~~on the federal partnership return of income, or for a one-member LLC~~
33 ~~taxed as a sole proprietorship, \$2 for each \$1,000 of net book value of the~~
34 ~~LLC as calculated on an income tax basis located in or used in this state~~
35 ~~at the end of the preceding taxable year, except that no annual tax shall~~
36 ~~be less than \$40 or more than \$5,000. The amount of any such franchise~~
37 ~~tax paid by the limited liability company to the secretary as provided by~~
38 ~~this subsection shall not be disclosed by the secretary not to exceed \$40.~~

39 (d) The provisions of K.S.A. 17-7509, and amendments thereto, re-
40 lating to penalties for failure of a corporation to file an annual report or
41 pay the required franchise ~~tax~~ fee, and the provisions of subsection (a) of
42 K.S.A. 17-7510 and amendments thereto, relating to penalties for failure
43 of a corporation to file an annual report or pay the required franchise ~~tax~~

1 *fee*, shall be applicable to the articles of organization of any domestic
2 limited liability company or to the authority of any foreign limited liability
3 company which fails to file its annual report or pay the franchise ~~tax~~ *fee*
4 within 90 days of the time prescribed in this section for filing and paying
5 the same. Whenever the articles of organization of a domestic limited
6 liability company or the authority of any foreign limited liability company
7 are forfeited for failure to file an annual report or to pay the required
8 franchise ~~tax~~ *fee*, the domestic limited liability company or the authority
9 of a foreign limited liability company may be reinstated by filing a certifi-
10 cate of reinstatement, in the manner and form to be prescribed by the
11 secretary of state and paying to the secretary of state all fees ~~and taxes~~,
12 including any penalties thereon, due to the state. The fee for filing a
13 certificate of reinstatement shall be the same as that prescribed by K.S.A.
14 17-7506, and amendments thereto, for filing a certificate of extension,
15 restoration, renewal or revival of a corporation's articles of incorporation.

16 (e) When reinstatement is effective, it relates back to and takes effect
17 as of the effective date of the forfeiture and the company may resume its
18 business as if the forfeiture had never occurred.

19 (f) No limited liability company shall be required to file its first annual
20 report under this act, or pay any annual franchise ~~tax~~ *fee* required to
21 accompany such report, unless such limited liability company has filed its
22 articles of organization or application for authority at least six months prior
23 to the last day of its tax period. ~~If any limited liability company files with~~
24 ~~the secretary of state a notice of change in its tax period and the next~~
25 ~~annual report filed by such limited liability company subsequent to such~~
26 ~~notice is based on a tax period of less than 12 months, the annual tax~~
27 ~~liability shall be determined by multiplying the annual franchise tax li-~~
28 ~~ability for such year by a fraction, the numerator of which is the number~~
29 ~~of months or any portion thereof covered by the annual report and the~~
30 ~~denominator of which is 12, except that the tax shall not be less than \$40.~~

31 Sec. 17. K.S.A. 2002 Supp. 40-5008 is hereby amended to read as
32 follows: 40-5008. (a) With each application for a viatical settlement, a
33 viatical settlement provider or viatical settlement broker shall provide the
34 viator with at least the following disclosures no later than the time the
35 application for the viatical settlement contract is signed by all parties. The
36 disclosures shall be provided in a separate document that is signed by the
37 viator and the viatical settlement provider or viatical settlement broker,
38 and shall provide the following information:

39 (1) There are possible alternatives to viatical settlement contracts in-
40 cluding any accelerated death benefits or policy loans offered under the
41 viator's life insurance policy.

42 (2) Some or all of the proceeds of the viatical settlement may be
43 taxable under federal income tax and state franchise, *occupation* and in-

1 come taxes, and assistance should be sought from a professional tax
2 advisor.

3 (3) Proceeds of the viatical settlement could be subject to the claims
4 of creditors.

5 (4) Receipt of the proceeds of a viatical settlement may adversely
6 affect the viator's eligibility for medicaid or other government benefits or
7 entitlements, and advice should be obtained from the appropriate gov-
8 ernment agencies.

9 (5) The viator has the right to rescind a viatical settlement contract
10 for 15 calendar days after the receipt of the viatical settlement proceeds
11 by the viator, as provided in subsection (c) of K.S.A. 2002 Supp. 40-5009,
12 and amendments thereto. If the insured dies during the rescission period,
13 the settlement contract shall be deemed to have been rescinded, subject
14 to repayment of all viatical settlement proceeds and any premiums, loans
15 and loan interest to the viatical settlement provider or purchaser.

16 (6) Funds will be sent to the viator within three business days after
17 the viatical settlement provider has received the insurer or group admin-
18 istrator's acknowledgment that ownership of the policy or interest in the
19 certificate has been transferred and the beneficiary has been designated.

20 (7) Entering into a viatical settlement contract may cause other rights
21 or benefits, including conversion rights and waiver of premium benefits
22 that may exist under the policy or certificate, to be forfeited by the viator.
23 Assistance should be sought from a financial adviser.

24 (8) Disclosure to a viator shall include distribution of a brochure de-
25 scribing the process of viatical settlements. The form for the brochure
26 shall be developed by the commissioner.

27 (9) The disclosure document shall contain the following language:
28 "All medical, financial or personal information solicited or obtained by a
29 viatical settlement provider or viatical settlement broker about an insured,
30 including the insured's identity or the identity of family members, a
31 spouse or a significant other may be disclosed as necessary to effect the
32 viatical settlement between the viator and the viatical settlement provider.
33 If you are asked to provide this information, you will be asked to consent
34 to the disclosure. The information may be provided to someone who buys
35 the policy or provides funds for the purchase. You may be asked to renew
36 your permission to share information every two years."

37 (10) The insured may be contacted by either the viatical settlement
38 provider or viatical settlement broker or such viatical settlement pro-
39 vider's or viatical settlement broker's authorized representative for the
40 purpose of determining the insured's health status. This contact is limited
41 to once every three months if the insured has a life expectancy of more
42 than one year, and no more than once per month if the insured has a life
43 expectancy of one year or less.

1 (b) A viatical settlement provider shall provide the viator with at least
2 the following disclosures no later than the date the viatical settlement
3 contract is signed by all parties. The disclosures shall be conspicuously
4 displayed in the viatical settlement contract or in a separate document
5 signed by the viator and the viatical settlement provider or viatical settle-
6 ment broker, and contain the following information:

7 (1) The affiliation, if any, between the viatical settlement provider
8 and the issuer of the insurance policy to be viaticated.

9 (2) The name, address and telephone number of the viatical settle-
10 ment provider.

11 (3) A viatical settlement broker shall disclose to a prospective viator
12 the amount and method of calculating the broker's compensation. The
13 term "compensation" includes anything of value paid or given to a viatical
14 settlement broker for the placement of a policy.

15 (4) If an insurance policy to be viaticated has been issued as a joint
16 policy or involves family riders or any coverage of a life other than the
17 insured under the policy to be viaticated, the viator shall be informed of
18 the possible loss of coverage on the other lives under the policy and shall
19 be advised to consult with such viator's insurance producer or the insurer
20 issuing the policy for advice on the proposed viatical settlement.

21 (5) State the dollar amount of the current death benefit payable to
22 the viatical settlement provider under the policy or certificate. If known,
23 the viatical settlement provider shall also disclose the availability of any
24 additional guaranteed insurance benefits, the dollar amount of any acci-
25 dental death and dismemberment benefits under the policy or certificate
26 and the viatical settlement provider's interest in those benefits.

27 (6) State the name, business address and telephone number of the
28 independent third party escrow agent, and the fact that the viator or
29 owner may inspect or receive copies of the relevant escrow or trust agree-
30 ments or documents.

31 Sec. 18. K.S.A. 2002 Supp. 45-221 is hereby amended to read as
32 follows: 45-221. (a) Except to the extent disclosure is otherwise required
33 by law, a public agency shall not be required to disclose:

34 (1) Records the disclosure of which is specifically prohibited or re-
35 stricted by federal law, state statute or rule of the Kansas supreme court
36 or the disclosure of which is prohibited or restricted pursuant to specific
37 authorization of federal law, state statute or rule of the Kansas supreme
38 court to restrict or prohibit disclosure.

39 (2) Records which are privileged under the rules of evidence, unless
40 the holder of the privilege consents to the disclosure.

41 (3) Medical, psychiatric, psychological or alcoholism or drug depend-
42 ency treatment records which pertain to identifiable patients.

43 (4) Personnel records, performance ratings or individually identifia-

1 ble records pertaining to employees or applicants for employment, except
2 that this exemption shall not apply to the names, positions, salaries and
3 lengths of service of officers and employees of public agencies once they
4 are employed as such.

5 (5) Information which would reveal the identity of any undercover
6 agent or any informant reporting a specific violation of law.

7 (6) Letters of reference or recommendation pertaining to the char-
8 acter or qualifications of an identifiable individual.

9 (7) Library, archive and museum materials contributed by private
10 persons, to the extent of any limitations imposed as conditions of the
11 contribution.

12 (8) Information which would reveal the identity of an individual who
13 lawfully makes a donation to a public agency, if anonymity of the donor
14 is a condition of the donation.

15 (9) Testing and examination materials, before the test or examination
16 is given or if it is to be given again, or records of individual test or ex-
17 amination scores, other than records which show only passage or failure
18 and not specific scores.

19 (10) Criminal investigation records, except that the district court, in
20 an action brought pursuant to K.S.A. 45-222, and amendments thereto,
21 may order disclosure of such records, subject to such conditions as the
22 court may impose, if the court finds that disclosure:

23 (A) Is in the public interest;

24 (B) would not interfere with any prospective law enforcement action;

25 (C) would not reveal the identity of any confidential source or un-
26 dercover agent;

27 (D) would not reveal confidential investigative techniques or proce-
28 dures not known to the general public;

29 (E) would not endanger the life or physical safety of any person; and

30 (F) would not reveal the name, address, phone number or any other
31 information which specifically and individually identifies the victim of any
32 sexual offense in article 35 of chapter 21 of the Kansas Statutes Anno-
33 tated, and amendments thereto.

34 (11) Records of agencies involved in administrative adjudication or
35 civil litigation, compiled in the process of detecting or investigating vio-
36 lations of civil law or administrative rules and regulations, if disclosure
37 would interfere with a prospective administrative adjudication or civil
38 litigation or reveal the identity of a confidential source or undercover
39 agent.

40 (12) Records of emergency or security information or procedures of
41 a public agency, or plans, drawings, specifications or related information
42 for any building or facility which is used for purposes requiring security
43 measures in or around the building or facility or which is used for the

1 generation or transmission of power, water, fuels or communications, if
2 disclosure would jeopardize security of the public agency, building or
3 facility.

4 (13) The contents of appraisals or engineering or feasibility estimates
5 or evaluations made by or for a public agency relative to the acquisition
6 of property, prior to the award of formal contracts therefor.

7 (14) Correspondence between a public agency and a private individ-
8 ual, other than correspondence which is intended to give notice of an
9 action, policy or determination relating to any regulatory, supervisory or
10 enforcement responsibility of the public agency or which is widely dis-
11 tributed to the public by a public agency and is not specifically in response
12 to communications from such a private individual.

13 (15) Records pertaining to employer-employee negotiations, if dis-
14 closure would reveal information discussed in a lawful executive session
15 under K.S.A. 75-4319, and amendments thereto.

16 (16) Software programs for electronic data processing and documen-
17 tation thereof, but each public agency shall maintain a register, open to
18 the public, that describes:

19 (A) The information which the agency maintains on computer facil-
20 ities; and

21 (B) the form in which the information can be made available using
22 existing computer programs.

23 (17) Applications, financial statements and other information sub-
24 mitted in connection with applications for student financial assistance
25 where financial need is a consideration for the award.

26 (18) Plans, designs, drawings or specifications which are prepared by
27 a person other than an employee of a public agency or records which are
28 the property of a private person.

29 (19) Well samples, logs or surveys which the state corporation com-
30 mission requires to be filed by persons who have drilled or caused to be
31 drilled, or are drilling or causing to be drilled, holes for the purpose of
32 discovery or production of oil or gas, to the extent that disclosure is limited
33 by rules and regulations of the state corporation commission.

34 (20) Notes, preliminary drafts, research data in the process of anal-
35 ysis, unfunded grant proposals, memoranda, recommendations or other
36 records in which opinions are expressed or policies or actions are pro-
37 posed, except that this exemption shall not apply when such records are
38 publicly cited or identified in an open meeting or in an agenda of an open
39 meeting.

40 (21) Records of a public agency having legislative powers, which re-
41 cords pertain to proposed legislation or amendments to proposed legis-
42 lation, except that this exemption shall not apply when such records are:

43 (A) Publicly cited or identified in an open meeting or in an agenda

1 of an open meeting; or

2 (B) distributed to a majority of a quorum of any body which has au-
3 thority to take action or make recommendations to the public agency with
4 regard to the matters to which such records pertain.

5 (22) Records of a public agency having legislative powers, which re-
6 cords pertain to research prepared for one or more members of such
7 agency, except that this exemption shall not apply when such records are:

8 (A) Publicly cited or identified in an open meeting or in an agenda
9 of an open meeting; or

10 (B) distributed to a majority of a quorum of any body which has au-
11 thority to take action or make recommendations to the public agency with
12 regard to the matters to which such records pertain.

13 (23) Library patron and circulation records which pertain to identi-
14 fiable individuals.

15 (24) Records which are compiled for census or research purposes and
16 which pertain to identifiable individuals.

17 (25) Records which represent and constitute the work product of an
18 attorney.

19 (26) Records of a utility or other public service pertaining to individ-
20 ually identifiable residential customers of the utility or service, except that
21 information concerning billings for specific individual customers named
22 by the requester shall be subject to disclosure as provided by this act.

23 (27) Specifications for competitive bidding, until the specifications
24 are officially approved by the public agency.

25 (28) Sealed bids and related documents, until a bid is accepted or all
26 bids rejected.

27 (29) Correctional records pertaining to an identifiable inmate or re-
28 lease, except that:

29 (A) The name; photograph and other identifying information; sen-
30 tence data; parole eligibility date; custody or supervision level; disciplinary
31 record; supervision violations; conditions of supervision, excluding
32 requirements pertaining to mental health or substance abuse counseling;
33 location of facility where incarcerated or location of parole office main-
34 taining supervision and address of a releasee whose crime was committed
35 after the effective date of this act shall be subject to disclosure to any
36 person other than another inmate or releasee, except that the disclosure
37 of the location of an inmate transferred to another state pursuant to the
38 interstate corrections compact shall be at the discretion of the secretary
39 of corrections;

40 (B) the ombudsman of corrections, the attorney general, law enforce-
41 ment agencies, counsel for the inmate to whom the record pertains and
42 any county or district attorney shall have access to correctional records to
43 the extent otherwise permitted by law;

1 (C) the information provided to the law enforcement agency pursu-
2 ant to the sex offender registration act, K.S.A. 22-4901, *et seq.*, and
3 amendments thereto, shall be subject to disclosure to any person, except
4 that the name, address, telephone number or any other information which
5 specifically and individually identifies the victim of any offender required
6 to register as provided by the Kansas offender registration act, K.S.A. 22-
7 4901 *et seq.* and amendments thereto, shall not be disclosed; and

8 (D) records of the department of corrections regarding the financial
9 assets of an offender in the custody of the secretary of corrections shall
10 be subject to disclosure to the victim, or such victim's family, of the crime
11 for which the inmate is in custody as set forth in an order of restitution
12 by the sentencing court.

13 (30) Public records containing information of a personal nature
14 where the public disclosure thereof would constitute a clearly unwar-
15 ranted invasion of personal privacy.

16 (31) Public records pertaining to prospective location of a business
17 or industry where no previous public disclosure has been made of the
18 business' or industry's interest in locating in, relocating within or expand-
19 ing within the state. This exception shall not include those records per-
20 taining to application of agencies for permits or licenses necessary to do
21 business or to expand business operations within this state, except as
22 otherwise provided by law.

23 (32) Engineering and architectural estimates made by or for any pub-
24 lic agency relative to public improvements.

25 (33) Financial information submitted by contractors in qualification
26 statements to any public agency.

27 (34) Records involved in the obtaining and processing of intellectual
28 property rights that are expected to be, wholly or partially vested in or
29 owned by a state educational institution, as defined in K.S.A. 76-711, and
30 amendments thereto, or an assignee of the institution organized and ex-
31 isting for the benefit of the institution.

32 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
33 65-4923 or 65-4924, and amendments thereto, and which is privileged
34 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

35 (36) Information which would reveal the precise location of an ar-
36 cheological site.

37 (37) Any financial data or traffic information from a railroad company,
38 to a public agency, concerning the sale, lease or rehabilitation of the
39 railroad's property in Kansas.

40 (38) Risk-based capital reports, risk-based capital plans and corrective
41 orders including the working papers and the results of any analysis filed
42 with the commissioner of insurance in accordance with K.S.A. 40-2c20
43 and 40-2d20 and amendments thereto.

1 (39) Memoranda and related materials required to be used to support
2 the annual actuarial opinions submitted pursuant to subsection (b) of
3 K.S.A. 40-409, and amendments thereto.

4 (40) Disclosure reports filed with the commissioner of insurance un-
5 der subsection (a) of K.S.A. 40-2,156, and amendments thereto.

6 (41) All financial analysis ratios and examination synopses concerning
7 insurance companies that are submitted to the commissioner by the na-
8 tional association of insurance commissioners' insurance regulatory infor-
9 mation system.

10 (42) Any records the disclosure of which is restricted or prohibited
11 by a tribal-state gaming compact.

12 (43) Market research, market plans, business plans and the terms and
13 conditions of managed care or other third party contracts, developed or
14 entered into by the university of Kansas medical center in the operation
15 and management of the university hospital which the chancellor of the
16 university of Kansas or the chancellor's designee determines would give
17 an unfair advantage to competitors of the university of Kansas medical
18 center.

19 (44) The amount of franchise tax *or occupation tax* paid to the sec-
20 retary of state *or the secretary of revenue* by domestic corporations, for-
21 eign corporations, domestic limited liability companies, foreign limited
22 liability companies, domestic limited partnership, foreign limited part-
23 nership, domestic limited liability partnerships and foreign limited liabil-
24 ity partnerships.

25 (45) Records the disclosure of which would pose a substantial likeli-
26 hood of revealing security measures that protect: (A) Systems, facilities
27 or equipment used in the production, transmission or distribution of en-
28 ergy, water or communications services; or (B) sewer or wastewater treat-
29 ment systems, facilities or equipment. For purposes of this paragraph,
30 security means measures that protect against criminal acts intended to
31 intimidate or coerce the civilian population, influence government policy
32 by intimidation or coercion or to affect the operation of government by
33 disruption of public services, mass destruction, assassination or
34 kidnapping.

35 (b) Except to the extent disclosure is otherwise required by law or as
36 appropriate during the course of an administrative proceeding or on ap-
37 peal from agency action, a public agency or officer shall not disclose fi-
38 nancial information of a taxpayer which may be required or requested by
39 a county appraiser or the director of property valuation to assist in the
40 determination of the value of the taxpayer's property for ad valorem tax-
41 ation purposes; or any financial information of a personal nature required
42 or requested by a public agency or officer, including a name, job descrip-
43 tion or title revealing the salary or other compensation of officers, em-

1 ployees or applicants for employment with a firm, corporation or agency,
2 except a public agency. Nothing contained herein shall be construed to
3 prohibit the publication of statistics, so classified as to prevent identifi-
4 cation of particular reports or returns and the items thereof.

5 (c) As used in this section, the term “cited or identified” shall not
6 include a request to an employee of a public agency that a document be
7 prepared.

8 (d) If a public record contains material which is not subject to dis-
9 closure pursuant to this act, the public agency shall separate or delete
10 such material and make available to the requester that material in the
11 public record which is subject to disclosure pursuant to this act. If a public
12 record is not subject to disclosure because it pertains to an identifiable
13 individual, the public agency shall delete the identifying portions of the
14 record and make available to the requester any remaining portions which
15 are subject to disclosure pursuant to this act, unless the request is for a
16 record pertaining to a specific individual or to such a limited group of
17 individuals that the individuals’ identities are reasonably ascertainable, the
18 public agency shall not be required to disclose those portions of the record
19 which pertain to such individual or individuals.

20 (e) The provisions of this section shall not be construed to exempt
21 from public disclosure statistical information not descriptive of any iden-
22 tifiable person.

23 (f) Notwithstanding the provisions of subsection (a), any public rec-
24 ord which has been in existence more than 70 years shall be open for
25 inspection by any person unless disclosure of the record is specifically
26 prohibited or restricted by federal law, state statute or rule of the Kansas
27 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
28 amendments thereto.

29 Sec. 19. K.S.A. 2002 Supp. 56-1a606 is hereby amended to read as
30 follows: 56-1a606. (a) Every limited partnership organized under the laws
31 of this state shall make an annual report in writing to the secretary of
32 state, stating the prescribed information concerning the limited partner-
33 ship at the close of business on the last day of its tax period next preceding
34 the date of filing. If the limited partnership’s tax period is other than the
35 calendar year, it shall give notice of its different tax period to the secretary
36 of state prior to December 31 of the year it commences the different tax
37 period. The annual report shall be filed at the time prescribed by law for
38 filing the limited partnership’s annual Kansas income tax return. If the
39 limited partnership applies for an extension of time for filing its annual
40 income tax return under the internal revenue code or under K.S.A. 79-
41 3221 and amendments thereto, the limited partnership shall also apply,
42 not more than 90 days after the due date of its annual report, to the
43 secretary of state for an extension of the time for filing its report and an

1 extension shall be granted for a period of time corresponding to that
2 granted under the internal revenue code or K.S.A. 79-3221 and amend-
3 ments thereto. The application shall include a copy of the application to
4 income tax authorities.

5 (b) The annual report shall be made on a form prescribed by the
6 secretary of state. The report shall contain the following information:

7 (1) The name of the limited partnership; and

8 (2) a list of the partners owning at least 5% of the capital of the
9 partnership, with the post office address of each.

10 (c) Every limited partnership subject to the provisions of this section
11 which is a limited corporate partnership, as defined in K.S.A. 17-5903
12 and amendments thereto, and which holds agricultural land, as defined
13 in K.S.A. 17-5903 and amendments thereto, within this state shall show
14 the following additional information on the report:

15 (1) The number of acres and location, listed by section, range, town-
16 ship and county of each lot, tract or parcel of agricultural land in this state
17 owned or leased by the limited partnership; and

18 (2) whether any of the agricultural land held and reported under sub-
19 section (c)(1) was acquired after July 1, 1981.

20 (d) The annual report shall be signed by the general partner or part-
21 ners of the limited partnership, sworn to before an officer duly authorized
22 to administer oaths and forwarded to the secretary of state. At the time
23 of filing the report, the limited partnership shall pay to the secretary of
24 state an annual franchise ~~tax fee~~ in an amount equal to ~~\$2~~ for each ~~\$1,000~~
25 ~~of the partners' net capital accounts located in or used in this state at the~~
26 ~~end of the preceding taxable year as required to be reported on the fed-~~
27 ~~eral partnership return of income, except that no annual tax shall be less~~
28 ~~than \$40 or more than \$5,000. The amount of any such franchise tax paid~~
29 ~~by the limited partnership to the secretary as provided by this subsection~~
30 ~~shall not be disclosed by the secretary not to exceed \$40.~~

31 (e) The provisions of K.S.A. 17-7509 and amendments thereto, re-
32 lating to penalties for failure of a corporation to file an annual report or
33 pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of
34 K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a do-
35 mestic corporation's articles of incorporation for failure to file an annual
36 report or pay the required franchise ~~tax fee~~, shall be applicable to the
37 certificate of partnership of any limited partnership which fails to file its
38 annual report or pay the franchise ~~tax fee~~ within 90 days of the time
39 prescribed in this section for filing and paying the same. Whenever the
40 certificate of partnership of a limited partnership is forfeited for failure
41 to file an annual report or to pay the required franchise ~~tax fee~~, the limited
42 partnership may be reinstated by filing a certificate of reinstatement, in
43 the manner and form to be prescribed by the secretary of state and paying

1 to the secretary of state all fees ~~and taxes~~, including any penalties thereon,
2 due to the state. The fee for filing a certificate of reinstatement shall be
3 the same as that prescribed by K.S.A. 17-7506 and amendments thereto
4 for filing a certificate of extension, restoration, renewal or revival of a
5 corporation's articles of incorporation.

6 Sec. 20. K.S.A. 2002 Supp. 56-1a607 is hereby amended to read as
7 follows: 56-1a607. (a) Every foreign limited partnership shall make an
8 annual report in writing to the secretary of state, stating the prescribed
9 information concerning the limited partnership at the close of business
10 on the last day of its tax period next preceding the date of filing. If the
11 limited partnership's tax period is other than the calendar year, it shall
12 give notice of its different tax period to the secretary of state prior to
13 December 31 of the year it commences the different tax period. The
14 annual report shall be filed at the time prescribed by law for filing the
15 limited partnership's annual Kansas income tax return. If the limited part-
16 nership applies for an extension of time for filing its annual income tax
17 return under the internal revenue code or under K.S.A. 79-3221 and
18 amendments thereto, the limited partnership shall also apply, not more
19 than 90 days after the due date of its annual report, to the secretary of
20 state for an extension of the time for filing its report and an extension
21 shall be granted for a period of time corresponding to that granted under
22 the internal revenue code or K.S.A. 79-3221 and amendments thereto.
23 The application shall include a copy of the application to income tax
24 authorities.

25 (b) The annual report shall be made on a form prescribed by the
26 secretary of state. The report shall contain the name of the limited
27 partnership.

28 (c) Every foreign limited partnership subject to the provisions of this
29 section which is a limited corporate partnership, as defined in K.S.A. 17-
30 5903 and amendments thereto, and which holds agricultural land, as de-
31 fined in K.S.A. 17-5903 and amendments thereto, within this state shall
32 show the following additional information on the report:

33 (1) The number of acres and location, listed by section, range, town-
34 ship and county of agricultural land in this state owned or leased by the
35 limited partnership; and

36 (2) whether any of the agricultural land held and reported under sub-
37 section (c)(1) was acquired after July 1, 1981.

38 (d) The annual report shall be signed by the general partner or part-
39 ners of the limited partnership, sworn to before an officer duly authorized
40 to administer oaths and forwarded to the secretary of state. At the time
41 of filing the report, the foreign limited partnership shall pay to the sec-
42 retary of state an annual franchise ~~tax fee~~ in an amount equal to ~~\$2~~ for
43 each ~~\$1,000~~ of the partners' net capital accounts located in or used in this

1 state at the end of the preceding taxable year as required to be reported
2 on the federal partnership return of income, except that no annual tax
3 shall be less than \$40 or more than \$5,000. The amount of any such
4 franchise tax paid by the limited partnership to the secretary as provided
5 by this subsection shall not be disclosed by the secretary *not to exceed*
6 \$40.

7 (e) The provisions of K.S.A. 17-7509 and amendments thereto, re-
8 lating to penalties for failure of a corporation to file an annual report or
9 pay the required franchise ~~tax~~ *fee*, and the provisions of subsection (b) of
10 K.S.A. 17-7510 and amendments thereto, relating to forfeiture of a for-
11 eign corporation's authority to do business in this state for failure to file
12 an annual report or pay the required franchise ~~tax~~ *fee*, shall be applicable
13 to the authority of any foreign limited partnership which fails to file its
14 annual report or pay the franchise ~~tax~~ *fee* within 90 days of the time
15 prescribed in this section for filing and paying the same. Whenever the
16 authority of a foreign limited partnership to do business in this state is
17 forfeited for failure to file an annual report or to pay the required fran-
18 chise ~~tax~~ *fee*, the foreign limited partnership's authority to do business in
19 this state may be reinstated by filing a certificate of reinstatement, in the
20 manner and form to be prescribed by the secretary of state and paying
21 to the secretary of state all fees ~~and taxes~~, including any penalties thereon,
22 due to the state. The fee for filing a certificate of reinstatement shall be
23 the same as that prescribed by K.S.A. 17-7506 and amendments thereto
24 for filing a certificate of extension, restoration, renewal or revival of a
25 corporation's articles of incorporation.

26 Sec. 21. K.S.A. 56-1a608 is hereby amended to read as follows: 56-
27 1a608. No limited partnership shall be required to file its first annual
28 report under this act, or pay any annual franchise ~~tax~~ *fee* required to
29 accompany such report, unless such limited partnership has filed its cer-
30 tificate of limited partnership or certificate of good standing at least six
31 months prior to the last day of its tax period. ~~If any limited partnership~~
32 ~~files with the secretary of state a notice of change in its tax period and~~
33 ~~the next annual report filed by such limited partnership subsequent to~~
34 ~~such notice is based on a tax period of less than 12 months, there shall~~
35 ~~be no reduction or proration of the annual tax required to accompany~~
36 ~~such report.~~

37 Sec. 22. K.S.A. 2002 Supp. 56a-1201 is hereby amended to read as
38 follows: 56a-1201. (a) Every limited liability partnership organized under
39 the laws of this state shall make an annual report in writing to the secretary
40 of state, stating the prescribed information concerning the limited liability
41 partnership at the close of business on the last day of its tax period next
42 preceding the date of filing. If the limited liability partnership's tax period
43 is other than the calendar year, it shall give notice of its different tax

1 period in writing to the secretary of state prior to December 31 of the
2 year it commences the different tax period. The annual report shall be
3 filed at the time prescribed by law for filing the limited liability partner-
4 ship's annual Kansas income tax return. If the limited liability partnership
5 applies for an extension of time for filing its annual income tax return
6 under the internal revenue code, the limited liability partnership shall
7 also apply, not more than 90 days after the due date of its annual report,
8 to the secretary of state for an extension of the time for filing its report
9 and an extension shall be granted for a period of time corresponding to
10 that granted under the internal revenue code. The application shall in-
11 clude a copy of the application to income tax authorities.

12 (b) The annual report shall be made on a form prescribed by the
13 secretary of state. The report shall contain the following information:

14 (1) The name of the limited liability partnership; and

15 (2) a list of the partners owning at least 5% of the capital of the
16 partnership, with the post office address of each.

17 (c) The annual report shall be signed by a partner of the limited
18 liability partnership and forwarded to the secretary of state. At the time
19 of filing the report, the limited liability partnership shall pay to the sec-
20 retary of state an annual franchise ~~tax fee~~ in an amount equal to ~~\$2 for~~
21 ~~each \$1,000 of the net capital accounts located in or used in this state at~~
22 ~~the end of the preceding taxable year as required to be reported on the~~
23 ~~federal partnership return of income, except that no annual tax shall be~~
24 ~~less than \$40 or more than \$5,000. The amount of any such franchise tax~~
25 ~~paid by the limited liability partnership to the secretary as provided by~~
26 ~~this subsection shall not be disclosed by the secretary not to exceed \$40.~~

27 (d) The provisions of K.S.A. 17-7509, and amendments thereto, re-
28 lating to penalties for failure of a corporation to file an annual report or
29 pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of
30 K.S.A. 17-7510 and amendments thereto, relating to penalties for failure
31 of a corporation to file an annual report or pay the required franchise ~~tax~~
32 ~~fee~~, shall be applicable to the statement of qualification of any limited
33 liability partnership which fails to file its annual report or pay the franchise
34 ~~tax fee~~ within 90 days of the time prescribed in this section for filing and
35 paying the same. Whenever the statement of qualification of a limited
36 liability partnership is forfeited for failure to file an annual report or to
37 pay the required franchise ~~tax fee~~, the limited liability partnership may
38 be reinstated by filing a certificate of reinstatement, in the manner and
39 form to be prescribed by the secretary of state and paying to the secretary
40 of state all fees ~~and taxes~~, including any penalties thereon, due to the
41 state. The fee for filing a certificate of reinstatement shall be the same as
42 that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a
43 certificate of extension, restoration, renewal or revival of a corporation's

1 articles of incorporation.

2 Sec. 23. K.S.A. 2002 Supp. 56a-1202 is hereby amended to read as
3 follows: 56a-1202. (a) Every foreign limited liability partnership shall
4 make an annual report in writing to the secretary of state, stating the
5 prescribed information concerning the foreign limited liability partner-
6 ship at the close of business on the last day of its tax period next preceding
7 the date of filing. If the foreign limited liability partnership's tax period
8 is other than the calendar year, it shall give notice in writing of its different
9 tax period to the secretary of state prior to December 31 of the year it
10 commences the different tax period. The annual report shall be filed at
11 the time prescribed by law for filing the foreign limited liability partner-
12 ship's annual Kansas income tax return. If the foreign limited liability
13 partnership applies for an extension of time for filing its annual income
14 tax return under the internal revenue code, the foreign limited liability
15 partnership shall also apply, not more than 90 days after the due date of
16 its annual report, to the secretary of state for an extension of the time for
17 filing its report and an extension shall be granted for a period of time
18 corresponding to that granted under the internal revenue code. The ap-
19 plication shall include a copy of the application to income tax authorities.

20 (b) The annual report shall be made on a form prescribed by the
21 secretary of state. The report shall contain the name of the foreign limited
22 liability partnership.

23 (c) The annual report shall be signed by a partner of the foreign
24 limited liability partnership and forwarded to the secretary of state. At
25 the time of filing the report, the foreign limited liability partnership shall
26 pay to the secretary of state an annual franchise ~~tax fee~~ in an amount equal
27 to \$2 for each \$1,000 of the net capital accounts located in or used in this
28 state at the end of the preceding taxable year as required to be reported
29 on the federal partnership return of income, except that no annual tax
30 shall be less than \$40 or more than \$5,000. The amount of any such
31 franchise tax paid by the foreign limited liability partnership to the sec-
32 retary as provided by this subsection shall not be disclosed by the secre-
33 tary not to exceed \$40.

34 (d) The provisions of K.S.A. 17-7509, and amendments thereto, re-
35 lating to penalties for failure of a corporation to file an annual report or
36 pay the required franchise ~~tax fee~~, and the provisions of subsection (a) of
37 K.S.A. 17-7510, and amendments thereto, relating to penalties for failure
38 of a corporation to file an annual report or pay the required franchise ~~tax~~
39 ~~fee~~, shall be applicable to the statement of foreign qualification of any
40 foreign limited liability partnership which fails to file its annual report or
41 pay the franchise ~~tax fee~~ within 90 days of the time prescribed in this
42 section for filing and paying the same. Whenever the statement of foreign
43 qualification of a foreign limited liability partnership is forfeited for failure

1 to file an annual report or to pay the required franchise ~~tax~~ *fee*, the state-
2 ment of foreign qualification of the foreign limited liability partnership
3 may be reinstated by filing a certificate of reinstatement, in the manner
4 and form to be prescribed by the secretary of state and paying to the
5 secretary of state all fees ~~and taxes~~, including any penalties thereon, due
6 to the state. The fee for filing a certificate of reinstatement shall be the
7 same as that prescribed by K.S.A. 17-7506, and amendments thereto, for
8 filing a certificate of extension, restoration, renewal or revival of a cor-
9 poration's articles of incorporation.

10 Sec. 24. K.S.A. 2002 Supp. 56a-1203 is hereby amended to read as
11 follows: 56a-1203. No limited liability partnership or foreign limited li-
12 ability partnership shall be required to file its first annual report under this
13 act, or pay any annual franchise ~~tax~~ *fee* required to accompany such report,
14 unless such partnership has filed its statement of qualification or foreign
15 qualification at least six months prior to the last day of its tax period. ~~If~~
16 ~~any such partnership files with the secretary of state a notice of change~~
17 ~~in its tax period and the next annual report filed by such partnership~~
18 ~~subsequent to such notice is based on a tax period of less than 12 months,~~
19 ~~the annual tax liability shall be determined by multiplying the annual~~
20 ~~franchise tax liability for such year by a fraction, the numerator of which~~
21 ~~is the number of months or any portion thereof covered by the annual~~
22 ~~report and the denominator of which is 12, except that the tax shall not~~
23 ~~be less than \$40.~~

24 New Sec. 25. (a) There is hereby created the franchise fee fund in
25 the state treasury. The secretary of state shall remit all moneys received
26 from franchise fees, to the state treasurer in accordance with the provi-
27 sions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each
28 such remittance, the state treasurer shall deposit the entire amount in the
29 state treasury to the credit of the franchise fee fund.

30 (b) All expenditures from the franchise fee fund shall be in accord-
31 ance with appropriations acts upon warrants of the director of accounts
32 and reports issued pursuant to vouchers approved by the secretary of state
33 or by a person or persons designated by the secretary.

34 Sec. 26. K.S.A. 17-1513, 17-1618, 17-7510, 17-7511, 17-7512 and 56-
35 1a608 and K.S.A. 2002 Supp. 17-2036, 17-2718, 17-4634, 17-7503, 17-
36 7504, 17-7505, 17-7507, 17-7508, 17-7509, 17-76,125, 17-76,139, 40-
37 5008, 45-221, 56-1a606, 56-1a607, 56a-1201, 56a-1202 and 56a-1203 are
38 hereby repealed.

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

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