

Journal of the Senate

FIFTY-FIFTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, April 25, 2012, 10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with thirty-nine senators present.
Senator Steineger was excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

Wrap-up time is Show-down time,
And results will be coming in.
It's when we find who loses,
And when we find who wins.

Of course, the problem is, O God
When both sides think they're right....
Animosity tends to smolder
And continue day and night.

I pray for both sides, Lord, today;
The losers and the winners.
All the winners are not angels,
And not all the losers sinners.

I pray that what the winners win
Won't be as bad as the losers think;
And what the losers lose
Is better than the winners think.

The poet Perry Gresham penned this verse:
"Truth crushed to earth will rise again,
The eternal years of God are hers;
But, error, wounded, writhes in pain
And dies amidst her worshippers."

And Longfellow's 4th stanza of a hymn expresses it well:
"Then pealed the bells more loud and deep,
God is not dead, nor doth He sleep.
The wrong shall fail, the right prevail

With peace on earth, good will to men.”
I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

POINT OF PERSONAL PRIVILEGE

Senator Morris rose on a Point of Personal Privilege to introduce his daughter, Stephanie Heger, grandson, Gavin Heger and his friend, Samuel Fabela who were paging in the Capitol.

Senator Donovan rose on a Point of Personal Privilege to introduce Bekah Henderson, her mother, Cathy Henderson, Matthew Weems, his mother, Leanne Weems, Beau Renyer, and Justin White who were all in attendance in support of the Special Olympians.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 469, AN ACT concerning confidentiality of health information; amending K.S.A. 2011 Supp. 65-6828 and repealing the existing section, by Committee on **Ways and Means**.

SB 470, AN ACT concerning congressional districts; providing for the redistricting thereof; repealing K.S.A. 2011 Supp. 4-136, 4-137, 4-138, 4-139, 4-140, 4-141 and 4-142, by Committee on **Ways and Means**.

SB 471, AN ACT concerning state board of education member districts; providing for the redistricting thereof; repealing K.S.A. 2011 Supp. 4-514, 4-515, 4-516, 4-517, 4-518, 4-519, 4-520, 4-521, 4-522, 4-523, 4-524 and 4-525, by Committee on **Ways and Means**.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **HB 2572**, **HB 2694**.

MESSAGES FROM THE GOVERNOR

SB 310 approved on March 30, 2012.

H Sub for Sub SB 159; SB 320, SB 322, SB 330, SB 366, SB 403, SB 417, SB 422 approved on April 3, 2012.

House Sub for SB 74; SB 301, SB 303, SB 387; Sub for SB 397; SB 424 approved on April 6, 2012.

March 30, 2012

To the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as

the Governor of the State of Kansas, pursuant to law.
Sam Brownback
Governor

Member, Kansas Bioscience Authority, Leon Harold Borck (R), Manhattan, pursuant to the authority vested in me by KSA 74-99b04 effective upon the date of confirmation by the Senate, to serve a four year term, to expire March 15, 2016.

April 4, 2012

Message to the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate are appointments made by me as the Governor of the State of Kansas, pursuant to law.

Sam Brownback
Governor

Member, Board of Indigent Defense Services, Andrew D. Wimmer (R), Overland Park, pursuant to the authority vested in me by KSA 22-4522 effective upon the date of confirmation by the Senate, to serve a three year term, to expire January 15, 2014.

Member, Kansas Bioscience Authority, Dale A. Rodman (R), Topeka, pursuant to the authority vested in me by KSA 74-99b04 effective upon the date of confirmation by the Senate, to serve a four year term, to expire March 15, 2016.

Member, Pooled Money Investment Board, Robert Chestnut (R), Lawrence, pursuant to the authority vested in me by KSA 75-4221a effective upon the date of confirmation by the Senate, to serve a four year term, to expire March 15, 2016.

April 24, 2012

Message to the Senate of the State of Kansas:

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

Sam Brownback
Governor

Secretary, Department of Transportation, Mr. Michael Steven King (R), Hesston, pursuant to the authority vested in me by KSA 75-5001, effective upon the date of confirmation by the Senate, to serve at the pleasure of the Governor.

MESSAGE FROM THE GOVERNOR

The passage and signing of the Dodd-Frank Act was an unprecedented expansion of

federal power over the nation's economy and the states by the Obama Administration. While serving as a United States Senator, I vigorously opposed and voted against the Dodd-Frank Act.

Today the consequences of this wayward legislation are being felt here in Kansas. We are being coerced by unelected federal bureaucrats to enact bills such as **SB 345** and **HB 2505** that set up new regulatory frameworks not desired by Kansas voters. These federal officials are threatening to do harm to our state's economy if we do not acquiesce in passing state laws dictated from Washington.

Because we have little choice but to let these bills go into effect, I will allow them to become law without my signature. By not affixing my signature to these bills, however, I want to send a clear message that I have serious concerns about their constitutionality. Because of this, I have requested that Attorney General Derek Schmidt conduct an immediate review of Dodd-Frank in order to begin the process of defending Kansas from this unconstitutional incursion of federal authority over the states.

Pursuant to Article 2 Sec. 14 of the Kansas Constitution and KSA 45-305, **SB 345** and **HB 2505** have been delivered to the Secretary of State without my signature.

Date: April 9 2012

Signed: Sam Brownback, Governor

MESSAGE FROM THE GOVERNOR

SB 353 – Veto message from the Governor

Recent indicators show the economic recovery in Kansas is underway, yet remains fragile. As I set forth in my Roadmap for Kansas, now is the time for government to get out of the way by reducing spending, cutting taxes, and returning to its core functions. Only when the state's economic role is limited to maintaining a fair and safe playing field for all can the resourcefulness, ingenuity, and hard work of Kansans in every field of labor be fully realized. Now is not the time to add layer after layer of regulatory fees, burdensome certification requirements, barriers to entry, and bureaucracy to our economy.

While **SB 353** deals only with one business, it is a clear example of the steady growth of state power over economic activity. By vetoing **SB 353**, I intend not only to prevent this small increase of government interference in the marketplace, but also to send the clear message that Kansas will not accept unnecessary government burdens on the free market. It is time to take the parking brake off of the dynamic economic engine that is the Kansas spirit, which if unleashed, will generate growth and prosperity for all.

Therefore, pursuant to Article 2, Section 14(a) of the Constitution of the State of Kansas, I hereby veto **SB 353**.

Date: April 4, 2012

Signed: Sam Brownback, Governor

MESSAGE FROM THE GOVERNOR

The provisions of **Senate Bill 315** as introduced, and which are now contained in Sections 11 through 13 of **House Substitute for Senate Bill 315**, unnecessarily impair the prerogatives of the executive branch and take away an important tool for the efficient and uniform management of the executive branch of state government. The remaining provisions of **House Substitute for Senate Bill 315** represent good policy and should become law.

Therefore, pursuant to Article 2, Section 14 of the Kansas Constitution, I hereby veto House Substitute for Senate Bill **315** and urge the Legislature to return the bill to me modified as set forth above before final adjournment.

Date: April 12, 2012

Signed: Sam Brownback, Governor

COMMUNICATIONS FROM STATE OFFICERS

Kansas Department of Administration

March 29, 2012

Martin Eckhardt, Director, Office of Management Analysis and Standards, submitted a CD containing the 58th Annual Financial Report of the State of Kansas for the fiscal year ended June 30, 2011.

Office of the Attorney General

March 30, 2012

Pursuant to KSA 74-7303, Derek Schmidt, Kansas Attorney General, submitted the appointment of Suzanne Valdez as a member of the Crime Victims Compensation Board. Ms. Valdez is a reappointment to a four year term to the position that expired on March 15, 2012.

SECRETARY OF STATE
STATE OF ARIZONA

April 9, 2012

In compliance with a requirement to submit a copy of a resolution passed by the Fiftieth Legislature – Second Regular Session of the State Arizona, Ken Bennett, Secretary of State, State of Arizona, submitted a copy of House Concurrent Memorial 2007, a Concurrent Memorial requesting the Congress of the United States to propose, and to submit to the several states for ratification, a balanced budget amendment to the United States Constitution.

SECRETARY OF STATE
STATE OF LOUISIANA

April 10, 2012

Tom Schedler, Secretary of State, State of Louisiana, submitted a copy of Louisiana House Concurrent Resolution 87, regarding applying for an amendments convention to be called for the purpose of proposing an amendment to the Constitution of the United States which provides that an increase in federal debt requires approval from a majority of the legislatures of the separate states, pursuant to Article V of the Constitution of the United States.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **SB 134**.

The House concurs in Senate amendments to **HB 2706**, and requests return of the bill.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Kultala and Holland introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1857—

A RESOLUTION congratulating and commending Sheriff David Zoellner.

WHEREAS, After 45 years in law enforcement, Sheriff David Zoellner will be retiring from the Leavenworth County Sheriff's office; and

WHEREAS, Sheriff Zoellner's interest in law enforcement began after he graduated from high school, but he had to wait until he was 21 years old to pursue that dream; and

WHEREAS, Sheriff Zoellner began his career in 1968 when he was hired by the Leavenworth police department as a patrolman. Ten months later he was hired by the Leavenworth county sheriff's office; and

WHEREAS, He graduated from basic training in May 1969 and began his career in the Leavenworth county sheriff's office as a road deputy; and

WHEREAS, Before becoming sheriff in Leavenworth county, Sheriff Zoellner worked his way up the ranks serving as a sergeant, lieutenant, captain and major. He was elected sheriff in 2004 and reelected in 2008; and

WHEREAS, Throughout his career, Sheriff Zoellner has been recognized for his outstanding work in law enforcement. Among his accolades are the 1972 merit award for arrest from the American federation of police, commendation for professional performance of duty in 1976 and Leavenworth county officer of the year in 2001; and

WHEREAS, Sheriff Zoellner looks forward to his retirement and spending more time with his family, including Janice, his wife of 41 years, their two children, their grandson and their grandchild on the way: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and

commend Sheriff David Zoellner on his many years of service to Leavenworth county and the state of Kansas. We extend our best wishes for continued success and happiness; and

Be it further resolved: That the Secretary of the Senate shall send two enrolled copies of this resolution to Senator Kultala.

On emergency motion of Senator Kultala **SR 1857** was adopted unanimously.

Senator Kultala introduced and congratulated Sheriff David Zellner upon his retirement of 45 years from the Leavenworth County Sheriff's office. Also in attendance were his wife, Janice Zellner, daughter, Kimberly Russell and grandson, Alex Russell. The Senate recognized Sheriff Zellner for his accomplishment with a standing ovation.

Senator Holland introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1858**—

A RESOLUTION congratulating and commending the Jefferson County North girls basketball team for winning the 2012 Class 2A state championship.

WHEREAS, The Jefferson County North Lady Chargers defeated the two-time defending state champion Olpe Lady Eagles 51-40 on March 10, 2012, in Bramlage Coliseum in Manhattan; and

WHEREAS, The Lady Chargers captured the state title with a 25-1 record; and

WHEREAS, The Lady Chargers controlled the game the same way they had all year, with defense. The Lady Chargers held Olpe to 37 percent shooting for the game and only 11 percent from three-point range. They also forced 12 Olpe turnovers while committing only eight; and

WHEREAS, The Lady Chargers took a 26-15 lead into halftime and never allowed Olpe to get the lead below 10 points in the second half; and

WHEREAS, The Lady Chargers were led in the game by Jacee Kramer with 21 points; and

WHEREAS, The Jefferson County North Lady Chargers' championship season provided many thrills and exciting moments for the students, faculty and staff at Jefferson County North High School, as well as for the community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2012 Jefferson County North girls basketball team and Head Coach Steve Noll for winning the Class 2A state championship. Their hard work and athletic achievements are points of pride for their families, school and community. We wish all the team members and coaches success in their future endeavors; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Tom Holland.

On emergency motion of Senator Holland **SR 1858** was adopted unanimously.

Senator Holland congratulated and commended the Jefferson County North girls basketball team for winning the 2012 Class 2A state championship. The Jefferson County North girls basketball team were introduced as follows: Katie Brickell, Emma Bassette, Mary Kern, Megan Domann, Jordan Kramer, Brandy Crail, Megan Gilliland, Kymee Nol, Morgan Wentz, Heather Polson, Randi Noll, Jacee Kramer, Mallory

Kramer, Kylie Manville, Jamie Navinsky, Briana Page, Lindsey Vittitow, Jacinta Priest, and Rylie Farrar. Also in attendance were Denise Jennings, Superintendent, Gary Bedigrew, Principal, Steve Noll, Head Coach and Tonya Kramer, Assistant Coach. The Senate acknowledged their achievement with a standing ovation.

Senator Holland introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1859**—

A RESOLUTION congratulating and commending the Basehor-Linwood boys basketball team for winning the 2012 Class 4A state championship.

WHEREAS, The Basehor-Linwood Bobcats defeated the Ottawa Cyclones 56-52 to win the 2012 Class 4A state basketball championship on March 10, 2012, in Salina; and

WHEREAS, The Bobcats finished the season with a record of 23-3, avenging all three of their losses, including the state title victory over Ottawa; and

WHEREAS, Basehor-Linwood used a 21-8 run in the second quarter to shatter a 13-13 tie after the first quarter to take a 34-21 lead at halftime; and

WHEREAS, The Bobcats made several key plays to preserve the victory after Ottawa stormed back to tie the game at 52 with a minute left. Junior Ben Johnson scored the go-ahead bucket with 49 seconds left in the game and sophomore J.P. Downing swatted away a final Ottawa three point attempt with nine seconds left to seal the state championship. Sophomore Chase Younger led the Bobcats with 18 points in the championship game, including three big three-pointers; and

WHEREAS, The 2012 championship was Head Coach Mike McBride's second state title since 2009; and

WHEREAS, The Basehor-Linwood boys basketball team's hard work and athletic achievements provided many memorable moments to the students, faculty and staff of Basehor-Linwood High School and to the community: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend the 2012 Basehor-Linwood boys basketball team for winning the Class 4A state championship. We wish all the team members and coaches continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator Tom Holland.

On emergency motion of Senator Holland **SR 1859** was adopted unanimously.

Senator Holland congratulated and commended the Basehor-Linwood boy's basketball team for winning the 2012 Class 4A state championship. The Basehor-Linwood boy's basketball team were introduced as follows: Brad Waterman, Ryan Shaffer, Colin Murphy, Ryan Murphy, Ben Johnson, Tanner Garver, Caleb hiss, Matt Ogilvie, Chase Younger, Tim Sanders, Zachary McNabb, and JP Downing. Also in attendance were: David howard, Superintendent, Sherry Reeves, Principal, JoeKeeler, Athletic Director, Mike McBride, Head Coach, Justin Oberndorfer, Assistant Coach and Bronson Schaake, Assistant Coach. The Senate acknowledged their achievement with a standing ovation.

Senator Emler introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1860**—

A RESOLUTION congratulating the McPherson High School girls basketball team for winning the 2012 Class 4A State Basketball Championship.

WHEREAS, The McPherson High School girls basketball team won the 2012 Kansas State High School Activities Association Class 4A State Basketball Championship with a 34-27 victory over Holton in the state championship game at the Bicentennial Center in Salina. Their win ended the 51-game winning streak of defending state champions Holton; and

WHEREAS, The 2012 McPherson girls basketball team finished the season with a record of 25-1 and added to McPherson's rich tradition of excellence in girls basketball by winning the school's 8th state championship in girls basketball. The previous seven championships coming in Class 5A before the school dropped to 4A this year; and

WHEREAS, The members of the championship team are: Seniors Ashton Bruner and Tanner Hein, juniors Madison Lackey, Katelyn Loecker and Hailey Ruder, sophomores Janae Barnes, Brooke Bate, Alisa Becker, Reagan Beckwith, Abby Pedersen, Moira Pyle and Hannah Willems, freshmen Brianna Cooks and Madison Hoffman, and managers and filmer Megan Malm, Shelby Miller, Ivanna Moyer and Izzy Moyer. The head coach is Chris Strathman and the assistant coaches are Mike Reith, Shelly Prescott and Tim Ellet; and

WHEREAS, The accomplishments of the McPherson High School girls basketball team continue to inspire and amaze basketball fans across the state of Kansas: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That the McPherson High School girls basketball team and Coach Chris Strathman be congratulated for winning the 2012 Kansas State High School Activities Association Class 4A State Basketball Championship. Their hard work and athletic ability are points of pride for their families, school and the community of McPherson. We extend our best wishes for their continued success and happiness in the future; and

Be it further resolved: That the Secretary of the Senate shall send 22 enrolled copies of this resolution to Senator Emler.

On emergency motion of Senator Emler **SR 1860** was adopted unanimously.

Senator Emler congratulated the McPherson High School girl's basketball team for winning the 2012 Class 4A State Basketball Championship. The McPherson girl's basketball team were introduced as follows: Ashton Bruner, Tanner Hein, Madison Lackey, Katelyn Loecker, Hailey Ruder, Janae Barnes, Brooke Bate, Alisa Becker, Reagan Beckwith, Abby Pedersen, Moira Pyle, Hannah Willems, Brianna Cooks, and Madison Hoffman. Also in attendance were: Head Coach, Chris Strathman, Assistant Coaches, Mike Reith, Shelly Prescott, Tim Ellet and Representative Clark Shultz. The Senate acknowledged their achievement with a standing ovation.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1861**—

A RESOLUTION congratulating and commending Angela L. (Angie) Barnes.

WHEREAS, Angela L. (Angie) Barnes retired on January 1, 2012, after serving four years in the Kansas Legislative Research Department, retiring as the head secretary; and

WHEREAS, Angie Barnes also served the people of the state of Kansas for over 20 years in the Kansas Department of Administration, Kansas Board of Technical Professions, Kansas Department of Education, Kansas Legislative Division of Post Audit and Kansas Legislative Research Department; and

WHEREAS, Angie Barnes worked for the state of Kansas at the Department of Administration from 1974 to 1977 as the executive secretary for Howard Schwartz; Board of Technical Professions from 1977 to 1982 as the executive secretary for Charlotte Olander; Department of Education in October 1998 as a secretary; Kansas Legislative Division of Post Audit in May 2001 as a secretary; and Kansas Legislative Research Department in November 2007 as a secretary III before being promoted to head secretary in December 2009; and

WHEREAS, Angie Barnes is known throughout Kansas Legislative Research Department for her kindness, helpful ways, dedication to see a project completed and her loyalty to the University of Kansas Jayhawks; and

WHEREAS, Angie Barnes was married to Donald E. Barnes on March 25, 1968. They have two daughters: Shelley Fitzpatrick and Traci Hency; and they are the proud grandparents of five grandchildren: Derrick Hart, Dylan Hart, Cooper Fitzpatrick, Josh Fitzpatrick and Anna De La Torre: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate and commend Angie Barnes for her more than 20 years of devoted service to the state of Kansas; and

Be it further resolved: That the Secretary of the Senate shall provide an enrolled copy of this resolution to Angela L. (Angie) Barnes, 428 Childers Street, PMB 23586, Pensacola, Florida 32513; Shelley and Brad Fitzpatrick, 2932 SW Sunnymede Ct., Topeka, Kansas 66611-1735; and Traci and John Hency, 3330 SW Eveningside Drive, Apt. 1, Topeka, Kansas 66614.

On emergency motion of Senator V. Schmidt **SR 1861** was adopted unanimously.

On motion of Senator Emler the Senate recessed until 2:30 p.m.

The Senate met pursuant to recess with President Morris in the chair.

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2562**, requests a conference and has appointed Representatives **Kinzer, Patton** and **Pauls** as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 40** and has appointed Representatives **Rhoades, Kelley** and **Feuerborn** as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **House Substitute for SB 62** and has appointed Representatives **Kinzer, Patton** and **Pauls** as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 142** and has appointed Representatives **Kinzer, Patton** and **Pauls** as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 334** and has appointed Representatives **Hayzlett, Prescott** and **Wetta** as 2nd conferees on the part of the House.

On motion of Senator Emler, the Senate recessed until 3:10 p.m.

The Senate met pursuant to recess with President Morris in the chair.

ORIGINAL MOTION

Senator Emler moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **S Sub for HB 2454; HB 2471, HB 2502, HB 2503, HB 2568, HB 2655; S Sub for HB 2730; SB 134.**

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2454** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2454, as follows:

On page 2, in line 4, by striking "13" and inserting "11"; in line 13, by striking "four" and inserting "and five"; also in line 13, by striking "; one"; by striking all in lines 14 and 15; in line 16, by striking "appointed by the Kansas humanities council"; in line 18, by striking "two" and inserting "three"; in line 35, by striking "Seven" and inserting "Six";

On page 5, in line 15, after "staff" by inserting "consisting of a director"; in line 17, striking all after the period; in line 18, by striking before the second "The";

On page 6, in line 36, by striking "executive";

On page 10, in line 31, by striking "executive";

On page 12, in line 43, by striking "executive";

And your committee on conference recommends the adoption of this report.

TERRIE HUNTINGTON

JEAN SCHODORF

LAURA KELLY

Conferees on part of Senate

LANA GORDON

MARVIN KLEEB

VALDENIA C. WINN

Conferees on part of House

Senator Huntington moved the Senate adopt the Conference Committee Report on S

Sub for HB 2454.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Pilcher-Cook.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote yes on the **Senate Substitute for HB 2454** because it re-establishes a vehicle supporting the Arts in Kansas. The previous organization, The Kansas Arts Commission, had proven educational, economic, and quality of life benefits for citizens and communities. It is unfortunate that we lost a year of effective arts funding with the dismantling of the Kansas Arts Commission. I am hopeful the new Creative Arts Industry Commission (CAIC) will effectively restore the states commitment to promoting the arts. – ALLEN C. SCHMIDT

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2471** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 2, in line 6, by striking all following "(3)"; by striking all in line 7; in line 8, by striking all before the semicolon; in line 15, by striking all following "(3)"; by striking all in line 16; in line 17, by striking all before the semicolon; in line 25, by striking all following "(3)"; by striking all in line 26; in line 27, by striking all before the semicolon;

On page 3, following line 21, by inserting:

"Sec. 2. On and after July 1, 2012, K.S.A. 2011 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for ~~the mentally retarded~~ people with intellectual disability, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all of which are classifications of adult care homes and are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for ~~the mentally retarded~~ people with intellectual disability" means any place or facility operating 24 hours a day, seven days a week, caring for ~~six~~ four or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by ~~mental retardation~~ intellectual disability or related conditions, need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week, for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than 12 individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided to residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than 12-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous. Any home plus that provides care for more than eight individuals after the effective date of this act shall adjust staffing personnel and resources as necessary to meet residents' needs in order to maintain the current level

of nursing care standards. Personnel of any home plus who provide services for residents with dementia shall be required to take annual dementia care training.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary of aging.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and

environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.

(22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility, and toileting.

(23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.

(27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(28) "Medicaid program" means the Kansas program of medical assistance for which federal or state moneys, or any combination thereof, are expended, or any successor federal or state, or both, health insurance program or waiver granted thereunder.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 *et seq.*, and amendments thereto, and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the

agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 3. On and after July 1, 2012, K.S.A. 2011 Supp. 39-931 is hereby amended to read as follows: 39-931. (a) Whenever the licensing agency finds a substantial failure to comply with the requirements, standards or rules and regulations established under this act or that a receiver has been appointed under K.S.A. 39-958, and amendments thereto, it shall make an order denying, suspending or revoking the license after notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto. Any applicant or licensee who is aggrieved by the order may appeal such order in accordance with the provisions of the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(b) Except as provided in subsection (c), whenever the licensing agency denies, suspends or revokes a license under this section, the applicant or licensee shall not be eligible to apply for a new license or reinstatement of a license for a period of two years from the date of denial, suspension or revocation.

(c) (1) Any applicant or licensee issued an emergency order by the licensing agency denying, suspending or revoking a license under this section may apply for a new license or reinstatement of a license at any time upon submission of a written waiver of any right conferred upon such applicant or licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto, to the licensing agency in a settlement agreement or other manner as approved by the licensing agency.

(2) Any licensee issued a notice of intent to take disciplinary action by the licensing agency under this section may enter into a settlement agreement or other manner as approved by the licensing agency, with the licensing agency, at any time upon submission of a written waiver of any right conferred upon such licensee under the Kansas administrative procedure act, K.S.A. 77-501 et seq., and amendments thereto, and the Kansas judicial review act, K.S.A. 77-601 et seq., and amendments thereto.

(d) No person shall operate an intermediate care facility for people with intellectual disability of five beds or less, as defined by subsection (a)(4) of K.S.A. 39-923, and amendments thereto, within this state unless such person:

- (A) Is issued a license by the licensing agency on or before January 1, 2012; or
- (B) participated in the medicaid program as an intermediate care facility for people with intellectual disability of five beds or less, on or before January 1, 2012.

Sec. 4. On and after July 1, 2012, K.S.A. 39-931a is hereby amended to read as follows: 39-931a. (a) As used in this section, the term "person" means any person who is an applicant for a license to operate an adult care home or who is the licensee of an adult care home and who has any direct or indirect ownership interest of 25% or more in an adult care home or who is the owner, in whole or in part, of any mortgage, deed of trust, note or other obligation secured, in whole or in part, by such facility or any of the property or assets of such facility, or who, if the facility is organized as a corporation, is an officer or director of the corporation, or who, if the facility is organized as a partnership, is a partner.

(b) Pursuant to K.S.A. 39-931, and amendments thereto, the licensing agency may

deny a license to any person and may suspend or revoke the license of any person who:

(1) Has willfully or repeatedly violated any provision of law or rules and regulations adopted pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated and ~~acts amendatory of the provisions thereof or supplemental amendments thereto;~~

(2) has had a license to operate an adult care home denied, suspended, revoked or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of such action of the other jurisdiction being conclusive evidence thereof;

(3) has failed or refused to comply with the medicaid requirements of title XIX of the social security act, or medicaid regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(4) has failed or refused to comply with the medicare requirements of chapter 7 of title 42 of the United States code, or medicare regulations under chapter IV of title 42 of the code of federal regulations, a certified copy of the record of such action being conclusive evidence thereof;

(5) has been convicted of a felony;

~~(3)~~ (6) has failed to assure that nutrition, medication and treatment of residents, including the use of restraints, are in accordance with acceptable medical practices; or

~~(4)~~ (7) has aided, abetted, sanctioned or condoned any violation of law or rules and regulations adopted pursuant to article 9 of chapter 39 of the Kansas Statutes Annotated; or

~~(5)~~ (8) has willfully admitted a person to a nursing facility in violation of K.S.A. 39-968, and amendments thereto.";

And by renumbering sections accordingly;

Also on page 3, following line 22, by inserting:

"Sec. 6. On and after July 1, 2012, K.S.A. 39-931a and K.S.A. 2011 Supp. 39-923, 39-931 are hereby repealed.";

On page 1, in the title, in line 1, by striking "the board of" and inserting "licensure and"; in line 2, after "amending" by inserting "K.S.A. 39-931a and"; also in line 2, after "Supp." by inserting "39-923, 39-931 and"; in line 3, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

VICKI SCHMIDT
 PETE BRUNGARDT
 LAURA KELLY
Conferees on part of Senate

BOB BETHELL
 RON WORLEY
 GERALDINE FLAHARTY
Conferees on part of House

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **HB 2471**.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not

Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2502** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 1, following line 6, by inserting:

"Section 1. K.S.A. 17-5903 is hereby amended to read as follows: 17-5903. As used in this act:

(a) "Corporation" means a domestic or foreign corporation organized for profit or nonprofit purposes.

(b) "Nonprofit corporation" means a corporation organized not for profit and which qualifies under section 501(c)(3) of the federal internal revenue code of 1986 as amended.

(c) "Limited partnership" has the meaning provided by K.S.A. 56-1a01, and amendments thereto.

(d) "Limited agricultural partnership" means a limited partnership founded for the purpose of farming and ownership of agricultural land in which:

(1) The partners do not exceed 10 in number;

(2) the partners are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and

(3) at least one of the general partners is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one partner is meeting the requirement of this provision and such partner dies, the requirement of this provision does not apply for the period of time that the partner's estate is being administered in any district court in Kansas.

(e) "Corporate partnership" means a partnership, as defined in K.S.A. 56a-101, and amendments thereto, which has within the association one or more corporations or one or more limited liability companies.

(f) "Feedlot" means a lot, yard, corral, or other area in which livestock fed for slaughter are confined. The term includes within its meaning agricultural land in such acreage as is necessary for the operation of the feedlot.

(g) "Agricultural land" means land suitable for use in farming.

(h) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming does

not include the production of timber, forest products, nursery products or sod, and farming does not include a contract to provide spraying, harvesting or other farm services.

(i) "Fiduciary capacity" means an undertaking to act as executor, administrator, guardian, conservator, trustee for a family trust, authorized trust or testamentary trust or receiver or trustee in bankruptcy.

(j) "Family farm corporation" means a corporation:

(1) Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related;

(2) all of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons; and

(3) at least one of the stockholders is a person residing on the farm or actively engaged in the labor or management of the farming operation. A stockholder who is an officer of any corporation referred to in this subsection and who is one of the related stockholders holding a majority of the voting stock shall be deemed to be actively engaged in the management of the farming corporation. If only one stockholder is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

(k) "Authorized farm corporation" means a Kansas corporation, other than a family farm corporation, all of the incorporators of which are Kansas residents, family farm corporations or family farm limited liability agricultural companies or any combination thereof, and which is founded for the purpose of farming and the ownership of agricultural land in which:

(1) The stockholders do not exceed 15 in number; and

(2) the stockholders are all natural persons, family farm corporations, family farm limited liability agricultural companies or persons acting in a fiduciary capacity for the benefit of natural persons, family farm corporations, family farm limited liability agricultural companies or nonprofit corporations; and

(3) if all of the stockholders are natural persons, at least one stockholder must be a person residing on the farm or actively engaged in labor or management of the farming operation. If only one stockholder is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

(l) "Trust" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney-in-fact and in any similar capacity.

(m) "Family trust" means a trust in which:

(1) A majority of the equitable interest in the trust is held by and the majority of the beneficiaries are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or stepchildren of any such persons, or persons acting in a fiduciary capacity for persons

so related; and

(2) all the beneficiaries are natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations.

(n) "Authorized trust" means a trust other than a family trust in which:

(1) The beneficiaries do not exceed 15 in number;

(2) the beneficiaries are all natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations; and

(3) the gross income thereof is not exempt from taxation under the laws of either the United States or the state of Kansas.

For the purposes of this definition, if one of the beneficiaries dies, and more than one person succeeds, by bequest, to the deceased beneficiary's interest in the trust, all of such persons, collectively, shall be deemed to be one beneficiary, and a husband and wife, and their estates, collectively, shall be deemed to be one beneficiary.

(o) "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Kansas probate code.

(p) "Poultry confinement facility" means the structures and related equipment used for housing, breeding, laying of eggs or feeding of poultry in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined poultry from exposure to disease. As used in this subsection, "poultry" means chickens, turkeys, ducks, geese or other fowl.

(q) "Rabbit confinement facility" means the structures and related equipment used for housing, breeding, raising, feeding or processing of rabbits in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined rabbits from exposure to disease.

(r) "Swine marketing pool" means an association whose membership includes three or more business entities or individuals formed for the sale of hogs to buyers but shall not include any trust, corporation, limited partnership or corporate partnership, or limited liability company other than a family farm corporation, authorized farm corporation, limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust.

(s) "Swine production facility" means the land, structures and related equipment ~~owned or leased by a corporation or limited liability company~~ and used for housing, breeding, farrowing or feeding of swine. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes in environmentally sound amounts for crop production and to avoid nitrate buildup and for isolation of the facility to reasonably protect the confined animals from exposure to disease.

(t) "Limited liability company" has the meaning provided by K.S.A. 17-7663, and amendments thereto.

(u) "Limited liability agricultural company" means a limited liability company founded for the purpose of farming and ownership of agricultural land in which:

(1) The members do not exceed 10 in number; and

(2) the members are all natural persons, family farm corporations, family farm limited liability agriculture companies, persons acting in a fiduciary capacity for the benefit of natural persons, family farm corporations, family farm limited liability

agricultural companies or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and

(3) if all of the members are natural persons, at least one member must be a person residing on the farm or actively engaged in labor or management of the farming operation. If only one member is meeting the requirement of this provision and such member dies, the requirement of this provision does not apply for the period of time that the member's estate is being administered in any district court in Kansas.

(v) "Dairy production facility" means the land, structures and related equipment used for housing, breeding, raising, feeding or milking dairy cows. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined cows from exposure to disease.

(w) "Family farm limited liability agricultural company" means a limited liability company founded for the purpose of farming and ownership of agricultural land in which:

(1) The majority of the members are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related;

(2) the members are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons; and

(3) at least one of the members is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one member is meeting the requirement of this provision and such member dies, the requirement of this provision does not apply for the period of time that the member's estate is being administered in any district court in Kansas.

(x) "Hydroponics" means the growing of vegetables, flowers, herbs, or plants used for medicinal purposes, in a growing medium other than soil.

Sec. 2. K.S.A. 17-5904 is hereby amended to read as follows: 17-5904. (a) No corporation, trust, limited liability company, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited liability agricultural company, family farm limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following:

(1) A *bona fide* encumbrance taken for purposes of security.

(2) Agricultural land when acquired as a gift, either by grant or devise, by a *bona fide* educational, religious or charitable nonprofit corporation.

(3) Agricultural land acquired by a corporation or a limited liability company in such acreage as is necessary for the operation of a nonfarming business. Such land may not be used for farming except under lease to one or more natural persons, a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust. The corporation shall not engage, either directly or indirectly, in the farming operation and shall not receive any financial benefit, other than rent, from the farming operation.

(4) Agricultural land acquired by a corporation or a limited liability company by process of law in the collection of debts, or pursuant to a contract for deed executed

prior to the effective date of this act, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise, if such corporation divests itself of any such agricultural land within 10 years after such process of law, contract or procedure, except that provisions of K.S.A. 9-1102, and amendments thereto, shall apply to any bank which acquires agricultural land.

(5) A municipal corporation.

(6) Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as a trustee for a nonprofit corporation.

(7) Agricultural land owned or leased or held under a lease purchase agreement as described in K.S.A. 12-1741, and amendments thereto, by a corporation, corporate partnership, limited corporate partnership or trust on the effective date of this act if: (A) Any such entity owned or leased such agricultural land prior to July 1, 1965, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act; (B) any such entity was in compliance with the provisions of K.S.A. 17-5901, prior to its repeal by this act, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act, and absence of evidence in the records of the county where such land is located of a judicial determination that such entity violated the provisions of K.S.A. 17-5901, prior to its repeal shall constitute proof that the provisions of this act do not apply to such agricultural land, and that such entity was in compliance with the provisions of K.S.A. 17-5901, prior to its repeal; or (C) any such entity was not in compliance with the provisions of K.S.A. 17-5901, prior to its repeal by this act, but is in compliance with the provisions of this act by July 1, 1991.

(8) Agricultural land held or leased by a corporation or a limited liability company for use as a feedlot, a poultry confinement facility or rabbit confinement facility.

(9) Agricultural land held or leased by a corporation for the purpose of the production of timber, forest products, nursery products or sod.

(10) Agricultural land used for *bona fide* educational research or scientific or experimental farming.

(11) Agricultural land used for the commercial production and conditioning of seed for sale or resale as seed or for the growing of alfalfa by an alfalfa processing entity if such land is located within 30 miles of such entity's plant site.

(12) Agricultural land owned or leased by a corporate partnership or limited corporate partnership in which the partners associated therein are either natural persons, family farm corporations, authorized farm corporations, limited liability agricultural companies, family trusts, authorized trusts or testamentary trusts.

(13) Any corporation, either domestic or foreign, or any limited liability company, organized for coal mining purposes which engages in farming on any tract of land owned by it which has been strip mined for coal.

(14) Agricultural land owned or leased by a limited partnership prior to the effective date of this act.

(15) Except as provided by K.S.A. 17-5908, as it existed before the effective date of this act, and K.S.A. 1998 Supp. 17-5909, agricultural land held or leased by a corporation or a limited liability company for use as a swine production facility in any county which, before the effective date of this act, has voted favorably pursuant to

K.S.A. 17-5908, as it existed before the effective date of this act, either by county resolution or by the electorate.

(16) Agricultural land held or leased by a corporation ~~or trust~~ limited liability company, limited partnership or corporate partnership for use as a swine production facility in any county where the voters, after the effective date of this act, have voted pursuant to K.S.A. 17-5908, and amendments thereto, to allow establishment of swine production facilities within the county.

(17) Agricultural land held or leased by a corporation ~~or a trust~~ limited liability company, limited partnership or corporate partnership for use as a dairy production facility in any county which has voted favorably pursuant to K.S.A. 17-5907 and amendments thereto, either by county resolution or by the electorate.

(18) Agricultural land held or leased by a corporation or a limited liability company used in a hydroponics setting.

(b) Production contracts entered into by a corporation, trust, limited liability company, limited partnership or corporate partnership and a person engaged in farming for the production of agricultural products shall not be construed to mean the ownership, acquisition, obtainment or lease, either directly or indirectly, of any agricultural land in this state.

(c) Any corporation, trust, limited liability company, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited liability agricultural company, family farm limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust, violating the provisions of this section shall be subject to a civil penalty of not more than \$50,000 and shall divest itself of any land acquired in violation of this section within one year after judgment is entered in the action. The district courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or district or county attorney shall institute suits on behalf of the state to enforce the provisions of this section.

(d) Civil penalties sued for and recovered by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings were instigated.";

Also on page 1, in line 10, before "to" by inserting ", as defined in K.S.A. 17-5903, and amendments thereto,"; also in line 10, after "county" by inserting "by a corporation, trust, limited liability company, limited partnership or corporate partnership"; in line 27, before "to" by inserting ", as defined in K.S.A. 17-5903, and amendments thereto,"; in line 28, after "county" by inserting "by a corporation, trust, limited liability company, limited partnership or corporate partnership";

On page 2, in line 9, by striking "business"; by striking all in line 10; in line 11, by striking "facility" and inserting "corporation, trust, limited liability company, limited partnership or corporate partnership"; also in line 11, before "own" by inserting ", either directly or indirectly,"; by striking all in line 27; in line 28, by striking all before "be" and inserting "corporation, trust, limited liability company, limited partnership or corporate partnership"; in line 29, before "own" by inserting ", either directly or indirectly,";

On page 3, by striking all in lines 5 through 9;

On page 4, in line 16, before "to" by inserting ", as defined in K.S.A. 17-5903, and

amendments thereto,"; also in line 16, after "county" by inserting "by a corporation, trust, limited liability company, limited partnership or corporate partnership"; in line 32, before "to" by inserting ", as defined in K.S.A. 17-5903, and amendments thereto,"; in line 33, after "county" by inserting "corporation, trust, limited liability company, limited partnership or corporate partnership";

On page 5, in line 4, by striking "business entity not already authorized by Kansas law to form a"; in line 5, by striking "swine production facility" and inserting "corporation, trust, limited liability company, limited partnership or corporate partnership"; in line 6, before "own" by inserting ", either directly or indirectly,"; in line 22, by striking "business entity not"; in line 23, by striking all before "be" and inserting "corporation, trust, limited liability company, limited partnership or corporate partnership"; in line 24, before "own" by inserting ", either directly or indirectly,";

On page 6, by striking all in lines 1 through 5; following line 5, by inserting:

"Sec. 5. K.S.A. 2011 Supp. 79-32,154 is hereby amended to read as follows: 79-32,154. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Facility" shall mean any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The word "building" shall include only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property.

(b) "Qualified business facility" shall mean a facility which satisfies the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise, as defined in subsection (c). Such facility shall not be considered a qualified business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a qualified business facility, if the requirements of paragraph (2) of this subsection are satisfied.

(2) If such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise, as defined in subsection (i), at such facility.

(c) "Revenue producing enterprise" shall mean:

(1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, distribution or sale of any products of agriculture, aquaculture, mining or manufacturing;

(3) the feeding of livestock at a feedlot;

- (4) the operation of laboratories or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;
- (5) the performance of services of any type;
- (6) the feeding of aquatic plants and animals at an aquaculture operation;
- (7) the administrative management of any of the foregoing activities; or
- (8) any combination of any of the foregoing activities.

"Revenue producing enterprise" shall not mean a swine production facility as defined in K.S.A. 17-5903, and amendments thereto, that is owned or leased by a corporation or limited liability company.

(d) "Qualified business facility employee" shall mean a person employed by the taxpayer in the operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed:

(1) A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the qualified business facility on: (A) A regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of qualified business facility employees during any taxable year shall be determined by dividing by 12 the sum of the number of qualified business facility employees on the last business day of each month of such taxable year. If the qualified business facility is in operation for less than the entire taxable year, the number of qualified business facility employees shall be determined by dividing the sum of the number of qualified business facility employees on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment, the number of qualified business facility employees employed in the operation of such facility shall be reduced by the average number, computed as provided in this subsection, of individuals employed in the operation of the facility during the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(2) For taxable years commencing after December 31, 1997, in the case of a taxpayer claiming a credit against the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto or the privilege tax as measured by net income of financial institutions imposed pursuant to chapter 79 article 11 of the Kansas Statutes Annotated, "qualified business employee" shall not mean any person who is employed in the operation of a qualified business facility in the state due to the merger, acquisition or other reconfiguration of the taxpayer unless such employee's position represents a net gain of total positions created by the taxpayer and the employee's position was not in existence at the time of the merger acquisition or other reconfiguration of the taxpayer.

(e) "Qualified business facility investment" shall mean the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the qualified business

facility, or which is used by the taxpayer in the operation of the qualified business facility, during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. The value of such property during such taxable year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The qualified business facility investment shall be determined by dividing by 12 the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the qualified business facility is in operation for less than an entire taxable year, the qualified business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment the amount of the taxpayer's qualified business facility investment in such facility shall be reduced by the average amount, computed as provided in this subsection, of the investment of the taxpayer or a related taxpayer in the facility for the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(f) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the qualified business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the qualified business facility.

(g) "Qualified business facility income" shall mean the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall be determined by multiplying the taxpayer's Kansas taxable income by a fraction, the numerator of which is the property factor, as defined in paragraph (1), plus the payroll factor, as defined in paragraph (2), and the denominator of which is two. In the case of financial institutions, the property and payroll factors shall be computed utilizing the specific provisions of the apportionment method applicable to financial institutions, if enacted, and the qualified business facility income shall be based upon net income.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in connection with the operation of the qualified business facility during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in K.S.A. 79-3281 and 79-3282, and amendments thereto.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as qualified business facility employees, as determined under subsection (d), at the qualified business facility, and the denominator of which is the total amount paid in this

state during the tax period by the taxpayer for compensation. The compensation paid in this state shall be determined as provided in K.S.A. 79-3283, and amendments thereto.

The formula set forth in this subsection (g) shall not be used for any purpose other than determining the qualified business facility income attributable to a qualified business facility.

(h) "Related taxpayer" shall mean: (1) A corporation, partnership, trust or association controlled by the taxpayer; (2) an individual, corporation, partnership, trust or association in control of the taxpayer; or (3) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of this act, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation; "control of a partnership or association" shall mean ownership of at least 80% of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least 80% of the beneficial interest in the principal or income of such trust.

(i) "Same or substantially identical revenue producing enterprise" shall mean a revenue producing enterprise in which the products produced or sold, services performed or activities conducted are the same in character and use, are produced, sold, performed or conducted in the same manner and to or for the same type of customers as the products, services or activities produced, sold, performed or conducted in another revenue producing enterprise.";

And by renumbering sections accordingly;

Also on page 6, in line 6, after "K.S.A." by inserting "17-5903, 17-5904,"; also in line 6, after "17-5908" by inserting "and K.S.A. 2011 Supp. 79-32,154";

On page 1, in the title, in line 3, after "K.S.A." by inserting "17-5903, 17-5904,"; also in line 3, after "17-5908" by inserting "and K.S.A. 2011 Supp. 79-32,154";

And your committee on conference recommends the adoption of this report.

MARK TADDIDEN

RUTH TEICHMAN

MARCI FRANCISCO

Conferees on part of Senate

LARRY R. POWELL

DAN KERSCHEN

JERRY D. WILLIAMS

Conferees on part of House

Senator Taddiken moved the Senate adopt the Conference Committee Report on **HB 2502**.

On roll call, the vote was: Yeas 35; Nays 4; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Hensley, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Haley, Holland, A. Schmidt.

Absent or Not Voting: Steineger.
The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2503** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 5, following line 40, by inserting:

"Sec. 5. K.S.A. 2011 Supp. 2-907 is hereby amended to read as follows: 2-907. The Kansas poultry improvement association of Manhattan, ~~Kan-~~ Kansas, whose articles of incorporation are recorded in the office of the secretary of state, is hereby designated and declared to be the official state agency for the state of Kansas, for the purpose of carrying out the national poultry improvement plan. The Kansas poultry improvement association shall cooperate with the United States department of agriculture, Kansas state university of agriculture and applied science, Kansas department of agriculture and the Kansas ~~livestock~~ animal health commissioner for the purpose of promoting the poultry industry and its allied branches and shall supervise and administer the national improvement plan in this state.

Sec. 6. K.S.A. 2-909 is hereby amended to read as follows: 2-909. As used in the poultry disease control act, except where the context clearly requires a different meaning, the following words and phrases shall have the meaning ascribed thereto.

(a) "Commissioner" means the livestock animal health commissioner of the ~~state of Kansas department of agriculture~~.

(b) "Fowl typhoid" means a disease of poultry caused by salmonella gallinarum.

(c) "Hatchery" means a premises with equipment which is operated or controlled by a person for the production of baby poultry.

(d) "Person" means any individual, partnership, firm or corporation.

(e) "Plan" means the national poultry improvement plan contained in sections 145.1 ~~to through~~ 145.54, ~~inclusive~~, of title 9 of the code of federal regulations and the auxiliary provisions thereto which are contained in sections 147.1 ~~to through~~ 147.48, ~~inclusive~~, of title 9 of the code of federal regulations, and ~~any amendments or supplements to such plan or provisions thereto~~.

(f) "Poultry" means any domesticated birds which are bred for the primary purpose of producing eggs or meat or of being exhibited and which may include chickens, turkeys, waterfowl and game birds, but which shall not include doves or pigeons.

(g) "Pullorum" means a disease of poultry caused by salmonella pullorum.

Sec. 7. K.S.A. 2011 Supp. 32-951 is hereby amended to read as follows: 32-951.

(a) Except as provided further, a game breeder permit is required to engage in the business of raising and selling game birds, game animals, furbearing animals or such other wildlife as required by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(b) Any person who desires to engage in the business described in subsection (a) may apply to the secretary for a game breeder permit. The application shall give the name and residence of the applicant, the description of the premises, the number and

kind of birds or animals which it is proposed to propagate and any other information required by the secretary. The fee prescribed pursuant to K.S.A. 32-988, and amendments thereto, shall accompany the application.

(c) If the secretary determines that the application is made in good faith and that the premises are suitable for engaging in the business described in subsection (a), the secretary may issue such permit. The permit shall expire on June 30 of each year.

(d) Game breeders shall make such reports of their activities to the secretary as required by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto. In addition to any other penalty prescribed by law, failure to make such reports or to comply with the laws of the state of Kansas or rules and regulations of the secretary shall be grounds for the secretary to refuse to issue, refuse to renew, suspend or revoke such permit.

(e) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement the provisions of this section.

(f) Any person who is engaged in the business of raising domesticated deer shall not be required to have a game breeder permit as required by this section. As used in this section, "domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for: (1) Breeding stock; ~~for~~ (2) any carcass, skin or part of such animal; ~~for~~ (3) exhibition; or ~~for~~ (4) companionship.

(g) The secretary, on a quarterly basis, shall transmit to the livestock animal health commissioner a current list of persons issued a game breeder permit pursuant to this section who are raising or selling any member of the family cervidae.

(h) Any person holding a game breeder permit from the secretary is hereby authorized to recapture any game bird that such game breeder is permitted to raise or sell whenever any such game bird has escaped from confinement for any reason. The authorized area for such recapture is hereby limited to a one-quarter mile radius of the game breeder's operation from which the escape from confinement occurred, provided the game breeder has the prior approval of the owner of the land upon which the recapture will occur and has notified the department prior to the recapture.

Sec. 8. K.S.A. 47-122a is hereby amended to read as follows: 47-122a. (a) Whenever the owner or the owner's authorized agent allows any livestock to run at large, in violation of K.S.A. 47-122, and amendments thereto, and such livestock remains on the property of another person, ~~the sheriff of the county in which such livestock are running at large,~~ at the request of such person upon whose property the livestock are running at large, the sheriff of the county in which such livestock are running at large may take such livestock into custody and retain them in a secure holding area.

(b) The county sheriff shall give notice to the owner or the owner's authorized agent within 24 hours after taking such livestock into custody that the owner or the owner's authorized agent has 10 days within which to claim such livestock and to pay all actual costs for taking up, keeping and feeding of such livestock.

(c) If the owner or the owner's authorized agent fails to claim the livestock and to pay all actual costs within the ten-day period, the county sheriff shall cause the livestock to be delivered to a public livestock market or to a secure holding area approved by the livestock animal health commissioner. If the livestock is delivered to

the market, the county sheriff shall cause such livestock to be sold at such market to the highest bidder for cash. Livestock held in a secure holding area other than a livestock market shall be advertised by the county sheriff in the official county newspaper and sold to the highest bidder for cash.

(d) The county sheriff shall pay out of the proceeds from the sale of such livestock, all actual costs for taking up, keeping and feeding of such livestock. Any proceeds remaining in the hands of the sheriff after payment of all actual costs, shall be paid to the owner of the livestock or the owner's authorized agent. If the owner or the owner's authorized agent is not known or cannot be located, the proceeds remaining after the payment of actual costs shall be paid to the county treasurer of the county in which the livestock were running at large. Such funds shall be deposited by the county treasurer in the county's special stray fund provided for in K.S.A. 47-239, and amendments thereto.

(e) In counties having a consolidated law enforcement department, the provisions of this section relating to sheriffs shall be deemed to refer to such department.

Sec. 9. K.S.A. 47-230 is hereby amended to read as follows: 47-230. (a) Any person may take up any stray found upon ~~his such person's~~ premises; or upon any public thoroughfare adjoining thereto, ~~and he~~. Within 24 hours after taking up the stray, such person shall report such the taking up to the sheriff of the county in which the stray is taken up within twenty-four (24) hours after the taking up of such stray. In giving such notice, the taker up shall describe said stray to the sheriff by stating the kind. The report shall include a description of the stray, including the type of animal, color, weight, size, sex and age, the marks, brands or other distinguishing features of the animal, if any there may be, the place where the animal is kept and the address of the taker up such person who took up the stray. The sheriff ~~upon being given such notice shall~~ shall then notify the state ~~livestock animal health~~ commissioner and the owners of all registered brands found on ~~said animal the stray~~. If the sheriff and the ~~livestock animal health~~ commissioner ~~or his, or the commissioner's~~ duly authorized representatives find and establish the ~~ownership of said animal owner of the stray~~, a record to that effect shall be kept, and said animal shall be then released to the established owner: *Provided*, That said owner has paid all costs accrued in said stray proceeding and has paid to the taker up reasonable compensation for keeping and feeding said stray, as determined and agreed to by both the sheriff and the state livestock commissioner or his authorized representative, together with the cost for any damage which said stray may have caused.

(b) Subject to the agreement of both the sheriff and the animal health commissioner, or the commissioner's duly authorized representative, the stray shall be released to the established owner upon payment of:

(1) All costs accrued in the stray proceeding, including the cost for any damage which the stray may have caused while in the sheriff's control; and

(2) reasonable compensation to the person taking up the stray for the costs of keeping and feeding such stray, including the cost for any damage which the stray may have caused.

Sec. 10. K.S.A. 47-239 is hereby amended to read as follows: 47-239. (a) The notice for the sale of the stray shall be published for one (1) issue in a publication or publications having general circulation in the area where ~~said such~~ stray was taken up; ~~which~~. Such notice shall describe the stray ~~animal~~ by stating the kind of animal, sex, age; and brands. The notice shall not contain any statement as to the color of the stray

~~animal~~; or as to any marks or other distinguishing features; and it shall not contain the name or address of the ~~taker-up of such animal person who took up such stray~~. Out of the proceeds from the sale of ~~said stray animal such stray~~, the sheriff shall pay the ~~taker-up of such animal person who took up such stray~~, reasonable compensation for his keeping and feeding of the same, ~~and the stray~~. The sheriff also shall pay all costs of the stray proceedings. Any proceeds remaining in the hands of the sheriff after payment of feeding and sale costs, shall be paid by ~~him the sheriff~~ to the treasurer of the county in which the stray ~~animal~~ was taken up. Such funds shall be placed by the county treasurer in a special stray fund.

(b) At any time prior to the expiration to six (6) months following the date of such deposit with the county treasurer, a claimant may appear before the sheriff and submit evidence of ownership of ~~said stray animal such stray~~. If such evidence is acceptable and satisfactory to the sheriff and to the state livestock animal health commissioner or ~~his the commissioner's~~ authorized representative, for purpose of establishing ownership of ~~said stray animal such stray~~, the sheriff shall direct the county treasurer to disburse the remainder of the proceeds from the sale of ~~said stray animal to said such stray to the~~ claimant.

(c) Upon the expiration of a period of six (6) months following the receipt of deposit of proceeds from the sale of any stray ~~animal~~, without any such directive having been received from the sheriff, the county treasurer shall pay the remaining proceeds to the livestock animal health commissioner to be remitted, deposited and credited as provided by K.S.A. 47-417a, and amendments thereto.

Sec. 11. K.S.A. 47-414 is hereby amended to read as follows: 47-414. As used in this act, except where the context clearly indicates a different meaning:

(a) "Person" means every natural person, firm, copartnership, association or corporation;

(b) "livestock" means cattle, sheep, horses, mules or asses;

(c) "brand" means any permanent identifying mark upon the surface of any livestock, except upon horns and hoofs, made by any acid, chemical, a hot iron or cryogenic branding; and, also in the case of sheep shall include the identifying marks made by paint or tar;

(d) "commissioner" means the livestock animal health commissioner of the Kansas department of agriculture;

(e) "board" means the animal health board, created in K.S.A. 74-4001, and amendments thereto;

(f) "cryogenic branding" means a brand produced by application of extreme cold temperature.

Sec. 12. K.S.A. 47-414a is hereby amended to read as follows: 47-414a. (a) Whenever in any statutes of this state the terms "livestock commissioner," "livestock brand commissioner" or "brand commissioner" are used, or the term "commissioner" is used to refer to the livestock brand commissioner, such terms shall be construed to mean the livestock animal health commissioner appointed by the Kansas animal health board secretary of agriculture pursuant to K.S.A. ~~75-1901~~ 74-5,119, and amendments thereto.

(b) Whenever the term "board" is used in the acts contained in K.S.A. 47-414 ~~to through~~ 47-433, ~~inclusive, and any acts amendatory thereof and amendments thereto~~, such term shall be construed to mean the Kansas animal health board created in K.S.A.

74-4001, and amendments thereto.

Sec. 13. K.S.A. 47-416 is hereby amended to read as follows: 47-416. It shall be the duty of the livestock animal health commissioner to keep all books and records and to record all brands used for the branding or marking of livestock in Kansas. The commissioner shall receive applications for the recording of any and all brands and the commissioner shall decide on the availability and desirability of any brand or brands sent in for recording.

The commissioner may appoint an assistant commissioner in charge of brands and brand inspectors, special investigators, examiners, deputy assistants and employees necessary to carry out the provisions of the acts contained in article 4 of chapter 47 of the Kansas Statutes Annotated, and ~~any acts amendatory thereof~~ amendments thereto, subject to approval of the board.

Sec. 14. K.S.A. 47-416a is hereby amended to read as follows: 47-416a. Each special investigator, appointed by the livestock animal health commissioner, pursuant to K.S.A. 47-416, and amendments thereto, shall have the authority to make arrests, conduct searches and seizures and carry firearms while investigating violations of the provisions of article 4 of chapter 47 of the Kansas Statutes Annotated and ~~acts amendatory of the provisions thereof and supplemental~~ amendments thereto, and while investigating livestock theft. The director as defined in K.S.A. 74-5602, and amendments thereto, is authorized to offer and carry out a special course of instruction for special investigators performing law enforcement duties under authority of this section. Such special investigators shall not carry firearms without having first successfully completed such special law enforcement training course.

Sec. 15. K.S.A. 47-417 is hereby amended to read as follows: 47-417. (a) Any person may adopt a brand for the purpose of branding livestock in accordance with authorized rules and regulations of the livestock animal health commissioner of the Kansas ~~animal health department~~ department of agriculture division of animal health. Such person shall have the exclusive right to use such brand in this state, after registering such brand with the livestock animal health commissioner.

(b) Any person desiring to register a livestock brand shall forward to the commissioner a facsimile of such brand and shall accompany the same with the registration fee in the amount provided under this section. Each person making application for the registering of a an available livestock brand ~~which is available~~ shall be issued a certificate of brand title ~~which~~. Such brand title shall be valid for a period ending four years subsequent to the next April 1; following date of issuance.

(c) For the purpose of revising the brand records, the livestock animal health commissioner shall collect a renewal fee in the amount provided under this section on all brands upon which the recording period expires. Any person submitting such renewal fee shall be entitled to a renewal of registration of such person's livestock brand for a five-year period from the date of expiration of registration of such person's livestock brand as shown by such person's last certificate of brand title.

(d) The livestock brand of any person whose registration expires and who fails to pay such renewal fee within a grace period of 60 days after expiration of the registration period shall be placed in a delinquency status. The use of a delinquent brand shall be unlawful. If the owner of any delinquent registered brand the registration of which has expired fails to renew registration of such brand within 120 days after such brand became delinquent, such failure shall constitute an abandonment of all claim to any

property right in such brand.

(e) Upon the expiration of such delinquency period without any request for renewal and required remittance from the last record owner of a brand; or such owner's heirs, legatees or assigns, and with the termination of property rights by abandonment, the livestock animal health commissioner is authorized to receive and accept an application for such brand to the same extent as if such brand had never been issued to anyone as a registered brand.

(f) The livestock animal health commissioner shall determine annually the amount of funds which will be required for the purposes for which the brand registration and renewal fees are charged and collected and shall fix and adjust from time to time each such fee in such reasonable amount as may be necessary for such purposes, except that in no case shall either the brand registration fee or the renewal fee exceed \$55. The amounts of the brand registration fee and the renewal fee in effect on the day preceding the effective date of this act shall continue in effect until the livestock animal health commissioner fixes different amounts for such fees under this section.

Sec. 16. K.S.A. 2011 Supp. 47-417a is hereby amended to read as follows: 47-417a. (a) The livestock animal health commissioner ~~may~~, when brand inspectors or examiners are available, may provide brand inspection. When brand inspection is requested and provided, the livestock animal health commissioner shall charge and collect from the person making the request, a brand inspection fee of not to exceed \$.75 per head on cattle and \$.05 per head on sheep and other livestock. No inspection charge shall be made or collected at any licensed livestock market where brand inspection is otherwise available.

(b) The livestock animal health commissioner shall remit all moneys received under the statutes contained in article 4 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, except K.S.A. 47-434 through 47-445, and amendments thereto, 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 livestock brand fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock animal health commissioner or by a person or persons designated by the commissioner.

Sec. 17. K.S.A. 47-418a is hereby amended to read as follows: 47-418a. Any person who willfully brands or causes to be branded any cattle in any manner other than as required or authorized by K.S.A. 47-418, and amendments thereto, or as required by the laws of this state and the rules and regulations of the livestock animal health commissioner, or any person who falsely brands or causes to be falsely branded any cattle in such a manner as to incorrectly designate the disease control identification or ownership of livestock, shall be deemed guilty of a class A misdemeanor.

Sec. 18. K.S.A. 47-420 is hereby amended to read as follows: 47-420. (a) It shall be unlawful for any person to use any brand for branding any livestock unless such brand has been duly registered in the office of the livestock animal health commissioner at Topeka, except: (1) The use of a single numeral digit (~~0 to 9~~), zero to nine, in conjunction with the registered brand of the owner may be used; for the purpose of determining the age of the branded animal, such number to be applied at least six inches from such registered brand; (2) the use of serial numbers in conjunction with the

registered brand of the owner may be used for the purpose of identifying individual animals, such numbers to be applied at least six inches from the registered brand; (3) the use of numbers in conjunction with the registered brand of the owner may be used for the purpose of identifying herds of the same owner for feeding or experimental purposes, such numbers to be applied at least six inches from the registered brand; and (4) the use of a digital system of branding livestock may be used for the purpose of identifying animals in a licensed feedlot. Such feedlot brand may be used in conjunction with the registered brand of the owner, such brand to be applied at least six inches from such registered brand or may be used on animals which are not branded with a registered brand of the owner, subject to conditions, limitations and requirements applicable to the use of a feedlot brand as prescribed in K.S.A. 47-446, and amendments thereto. The age, serial, herd or feedlot brand shall not be construed as a part of the registered brand; and the use of such numeral or numerals in conjunction with a registered brand shall not be unlawful. Before any person uses any such serial or herd brand in conjunction with a registered brand, such person shall first obtain a permit from the ~~livestock animal health~~ commissioner authorizing such use.

(b) The ~~livestock animal health~~ commissioner is authorized to receive applications for permits for such serial or herd brands and issue permits thereon. All applications for such permits shall be accompanied by a permit fee of \$1.50. No such fee shall be required if the application for such permit is submitted in conjunction with an original application for the registered brand or in conjunction with a request for renewal of registration of a registered brand.

Sec. 19. K.S.A. 47-422 is hereby amended to read as follows: 47-422. Any brand ~~recorded with the Kansas animal health board~~ registered with the animal health commissioner of the Kansas department of agriculture in compliance with the requirements of this act shall be the property of the person causing such record to be made ~~and~~. Such brand shall be subject to sale, assignment, transfer, devise, and descent as other personal property. Instruments of writing evidencing the sale, assignment or transfer of such brand shall be recorded by the ~~livestock animal health~~ commissioner; ~~and~~. The fee for recording such instruments of writing shall be \$15. Such instruments shall have the same force and effect as recorded instruments affecting real estate; ~~and~~. A certified copy of the record of any such instrument may be introduced in evidence the same as ~~is now provided for~~ certified copies of instruments affecting real estate. Any brand recorded with the Kansas ~~animal health department~~ department of agriculture division of animal health shall not be used by any person other than the recorded owner. Any person violating any provision of this section shall be guilty of a class C misdemeanor.

Sec. 20. K.S.A. 47-428 is hereby amended to read as follows: 47-428. The ~~livestock animal health~~ commissioner and the commissioner's deputies or assistants are hereby authorized to enter upon any private lands to make any inspections necessary for the purpose of carrying out the provisions of this act or any of the provisions of article 4 of chapter 47 of the Kansas Statutes Annotated ~~or any and~~ amendments thereto. The commissioner and the commissioner's deputies or assistants may accept proof of ownership of livestock from any person in possession of animals bearing the recorded brands of another party as sufficient to exclude and exempt such animals from being classified as stray animals under the provisions of this act.

Sec. 21. K.S.A. 47-429 is hereby amended to read as follows: 47-429. All moneys

received from the sale of branded stray livestock shall be paid to the state ~~livestock~~ animal health commissioner, ~~regardless of the provisions of notwithstanding~~ article 2 of chapter 47 of the Kansas Statutes Annotated ~~and acts amendatory, and amendments~~ thereto, or any other provision of law relating to the disposition of the moneys received from the sale of branded stray animals. The commissioner or the commissioner's deputies are hereby authorized and directed to receive and receipt for all moneys received from the sale of branded stray livestock and shall pay the same to the state treasurer; ~~and~~. The state treasurer shall credit the such amount ~~so paid~~ to the livestock brand fee fund.

Sec. 22. K.S.A. 47-432 is hereby amended to read as follows: 47-432. There is hereby created a livestock brand emergency revolving fund for the use of the state ~~livestock~~ animal health commissioner for the purpose of paying expenses and costs of establishing the ownership of livestock which are mingled as a result of sudden or extreme storm conditions or other unforeseen occurrences.

Sec. 23. K.S.A. 47-433 is hereby amended to read as follows: 47-433. The livestock brand emergency revolving fund may be used to provide for the compensation, subsistence and travel of emergency livestock brand inspectors and other necessary temporary employees and to provide for such transactions which demand immediate attention. Emergency livestock brand inspectors and other needed personnel may be employed by the ~~livestock animal health~~ commissioner, ~~Kansas animal health department,~~ department of agriculture division of animal health or by the assistant commissioner in charge of brands, on a temporary basis for services in the establishment of the ownership of livestock which may have been mingled as a result of sudden or extreme storm conditions; or other unforeseen occurrences. Personnel employed under this act shall be in the unclassified service and shall be exempt from the provisions of subsection (b) of K.S.A. 75-2935, and amendments thereto, requirements of the civil service law and processing by the division of personnel services of the department of administration. Such revolving fund shall not be used to pay any regular employees, or for current accounts, which are payable monthly. Advanced payments may be made from such revolving fund by the commissioner or assistant commissioner for subsistence and travel of employees and for other necessary emergency purposes when deemed necessary. A settlement, based on an approved accounting for any advance payments, shall be completed prior to the certification to the director of accounts and reports for payment of any compensation earned. The assistant commissioner shall comply with supplemental procedures as the controller may require, but payments for services, subsistence and travel from the livestock brand emergency revolving fund shall be made by voucher method, showing periods of time worked.

Sec. 24. K.S.A. 47-434 is hereby amended to read as follows: 47-434. As used in this act:

- (a) "Commissioner" means the state ~~livestock~~ animal health commissioner;
- (b) "brand inspection area" means any county which has been designated as such by the board of county commissioners of such county in the manner provided by K.S.A. 47-435, and amendments thereto;
- (c) "resident owner of cattle" means any resident of a county who has owned one or more head of cattle at any time during the 12 preceding months;
- (d) "brand inspection" means the inspection of brands, marks; and other identifying

characteristics of cattle or sheep, or both, for the purpose of determining the ownership thereof; and

(e) "person" means any individual, firm, association, partnership or corporation.

Sec. 25. K.S.A. 47-435 is hereby amended to read as follows: 47-435. (a) Whenever a petition is submitted to the board of county commissioners, signed by not less than 51% of the resident owners of cattle, as determined by an enumeration taken and verified for this purpose by a qualified elector of the county, requesting that the county be designated a brand inspection area, it shall be the duty of the board of county commissioners, within 10 days after receipt of such petition, to make a determination as to the sufficiency of the qualifications and numbers of signers. If such petition is found sufficient the board shall adopt a resolution declaring the county a brand inspection area, and shall immediately file a certified copy of such resolution with the ~~livestock~~ animal health commissioner. In every case, the date of filing of the certified copy of the resolution of the board of county commissioners declaring the county a brand inspection area with the commissioner shall be the date the county shall qualify as a brand inspection area.

(b) Any and all counties which have been ~~so~~ designated as a brand inspection area; and which are adjacent to and contiguous with other counties so designated, shall ~~be~~ and constitute a part of a basic brand inspection area. From and after the effective date of this act, the counties of Hamilton, Kearny and Wichita shall be and are hereby designated and declared to be a part of a basic brand inspection area. Such basic brand inspection area shall be subject to enlargement by the addition of other contiguous counties.

(c) Whenever a petition is submitted to the board of county commissioners, signed by not less than 51% of the resident owners of cattle, as determined by an enumeration taken and verified for this purpose by a qualified elector of the county, requesting that the county no longer be designated a brand inspection area and that its status as a brand inspection area be terminated, it shall be the duty of the board of county commissioners, within 10 days after receipt of such petition, to make a determination as to the sufficiency of the qualifications and numbers of signers. If such petition is found sufficient the board shall adopt a resolution declaring that the county is no longer a brand inspection area; and shall immediately file a certified copy of such resolution with the ~~livestock~~ animal health commissioner. Thereupon the county shall be terminated as a brand inspection area, but the termination as a brand inspection area by a county within a basic brand inspection area shall not affect the existence of such basic brand inspection area as to the remaining counties therein.

Sec. 26. K.S.A. 2011 Supp. 47-437 is hereby amended to read as follows: 47-437. (a) The ~~livestock~~ animal health commissioner shall charge and collect a fee of not to exceed \$.75 per head on all cattle and not to exceed \$.05 per head on all sheep inspected in brand inspection areas of the state. In addition to the per head fee, the ~~livestock~~ animal health commissioner may charge and collect an on-site inspection fee and a mileage fee for each mile necessarily and actually traveled in going to and returning from the place of inspection. The ~~livestock~~ animal health commissioner, when brand inspectors are available, may provide brand inspection in other areas where brand inspection is requested and the commissioner shall charge and collect inspection fees in the same manner as prescribed for the collection of such fees in brand inspection areas. The owner or seller of cattle or sheep inspected shall be responsible for the payment of

the inspection fees and such fees shall be collected in such manner as the livestock animal health commissioner shall prescribe or authorize by rule or regulation.

(b) When the livestock animal health commissioner determines that the fees collected under this section are yielding more than is required for the purposes for which such fees are collected, the commissioner may reduce such fees for such period as the commissioner deems justified. In the event the livestock animal health commissioner, after reducing such fees, finds that sufficient revenues are not being produced by the reduced fees to properly administer and enforce this act and acts of which this section is amendatory or supplemental, the commissioner may increase such fees to such rate as will, in the commissioner's judgment, produce sufficient revenue for the purposes provided in this section, but not exceeding \$.75 per head on cattle and not to exceed \$.05 per head on sheep.

(c) The livestock animal health commissioner shall remit all moneys received under K.S.A. 47-434 through 47-445, and amendments thereto, 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 county option brand fee fund, except any amounts received for brand inspection services of livestock outside of a county option area. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock animal health commissioner or by a person or persons designated by the commissioner. All amounts received for inspection of livestock outside of a county option area shall be deposited to the credit of the livestock brand fee fund.

Sec. 27. K.S.A. 47-441 is hereby amended to read as follows: 47-441. It shall be unlawful for any person in any brand inspection area, including the owner of cattle, the shipper, motor carrier, railroad company, other carrier or corporation, or the agent or servant of any such person, carrier or corporation, to move, drive, ship or transport, in any manner, any cattle from any point in a brand inspection area, to any point outside such area other than another brand inspection area, unless such cattle ~~shall have~~ first have been inspected for brands by the state livestock animal health commissioner, the commissioner's inspectors or examiners; or some person deputized by the commissioner to perform such inspection, unless such cattle are accompanied by a brand inspection certificate. The livestock animal health commissioner and the commissioner's inspectors and deputies may give permission for such movement of cattle without inspection when: (1) There is no change of ownership involved; or (2) shipment of such cattle is to a market where Kansas brand inspection is maintained. No such inspection shall be required in any case where any such cattle are being moved from a feedlot the operator of which has been licensed pursuant to K.S.A. 47-1503, and amendments thereto. It shall be unlawful for any motor carrier, railroad company or other carrier transporting any cattle from any brand inspection area to any market to permit the owner, the shipper or the party in charge of cattle to change the billing from consignment point to a point other than to a market where Kansas brand inspection is maintained, unless such carrier has or first secures an authorized brand inspection certificate for such cattle.

Sec. 28. K.S.A. 47-442 is hereby amended to read as follows: 47-442. (a) It shall be unlawful for any person in any brand inspection area to move any cattle within such area unless such cattle have been first inspected for brands by the livestock animal

health commissioner or the commissioner's inspectors or deputies except that cattle may be moved without such inspection when: (1) Cattle are moved to a market where Kansas brand inspection is maintained; or (2) cattle are moved from a feedlot the operator of which has been licensed pursuant to K.S.A. 47-1503, and amendments thereto, except that when any such cattle are moved to any such feedlot the same cattle shall be inspected at the time they enter such feedlot. ~~The livestock commissioner shall have the authority~~

(b) In any case where as a result of a natural or man-made disaster cattle have strayed or have become mixed, the animal health commissioner shall have the authority to conduct a one time brand inspection of the cattle in any such feedlot.

(c) Any person who purchases cattle from within a brand inspection area without receiving a bill of sale and a brand inspection certificate shall be deemed as counseling, aiding and abetting the seller in the unlawful sale of such livestock.

Sec. 29. K.S.A. 47-446 is hereby amended to read as follows: 47-446. Feedlot brands may be lawfully applied to livestock which ~~livestock~~ are not branded with a registered brand of the owner and which are in the custody of, and upon the premises of, a feedlot operator licensed under the provisions of article 15 of chapter 47 of the Kansas Statutes Annotated, and ~~acts amendatory thereof or supplemental amendments~~ thereto, subject to the following conditions, limitations and requirements: (1) Such feedlot brand shall not be construed as evidence of ownership identification; (2) livestock which are branded with a feedlot brand shall be held by the licensed feedlot operator under quarantine upon ~~said feed lot~~ such feedlot premises until ~~(a) either~~ released by ~~said such~~ such feedlot operator for movement to slaughter or ~~(b)~~ released by the livestock animal health commissioner; or ~~his such~~ such commissioner's authorized representative, by issuance of a permit authorizing such livestock to be moved from the feedlot premises for grazing purposes; Any such permit, ~~if issued, shall be subject to the requirement that only shall be issued if such livestock;~~ have been branded with a registered brand of the owner of the livestock before release from licensed feedlot premises; ~~shall be branded with a registered brand of the owner of the livestock.~~

Sec. 30. K.S.A. 47-448 is hereby amended to read as follows: 47-448. The livestock animal health commissioner is authorized to enter into reciprocity agreements with any livestock commissioner or brand inspection agency of any other state or the United States, for cooperation in the administration of brand inspection laws and laws for the control, suppression and eradication of contagious diseases among domestic animals.

The livestock animal health commissioner may set and charge fees for brand inspection of animals subject to any reciprocity agreement, ~~and~~ Such fees shall not be limited by or subject to the provisions of K.S.A. 47-417a or 47-437, and amendments thereto, or any other law prescribing fees for brand inspection.

Sec. 31. K.S.A. 47-605 is hereby amended to read as follows: 47-605. For the purpose of this act, the livestock animal health commissioner is hereby authorized and empowered to administer oaths and affirmations.

Sec. 32. K.S.A. 47-607 is hereby amended to read as follows: 47-607. (a) It shall be unlawful for any person or persons to bring, drive or transport any cattle, calves, sheep, swine, horses, mules, goats, domesticated deer, as defined in K.S.A. 47-1001, and amendments thereto, any creature of the ratite family that is not indigenous to this state, including, but not limited to, ostriches, emus and rheas, or any other animal that may be

used in the preparation of meat or meat products into the state of Kansas, without first having caused such animal or animals to be inspected and passed under certificate of health as required by the livestock animal health commissioner of this state.

(b) All shipments and movements of livestock into the state of Kansas upon a public highway shall be accompanied by any such certificates of health or permits required by the livestock animal health commissioner. The livestock animal health commissioner shall prescribe, by rules and regulations, procedure whereby certificates of health and other required statements and declarations may be submitted to the commissioner at the time of shipment.

(c) The livestock animal health commissioner is authorized to issue a special quarantine on such conditions as the commissioner deems necessary to prevent the spread of infectious and contagious diseases in the state of Kansas and on the condition that, if any such livestock upon inspection by an authorized veterinarian are found not to be free and clear of infectious and contagious diseases, ~~the same such livestock~~ shall be: (1) ~~Forthwith~~

(1) ~~Disposed~~ of by the owner or possessor thereof either by: (A) Sale at a public market for immediate slaughter; (B) delivery at a licensed disposal plant; or (C) return to place of origin; or

(2) ~~held~~ by the owner or possessor thereof under quarantine of and subject to the orders and rules and regulations of the livestock animal health commissioner.

Sec. 33. K.S.A. 47-607a is hereby amended to read as follows: 47-607a. When the livestock animal health commissioner of this state determines that a special permit is required to move any or all kinds or species of livestock into or through the state of Kansas, the livestock animal health commissioner may declare that no person or persons, firm, corporation, railway, aerial or motor transportation company, or individual owner of a truck, or the agents thereof, shall ship, trail, permit to cross the state line or in any manner transport any class of livestock into the state of Kansas from any other area, state or states designated by the livestock animal health commissioner, without first obtaining a special permit, by wire, letter or telephone, from the livestock animal health commissioner at Topeka, Kansas. Such special permit or the authorized permit number of such special permit shall accompany such shipment of livestock into the state of Kansas.

Sec. 34. K.S.A. 47-607d is hereby amended to read as follows: 47-607d. The livestock animal health commissioner may adopt such rules and regulations as necessary to carry out the purposes of this act.

Sec. 35. K.S.A. 47-608 is hereby amended to read as follows: 47-608. The livestock animal health commissioner is hereby authorized and directed to cooperate with the secretary of agriculture of the United States; or any officer or authority of the general government, in the suppression and extirpation of contagious diseases among domestic animals and in the enforcement and execution of all acts of congress to prevent the importation and exportation of diseased animals and the spread of infectious or contagious diseases among domestic animals.

Sec. 36. K.S.A. 47-610 is hereby amended to read as follows: 47-610. The state livestock animal health commissioner is hereby directed to protect the health of domestic animals of the state from all contagious or infectious diseases and for this purpose is hereby authorized and empowered to establish, maintain and enforce such quarantine, sanitary and other regulations as necessary. If the livestock animal health

commissioner requires the assistance of technical knowledge, experience or skill to carry out the duties of the livestock animal health commissioner, the livestock animal health commissioner may command the services of any competent veterinarian or may call upon the dean of the college of veterinary medicine, Kansas state university at Manhattan, Kansas, for that purpose. In case the dean of the college of veterinary medicine, Kansas state university is called, the dean shall receive actual and necessary expenses in the performance of such duties as full compensation for such services. If any other veterinarian is employed, such veterinarian shall receive such actual and necessary expenses and reasonable compensation for such services.

Sec. 37. K.S.A. 2011 Supp. 47-611 is hereby amended to read as follows: 47-611.

(a) When the animal health commissioner determines that a quarantine and other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, the commissioner shall notify the governor of such determination, and the governor shall issue a proclamation announcing the boundary of such quarantine and the orders and rules and regulations prescribed by the commissioner, ~~which.~~ Such proclamation shall be published in the Kansas register, except that the commissioner, if the area affected by the quarantine is limited in extent, may dispense with the proclamation of the governor and give such notice as the commissioner shall deem sufficient to make the quarantine effective.

(b) Upon a determination by the governor that a quarantine or other regulations are necessary to prevent the spread among domestic animals of any contagious or infectious disease, the governor shall direct the commissioner to establish a quarantine pursuant to this section.

(c) The governor may require and direct the cooperation and assistance of any state agency in enforcing such quarantine or other regulations pursuant to subsection (a) or (b).

(d) The commissioner shall establish such quarantine immediately and shall give and enforce such directions, rules and regulations as to separating, isolating, handling and treating, feeding and caring for such diseased animals, animals exposed to the disease and animals within the quarantine which have not been immediately exposed, as the commissioner deems necessary to prevent those classes of animals from coming into contact with one another.

(e) The livestock animal health commissioner or the commissioner's designee is hereby authorized and empowered to enter any grounds and premises to carry out the provisions of this act.

Sec. 38. K.S.A. 2011 Supp. 47-612 is hereby amended to read as follows: 47-612. Whenever the livestock animal health commissioner determines that certain animals within the state are capable of communicating infectious or contagious disease, the commissioner may issue an order to the sheriff of the county or to any agent, inspector or authorized representative of the livestock animal health commissioner in which such animals are found, commanding such individuals to take into custody and keep such animals subject to such quarantine regulations as the livestock animal health commissioner may prescribe, until such time as the commissioner directs such person to deliver such animals to their owner or owners or to the agent of the owner or owners. Before any animals are delivered, ~~there shall be paid by the owner of such animals~~ shall pay to the livestock animal health commissioner all the fees, costs and expenses of taking, detaining and holding and caring for the animals. In case such fees, costs and

expenses are not paid at the time fixed by the livestock animal health commissioner, the officer having custody of such animals shall advertise, in the same manner as provided by law in case of sale of personal property on execution, that the officer will sell such animals or such portion of such animals as may be necessary to pay such fees, costs and expenses, together with the costs and expenses of such sale. At the time and place advertised the officer shall sell as many of the animals as may be necessary to pay for such fees, costs and expenses and the costs and expenses of such sale. Upon such sale the officer shall without delay pay to the owner any amount received in excess of the fees, costs and expenses, including, but not limited to, legal fees of such officer. Any officer performing any of the duties directed in this section or any other section of this act shall receive the same compensation for such services as is prescribed by law for similar services. In case such fees, costs and expenses cannot be collected by sale of such animals, such fees, costs and expenses shall be paid by the state of Kansas unless payment or indemnity for the costs of taking into custody, keeping and selling such animals may be obtained from the United States government.

Sec. 39. K.S.A. 47-613 is hereby amended to read as follows: 47-613. The sheriff to whom the existence of any contagious or infectious disease of domestic animals is reported shall proceed without delay to the place where such domestic animal or animals are and examine the same, and shall report immediately the result of such examination to the livestock animal health commissioner. The sheriff shall enforce such temporary quarantine regulations as the livestock animal health commissioner may direct to prevent the spread of such disease, until the livestock animal health commissioner provides and orders suitable permanent quarantine rules and regulations. No sheriff who takes or detains such animals under the provisions of this act shall be liable to the owner or owners of such animals for any damages by reason of such taking or detention or by reason of the performance of any other duties directed by law.

Sec. 40. K.S.A. 47-616 is hereby amended to read as follows: 47-616. When any animal or animals are killed under the provisions of this act by order of the commissioner, the owner of such animal or animals shall be paid for such animal or animals such proportion of the appraised value as fixed by the appraisement as provided by law. The right of indemnity on account of animals killed by order of the commissioner under the provisions of this act shall not extend to: (a) ~~to~~ Animals killed on account of rabies; (b) ~~to~~ the owner of animals which have been brought into the state in a diseased condition, or from a state, country, territory or district in which the disease with which the animal is infected or to which it has been exposed exists; (c) ~~to~~ any animal which has been brought into the state in violation of any law or quarantine regulations thereof, or the owner of which has violated any of the provisions of this act or disregarded any rule and regulation or order of the livestock animal health commissioner; (d) ~~to~~ any animal which came into the possession of the claimant with the claimant's knowledge that such animal was diseased or was suspected of being diseased or of having been exposed to any contagious or infectious disease; ~~nor or~~ (e) ~~to~~ any animal belonging to the United States.

Sec. 41. K.S.A. 47-618 is hereby amended to read as follows: 47-618. The animal health commissioner shall have power to call upon any sheriff, undersheriff or deputy sheriff to execute his the commissioner's orders, ~~and~~ Such officers shall obey the orders of ~~said the~~ commissioner, and for performing such services shall receive mileage and fees as is now provided for service in process in civil actions; ~~and in addition thereto~~

~~shall receive.~~ For killing and disposing of diseased animals, in accordance with the rules prescribed by the livestock animal health commissioner, such officers shall receive the following fees: (1) For the first animal, not to exceed five dollars (\$5); \$5; (2) for each additional animal, not to exceed two dollars (\$2); \$2; but in no case shall the amount exceed the actual cost of doing such work; ~~and.~~ Such fees shall be paid by the board of county commissioners of the county in which the services are rendered. Any such officer may arrest on view and take before any judge of a court of competent jurisdiction of the county any person found violating the provisions of this act, and such officer shall immediately notify the county or district attorney of such arrest, and ~~he~~ such county or district attorney shall prosecute the person so offending according to law.

Sec. 42. K.S.A. 47-619 is hereby amended to read as follows: 47-619. ~~The owner or owners of any stockyards doing business in this state;~~ When requested by the livestock animal health commissioner, the owner or owners of any stockyards doing business in this state shall keep constantly in their employ a competent inspector of livestock appointed by the commissioner whose compensation shall be fixed and duties prescribed by the livestock animal health commissioner. The livestock animal health commissioner shall prescribe that portion of the compensation which shall be paid by the owner or owners of the stockyards. It shall be the duty of such inspector to work in conjunction with the United States government authorities to prohibit and prevent any stock affected with any contagious or infectious disease to be driven or shipped out of any such stockyards except to some licensed rendering establishment.

Sec. 43. K.S.A. 47-620 is hereby amended to read as follows: 47-620. Whenever the state livestock animal health commissioner has good reason to believe that any contagious or infectious disease has become epidemic in certain localities in other states, territories or countries, or that there are conditions which render domestic animals from such infected districts liable to convey such disease, the livestock animal health commissioner shall publish an order prohibiting the entrance of any livestock of the kind diseased into the state from such infected district.

Sec. 44. K.S.A. 47-622 is hereby amended to read as follows: 47-622. It shall be the duty of the owner or person in charge of any domestic animal or animals who discovers, or has reason to believe that any domestic animal owned by such person or in such person's charge or keeping is affected with any contagious or infectious disease, to immediately report such fact or belief to the livestock animal health commissioner. It shall be the duty of any person who discovers the existence of any such contagious or infectious disease among the domestic animals of any person to immediately report this information ~~at once~~ to the livestock animal health commissioner.

Sec. 45. K.S.A. 2011 Supp. 47-624 is hereby amended to read as follows: 47-624. (a) In addition to any other penalty provided by law, any person who has in such person's possession any domestic animal affected with any contagious or infectious disease, knowing such animal to be so affected, ~~who may incur a civil penalty imposed under subsection (b) if such person:~~

- (1) ~~Permits such animal to run at large; or who~~
- (2) ~~keeps such animal where other domestic animals, not affected with or previously exposed to such disease, may be exposed to such contagious or infectious disease; or who~~
- (3) ~~sells, ships, drives, trades or gives away such diseased and infected animal or~~

animals which have been exposed to such infection or contagion, except by sale, trade or gift to a regularly licensed disposal plant; or ~~who~~

~~(4)~~ moves or drives any domestic animal in violation of the rules and regulations, directions or orders establishing and regulating quarantine ~~may incur a civil penalty imposed under subsection (b) in the amount of not less than \$250 nor more than \$1,000 for each such violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.~~

(b) Any owner of any domestic animal which has been affected with or exposed to any contagious or infectious disease may dispose of the same after such owner obtains from the livestock animal health commissioner a bill of health for such animal.

~~(b)~~ (c) Any duly authorized agent of the commissioner, upon a finding that any person, or agent or employee thereof, has violated any of the provisions stated above of subsection (a), may impose a civil penalty upon such person as provided in this section. Such penalty shall be an amount not less than \$250 nor more than \$1,000 for each such violation and in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

~~(c)~~ (d) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the commissioner to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the commissioner. Any such person, within 20 days after notification, may make written request to the commissioner for a hearing in accordance with the provisions of the Kansas administrative procedure act. The commissioner shall affirm, reverse or modify the order and shall specify the reasons therefor.

~~(d)~~ (e) Any person aggrieved by an order of the commissioner made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

~~(e)~~ (f) Any civil penalty recovered pursuant to the provisions of this section 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 the state general fund.

Sec. 46. K.S.A. 47-626 is hereby amended to read as follows: 47-626. The state livestock animal health commissioner may employ such persons and purchase such supplies, appliances and materials as may be necessary to carry into full effect all the orders given by the livestock animal health commissioner as provided by law. No labor shall be employed and no material or supplies purchased by the livestock animal health commissioner except such additional labor, material and supplies as may be necessary to carry into effect the quarantine and other regulations prescribed by the commissioner. The director of accounts and reports shall draw warrants upon the treasurer of state for the necessary amount upon vouchers properly verified by the person performing such labor or furnishing such material and approved by the livestock animal health commissioner.

Sec. 47. K.S.A. 47-627 is hereby amended to read as follows: 47-627. If the livestock animal health commissioner finds the disease known as the itch or mange existing among domestic animals, the livestock animal health commissioner shall order all animals so affected to be properly treated as the commissioner deems necessary.

Sec. 48. K.S.A. 47-629 is hereby amended to read as follows: 47-629. It shall be

unlawful for any person to inject any virulent hog cholera virus into any hog; in the state of Kansas; unless such person first obtains a permit from the livestock animal health commissioner authorizing such injection. A permit to inject virulent hog cholera virus may be issued by the livestock animal health commissioner upon application to the livestock animal health commissioner upon a form provided by the livestock animal health commissioner. Such permit shall be issued only to persons who are sufficiently informed as to qualify to safely handle and use such virus; ~~and~~. Such permit shall state ~~such the~~ conditions, limitations and regulations as the livestock animal health commissioner deems necessary for the protection of the health of the domestic animals of this state from infectious or contagious diseases. Such permit shall be issued for a definite period which duration shall be fixed by the livestock animal health commissioner as the livestock animal health commissioner deems necessary to prevent the spread of infectious or contagious diseases. The permit holder shall comply with the requirements of such permit.

Sec. 49. K.S.A. 47-629a is hereby amended to read as follows: 47-629a. It shall be unlawful for any person to sell or offer for sale virulent hog cholera virus to another unless the vendor is: (1) A manufacturer thereof; or (2) a distributor of veterinarian supplies, authorized by the livestock animal health commissioner to handle and sell such virus; or (3) a veterinarian licensed under the Kansas veterinary practice act.

Sec. 50. K.S.A. 47-629b is hereby amended to read as follows: 47-629b. It shall be unlawful for any person to sell; or offer for sale; any virulent hog cholera virus to another unless the purchaser is: (1) A holder of a permit from the livestock animal health commissioner, currently in effect, authorizing such person to inject virulent hog cholera virus; or (2) a distributor of veterinarian supplies authorized by the livestock animal health commissioner to handle and sell such virus.

Sec. 51. K.S.A. 47-629c is hereby amended to read as follows: 47-629c. Any person who violates any provision of this act, or any provision of a permit to inject virulent hog cholera virus issued by the livestock animal health commissioner, and any person who fails to comply with any provision of this act or any provision of such a permit, shall be guilty of a misdemeanor and upon conviction shall be fined ~~in a sum of~~ not less than \$25 or more than \$500 or shall be imprisoned in the county jail for not more than six months, or both.

Sec. 52. K.S.A. 47-631 is hereby amended to read as follows: 47-631. (a) The livestock animal health commissioner, whenever the livestock animal health commissioner deems it necessary, shall formulate and announce the rules under which the tuberculin test for tuberculosis in domestic animals shall be applied ~~and~~. For all proceedings ~~subsequent to~~ pursuant to such application:

(1) No tuberculin shall be used other than that furnished by the United States government;

(2) no person other than one indicated for that purpose by the livestock animal health commissioner shall inject any tuberculin into any animal in this state; ~~and~~

(3) all charts giving the temperature and conditions existing at the time the animal was tested, accompanied by a history and description of the animal, shall be submitted, immediately after the test is made, to the state livestock animal health commissioner; ~~who shall thereupon. The animal health commissioner shall then~~ render ~~an opinion a~~ decision thereon, which ~~decision~~ shall be final and shall be recorded in the office of the livestock animal health commissioner.

(b) The state livestock animal health commissioner shall ~~at once~~ immediately apply the quarantine and other regulations issued under the provisions of this act to animals found infected with tuberculosis.

Sec. 53. K.S.A. 47-632 is hereby amended to read as follows: 47-632. Whenever the livestock animal health commissioner shall ~~have decided~~ determines that any domestic animal is affected with tuberculosis ~~he or she shall at once~~, the commissioner shall immediately condemn ~~said such~~ animal and quarantine the herd ~~wherein in which~~ it is found. Whereupon, the owner shall sell such diseased animal for immediate slaughter under state or federal inspection, subject to a post-mortem examination under the direction of the livestock animal health commissioner. ~~Said Such~~ owner shall be indemnified by the state livestock animal health commissioner, from funds appropriated therefor, in an amount equal to ~~one hundred dollars (\$100)~~ \$100 for each condemned grade bovine animal and ~~two hundred dollars (\$200)~~ \$200 for each registered bovine animal.

Sec. 54. K.S.A. 47-632a is hereby amended to read as follows: 47-632a. The livestock animal health commissioner shall not be required to examine the records in the county where condemned animals are situated to determine names and rights of lien claimants or mortgagees.

Sec. 55. K.S.A. 47-633a is hereby amended to read as follows: 47-633a. The livestock animal health commissioner may order the condemnation of an entire herd of domestic animals when tuberculosis of any animal within such herd has been diagnosed. In such event, the livestock animal health commissioner shall indemnify the owner of such herd in an amount not to exceed ~~fifty percent (50%)~~ 50% of the difference between the salvage value and the appraised value of the animals in the condemned herd. Such payment by the commissioner shall be from funds appropriated therefor, but in no event shall such payment exceed the sum of ~~four hundred dollars (\$400)~~ \$400 per head for registered bovine animals, the sum of ~~two hundred dollars (\$200)~~ \$200 per head for grade bovine animals. Such compensation shall not be paid, and the premises from which the herd was taken shall not be restocked, until such premises have been cleaned and disinfected and, ~~subsequent thereto~~, have been inspected and approved by the livestock animal health commissioner, or ~~his or her~~ the commissioner's authorized representative. Appraisals of animals condemned shall be made by the livestock animal health commissioner, or ~~his or her~~ the commissioner's authorized representative, and by the owner. If ~~said such~~ appraisers cannot agree, a disinterested third party, who has knowledge of livestock values in such locality, shall be selected as an arbitrator by the commissioner and the owner, at the expense of the owner. The determination of values by ~~said such~~ arbitrator shall be final.

Sec. 56. K.S.A. 47-634 is hereby amended to read as follows: 47-634. The disinfection of the premises where a diseased animal or animals coming within the provisions of this act have been kept shall be under the supervision of the livestock animal health commissioner, or the designee of the livestock animal health commissioner. The livestock animal health commissioner, ~~in addition~~, shall designate the materials to be used and the method of their application. The cost of such material together with the necessary labor of disinfecting shall be paid by the owner of such animals. Except for disinfection, the premises shall be kept in quarantine until such time as the livestock animal health commissioner may determine.

Sec. 57. K.S.A. 47-635 is hereby amended to read as follows: 47-635. The

provisions of this act shall ~~be construed to~~ include all contagious or infectious diseases among all kinds of domestic animals, including, but not limited to, horses, mules, asses, cattle, sheep, goats, llamas, swine, dogs, cats, poultry, birds, nonhuman primates, ferrets, domesticated deer, as defined in K.S.A. 47-1001, and amendments thereto, all creatures of the ratite family, including, but not limited to, ostriches, emus and rheas and exotic animals as defined by rules and regulations in 9 C.F.R. § 1.1, pursuant to 7 U.S.C. § 2131 *et seq.* The state ~~livestock animal health~~ commissioner is given the same power over any domestic animal afflicted with rabies as is conferred upon the ~~livestock animal health~~ commissioner in relation to other diseases of domestic animals.

Sec. 58. K.S.A. 47-646a is hereby amended to read as follows: 47-646a. It shall be lawful for any authorized representative of the ~~livestock animal health~~ commissioner, any sheriff, any city marshal or any law enforcement officer at any time to kill any dog which may be found unconfined in violation of any rabies quarantine or other quarantine order issued by the state ~~livestock animal health~~ commissioner or issued by the secretary of health and environment.

Sec. 59. K.S.A. 47-650 is hereby amended to read as follows: 47-650. Upon the presentation to the state ~~livestock animal health~~ commissioner of a petition signed by 50 farmers who are resident taxpayers of any county in this state asking that they be permitted to establish a county hog cholera-control organization in their county, such commissioner shall notify in writing the president of Kansas state university; and the inspector in charge of the office of the United States department of agriculture, animal plant health inspection service, veterinary services, that a meeting will be held at the county seat of the county at a certain date and hour to perfect the organization prayed for in the petition. All persons attending such meeting shall proceed to perfect the establishment of the _____ county hog cholera-control organization by choosing a president, vice-president, secretary and treasurer and one farmer from each township in the county, who ~~shall~~, in connection with such officers, shall constitute the executive board of the _____ county hog cholera-control organization.

Sec. 60. K.S.A. 47-651 is hereby amended to read as follows: 47-651. Upon the completion of the establishment of such organization, the state ~~livestock animal health~~ commissioner ~~shall~~, upon the recommendation of the executive board, shall appoint a competent person as deputy state ~~livestock animal health~~ commissioner for the county. Such county deputy ~~livestock animal health~~ commissioner shall perform all services and discharge all duties in the county hog cholera control work in exact conformity with the rules and regulations promulgated by the ~~livestock animal health~~ commissioner.

Sec. 61. K.S.A. 47-653 is hereby amended to read as follows: 47-653. The county deputy ~~livestock animal health~~ commissioner shall receive a reasonable compensation, to be determined by the state ~~livestock animal health~~ commissioner, in an amount not to exceed \$100 per month and necessary travel expenses while absent from home in the discharge of the duties of such position.

Sec. 62. K.S.A. 47-653a is hereby amended to read as follows: 47-653a. It shall be unlawful for any person to sell or to use hog cholera vaccines in the state of Kansas unless the hog cholera vaccine is first approved by the state ~~livestock animal health~~ commissioner.

Sec. 63. K.S.A. 47-653b is hereby amended to read as follows: 47-653b. The state ~~livestock animal health~~ commissioner is hereby authorized and empowered to adopt rules and regulations designating which hog cholera vaccines may be sold or used in

this state.

Sec. 64. K.S.A. 47-653d is hereby amended to read as follows: 47-653d. In order to prevent the spread of hog cholera; and to reduce the danger of the spread thereof, the livestock animal health commissioner, or the authorized representative of the livestock animal health commissioner, may destroy or require the destruction of any swine which the livestock animal health commissioner has determined to be affected with or exposed to hog cholera. Prior to such destruction there shall be an appraisal of the value of any swine, which shall be made jointly by the owner of such swine and the livestock animal health commissioner, or the authorized representative of the livestock animal health commissioner. If the appraisers cannot agree, a disinterested third party who has knowledge of livestock values in such locality shall be selected by the commissioner and the owner, at the expense of the owner, as an arbitrator. The arbitrator's determination of the value of such swine shall be final.

Sec. 65. K.S.A. 47-653e is hereby amended to read as follows: 47-653e. The owner or custodian of such swine, immediately after the determination of its appraised value, shall cause such swine to be disposed of in the manner directed by the livestock animal health commissioner or the authorized representative of the livestock animal health commissioner. Any owner or custodian of swine who fails to dispose of swine as directed by the livestock animal health commissioner, upon conviction, shall be guilty of a misdemeanor and shall be punished in the manner provided in K.S.A. 47-607c, and amendments thereto.

Sec. 66. K.S.A. 47-653f is hereby amended to read as follows: 47-653f. On presentation to the livestock animal health commissioner of acceptable evidence that disposition of such swine has been made in the prescribed manner, the owner of such swine shall be entitled to indemnity, to be paid by the state, in an amount equal to the amount of indemnity paid by the federal government for such destruction of swine. Such indemnification by the state shall not exceed \$40 per head for grade swine and shall not exceed \$60 per head for purebred swine. Indemnities shall not be paid on swine which have been brought or moved into Kansas in violation of the import regulations of this state; and indemnity shall not be paid on any swine which have been allowed to mingle with swine so brought or moved into Kansas.

Indemnification payments shall be made from legislative appropriations for such purpose to the livestock animal health commissioner. The director of accounts and reports is hereby authorized and directed to draw warrants upon the state treasurer for the amounts and for the purposes provided herein upon duly executed vouchers approved by the livestock animal health commissioner.

Sec. 67. K.S.A. 47-653g is hereby amended to read as follows: 47-653g. The livestock animal health commissioner is hereby authorized to cooperate with any department, agency or officer of the federal government in the control and eradication of hog cholera, including the sharing in the payment of indemnities for swine destroyed pursuant to this act.

Sec. 68. K.S.A. 47-653h is hereby amended to read as follows: 47-653h. Any motor vehicle used in the hauling or transporting of swine from the premises where diseased or exposed swine have been under hog cholera quarantine to a destination where such swine are to be slaughtered, including a licensed disposal plant, shall be thoroughly cleaned and disinfected after unloading such swine. Such cleaning and disinfection shall be made under the supervision of the livestock animal health commissioner, or the

authorized representative of the livestock animal health commissioner, ~~and~~ with a disinfectant which has been approved by the livestock animal health commissioner.

Sec. 69. K.S.A. 47-654 is hereby amended to read as follows: 47-654. It shall be unlawful for any person to ship into Kansas or offer for sale in Kansas any food for livestock contained in sacks which have not been first thoroughly disinfected or fumigated in accordance with the requirements of the livestock animal health commissioner. It shall be unlawful for any person to offer for sale in Kansas any food for livestock manufactured within the state that is contained in sacks which have not been first thoroughly disinfected or fumigated in accordance with the requirements of the livestock animal health commissioner.

Sec. 70. K.S.A. 47-655 is hereby amended to read as follows: 47-655. It shall be unlawful for any person to sell or offer for sale any old or secondhand sacks until ~~the same such sacks~~ have been thoroughly disinfected or fumigated as required by the livestock animal health commissioner.

Sec. 71. K.S.A. 47-657 is hereby amended to read as follows: 47-657. (a) The state livestock animal health commissioner, whenever the commissioner deems it necessary, shall formulate and announce the rules under which approved test for brucellosis in cattle shall be applied and for all proceedings subsequent to such application:

(1) No person or laboratory other than those indicated for that purpose by the livestock animal health commissioner shall test cattle for brucellosis;

(2) all charts showing result of test and conditions existing at the time of test, together with a history and description of cattle, shall be submitted to the livestock animal health commissioner immediately upon completion of test and the livestock animal health commissioner shall render an opinion thereon, ~~which. Such~~ decision shall be final; and shall be recorded in the office of the livestock animal health commissioner.

(b) The livestock animal health commissioner may at once apply the quarantine and other regulations issued under the provisions of law to animals found infected with brucellosis.

Sec. 72. K.S.A. 47-658a is hereby amended to read as follows: 47-658a. Whenever the state livestock animal health commissioner ~~shall have decided animal health commissioner determines~~ that any domestic animal is affected with brucellosis, ~~he or his authorized representatives the animal health commissioner or the authorized representative of the animal health commissioner,~~ may proceed at once to identify such reactor animal by causing ~~said such~~ reactor animal to be branded with the letter "B" on the left jaw by hot iron: ~~Provided,~~ The livestock animal health commissioner may approve the use of other methods for the identification of brucellosis reactors.

Sec. 73. K.S.A. 47-658b is hereby amended to read as follows: 47-658b. Any animal determined to be a reactor animal to brucellosis shall be sold for slaughter within ~~fifteen (15) 15~~ days after being properly identified. Such animal being shipped to be sold for slaughter shall be accompanied by an official shipping permit issued by the livestock animal health commissioner or ~~his the~~ authorized representative of the animal health commissioner. Under unusual circumstances, the livestock animal health commissioner may extend the period for sale for slaughter up to a maximum of an additional ~~thirty (30) 30~~ days following the proper identification of such reactor.

Sec. 74. K.S.A. 47-660 is hereby amended to read as follows: 47-660. The secretary of agriculture of the United States, authorized officers of the bureau of animal industry of such department, the state livestock animal health commissioner of Kansas

and the authorized deputies of such officials shall have free access to enter upon the premises of any and all persons who own or are in possession of domestic animals and free access to inspect and examine all such domestic animals which are:

- (a) ~~Which are~~ Affected with any infectious or contagious disease; ~~or~~
- (b) ~~which are~~ suspected or reported to be affected with any infectious or contagious disease; ~~or~~
- (c) ~~which are~~ located within any area which has been designated as a tuberculosis modified accredited area or brucellosis modified accredited area by the secretary of agriculture of the United States, or by an officer or authority under the United States department of agriculture, animal plant health inspection service, veterinary services or by the state livestock animal health commissioner; ~~or~~
- (d) ~~which are~~ within a herd that has been designated as accredited tuberculosis free or accredited brucellosis free; or
- (e) ~~which are~~ located upon the premises of an owner who has a herd of domestic animals which has been accredited as tuberculosis free or brucellosis free.

Sec. 75. K.S.A. 47-666 is hereby amended to read as follows: 47-666. Whenever the livestock animal health commissioner has decided that any swine is affected with vesicular exanthema and that it is necessary to order the animals killed in order to prevent the spread of such disease in Kansas, the livestock animal health commissioner shall proceed with the appraisal, condemnation and killing of ~~the same such swine~~ as authorized under K.S.A. 47-614 and 47-615, and amendments ~~to such sections thereto~~. The owner of such diseased animals which have been so killed and disposed of shall be entitled to receive from the state of Kansas $\frac{1}{3}$ of the difference between the appraised value of the animals and the salvage proceeds, if any, received by the owner from the destruction and disposal of such animals.

The livestock animal health commissioner shall draw a voucher upon the director of accounts and reports of the state of Kansas in favor of the owner of such diseased animals for the amount of indemnity for which such owner is entitled, and the director of accounts and reports is hereby authorized and directed to accept such vouchers so drawn by the state livestock animal health commissioner, such amounts to be paid for out of the funds appropriated for such purposes.

Sec. 76. K.S.A. 47-667 is hereby amended to read as follows: 47-667. As used in this act, unless the context otherwise requires: (a) "Commissioner" means the livestock animal health commissioner appointed by the ~~Kansas animal health board pursuant to K.S.A. 75-1901~~ secretary of agriculture pursuant to K.S.A. 74-5,119, and amendments thereto.

(b) "SPF" swine means specific pathogen free swine, which conform to the regulations and health standards prescribed by the commissioner.

(c) "Person" means any individual, partnership, firm, association or corporation.

Sec. 77. K.S.A. 2011 Supp. 47-672 is hereby amended to read as follows: 47-672. (a) The livestock animal health commissioner of the Kansas ~~animal health department~~ department of agriculture division of animal health is hereby authorized to supervise the operation of cattle and other animal dipping equipment which is used in the control and eradication of scabies in cattle and other animals and which is made available by the federal government for use by livestock producers and others under the supervision of the livestock animal health commissioner. The livestock animal health commissioner is hereby authorized to fix, charge and collect a fee from the owner of such cattle and

other animals which are dipped as provided in this section, in an amount of not more than \$5 per head, to recover all or part of the costs of operating and maintaining such cattle and other animal dipping equipment.

(b) All moneys received by the livestock animal health commissioner for fees under this section 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 the animal disease control fund, which is hereby created. All expenditures from the animal disease control fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock animal health commissioner or by a person or persons designated by the livestock animal health commissioner.

Sec. 78. K.S.A. 47-673 is hereby amended to read as follows: 47-673. (a) The livestock animal health commissioner is hereby authorized to take control of any pseudorabies infected herd of swine from the owner. A pseudorabies infected herd of swine is a herd that has been determined to be infected with pseudorabies virus by official pseudorabies testing procedures conducted at approved veterinary diagnostic laboratories from adequate samples collected from the herd by an accredited veterinarian.

(b) For any such herd, the livestock animal health commissioner shall develop and monitor a mandatory infected herd plan to eradicate the virus from the owner's premises. If, in the opinion of the livestock animal health commissioner, sufficient progress toward pseudorabies free status, as defined in the state-federal-industry pseudorabies eradication program as in effect on the effective date of this act, is not being made, the livestock animal health commissioner shall order the depopulation of such herd.

(c) Whenever any swine are depopulated under provisions of this act by order of the livestock animal health commissioner, the owner of such swine shall be paid for such swine in an amount determined by the livestock animal health commissioner from funds appropriated for such purpose by the legislature.

(d) The livestock animal health commissioner may adopt rules and regulations as necessary to carry out the purposes of this act.

Sec. 79. K.S.A. 2011 Supp. 47-674 is hereby amended to read as follows: 47-674. (a) The livestock animal health commissioner is authorized to cooperate with the United States department of agriculture, other state governmental officials, tribal officials and representatives of private industry, and subject to the provisions of subsection (d), to promulgate rules and regulations, to define premises where animals are located and to develop and implement a voluntary premises registration and animal identification and tracking system for Kansas.

(b) In the development of such system, the livestock animal health commissioner shall ensure that:

(1) The requirements are consistent with the federal program and with the United States animal identification plan;

(2) the costs and paperwork requirements are minimized for the registrant and the state; and

(3) the program is not duplicative of or in conflict with proposed federal requirements.

(c) The livestock animal health commissioner is authorized to prepare for the implementation of a premises registration program for Kansas prior to implementation of a national animal identification or premises registration system. Such acts in preparation shall include, but not be limited to, public hearings, educational meetings, development of proposed rules and regulations and cooperative development with the department of agriculture of a proposal regarding infrastructure necessary for such implementation.

(d) If the United States department of agriculture issues proposed or final uniform methods and rules or regulations for the implementation of a voluntary national animal identification and tracking system or premises registration system, or the congress of the United States enacts requirements for a voluntary national animal identification and tracking system or premises registration system, the livestock animal health commissioner is authorized to promulgate such rules and regulations as may be reasonably necessary to implement voluntary premises registration and the national animal identification and tracking system to the extent authorized by federal requirements.

(e) Subject to appropriations therefor, the livestock animal health commissioner is authorized to hire, in accordance with the civil service act, not more than two employees for the purpose of carrying out the provisions of this section.

(f) The livestock animal health commissioner is authorized to enter into agreements with federal agencies or officials, other state agencies or officials, tribal officials or the owner of animals or such owner's authorized agent to coordinate efforts and share records and data systems pursuant to law to maximize the efficiency and effectiveness of this section.

(g) Any data or records provided or obtained pursuant to this section to an official of the Kansas department of agriculture division of animal health department shall be considered confidential by the Kansas department of agriculture division of animal health department and shall not be disclosed to the public. The provisions of subsection (b) of K.S.A. 45-229, and amendments thereto, shall not apply to the provisions of this subsection.

(h) Any federal financial aid or assistance, grants, gifts, bequests, money or aid of any kind for premises registration or animal identification and tracking in Kansas, 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 the premises registration and animal identification fund, which fund is hereby created. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock animal health commissioner or by a person designated by the livestock animal health commissioner and shall be used solely for the administration of the voluntary premises registration or animal identification and tracking system.

(i) The livestock animal health commissioner shall form study groups representing the various animal species to be affected by the provisions of this section. Each such study group shall include representatives for each such specie selected by the livestock animal health commissioner and shall include assistance from the secretary of agriculture or the secretary's designees. Each such study group shall make recommendations to the livestock animal health commissioner regarding the

development of premises registration, animal identification and tracking for purposes of such systems, appropriations and fees necessary in administration of the program, enforcement provisions necessary in administration of the program and other issues related to the administration of the program.

~~(j) The livestock commissioner shall prepare a report and present such report to the legislature by February 1, 2006, on the status of the state and federal voluntary premises registration and animal identification and tracking systems. Such report shall include the recommendations of the livestock commissioner, appropriations and fees necessary in administration of the system, enforcement provisions necessary in administration of the system and any other recommendation deemed necessary by the livestock commissioner to carry out the provisions of this section.~~

Sec. 80. K.S.A. 2011 Supp. 47-816 is hereby amended to read as follows: 47-816. As used in the Kansas veterinary practice act:

(a) "Animal" means any mammalian animal other than human and any fowl, bird, amphibian, fish or reptile, wild or domestic, living or dead.

(b) "Board" means the state board of veterinary examiners.

(c) "Companion animal" means any dog, cat or other domesticated animal possessed by a person for purposes of companionship, security, hunting, herding or providing assistance in relation to a physical disability but shall exclude any animal raised on a farm or ranch and used or intended for use as food.

(d) "Clock hour of continuing education" means 60 minutes of participation in a continuing education program or activity which meets the minimum standards for continuing education according to rules and regulations adopted by the board.

(e) "Direct supervision" means the supervising licensed veterinarian:

(1) Is on the veterinary premises or in the same general area in a field setting;

(2) is quickly and easily available;

(3) examines the animal prior to delegating any veterinary practice activity to the supervisee and performs any additional examination of the animal required by good veterinary practice; and

(4) delegates only those veterinary practice activities which are consistent with rules and regulations of the board regarding employee supervision.

(f) "Licensed veterinarian" means a veterinarian who is validly and currently licensed to practice veterinary medicine in this state.

(g) "Indirect supervision" means that the supervising licensed veterinarian:

(1) Is not on the veterinary premises or in the same general area in a field setting, but has examined the animal and provided either written or documented oral instructions or a written protocol for treatment of the animal patient, except that in an emergency, the supervising licensed veterinarian may provide oral instructions prior to examining the animal and subsequently examine the animal and document the instruction in writing;

(2) delegates only those veterinary practice tasks which are consistent with the rules and regulations of the board regarding employee supervision; and

(3) the animal being treated is not anesthetized as defined in rules and regulations.

(h) "Practice of veterinary medicine" means any of the following:

(1) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury or other physical or mental condition; including the prescription or administration of any drug, medicine, biologic, apparatus, application,

anesthesia or other therapeutic or diagnostic substance or technique on any animal, including, but not limited to, acupuncture, surgical or dental operations, animal psychology, animal chiropractic, theriogenology, surgery, including cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the above and all other branches of veterinary medicine.

(2) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in paragraph (1).

(3) To use any title, words, abbreviation or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph (1). Such use shall be *prima facie* evidence of the intention to represent oneself as engaged in the practice of veterinary medicine.

(4) To collect blood or other samples for the purpose of diagnosing disease or conditions. This shall not apply to unlicensed personnel employed by the United States department of agriculture, ~~the Kansas animal health department~~ or the Kansas department of agriculture who are engaged in such personnel's official duties.

(5) To apply principles of environmental sanitation, food inspection, environmental pollution control, animal nutrition, zoonotic disease control and disaster medicine in the promotion and protection of public health in the performance of any veterinary service or procedure.

(i) "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American veterinary medical association and which is recognized and approved by the board.

(j) "Veterinarian" means a person who has received a doctor of veterinary medicine degree or the equivalent from a school of veterinary medicine.

(k) "Veterinary premises" means any premises or facility where the practice of veterinary medicine occurs, including, but not limited to, a mobile clinic, outpatient clinic, satellite clinic or veterinary hospital or clinic, but shall not include the premises of a veterinary client, research facility, a federal military base, Kansas state university college of veterinary medicine or any premises wherein the practice of veterinary medicine occurs no more than three times per year as a public service outreach of a registered veterinary premises.

(l) "Graduate veterinary technician" means a person who has graduated from an American veterinary medical association accredited school approved by the board.

(m) "Registered veterinary technician" means a person who is a graduate veterinary technician, has passed the examinations required by the board for registration and is registered by the board.

(n) "Veterinary-client-patient relationship" means:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal or animals and the need for medical treatment, and the client, owner or other caretaker has agreed to follow the instruction of the veterinarian;

(2) there is sufficient knowledge of the animal or animals by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals. This means that the veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals by virtue of an

examination of the animal or animals, or by medically appropriate and timely visits to the premises where the animal or animals are kept, or both; and

(3) the practicing veterinarian is readily available for followup in case of adverse reactions or failure of the regimen of therapy.

(o) "Veterinary prescription drugs" means such prescription items as defined by 21 U.S.C. ~~See~~ § 353, as in effect on July 1, 2001.

(p) "Veterinary corporation" means a professional corporation of licensed veterinarians incorporated under the professional corporation act of Kansas, cited at K.S.A. 17-2706 *et seq.*, and amendments thereto.

(q) "Veterinary partnership" means a partnership pursuant to the Kansas uniform partnership act, cited at K.S.A. 56a-101 *et seq.*, and amendments thereto, formed by licensed veterinarians engaged in the practice of veterinary medicine.

(r) "Person" means any individual, corporation, partnership, association or other entity.

Sec. 81. K.S.A. 47-1001 is hereby amended to read as follows: 47-1001. As used in this act, except where the context clearly indicates a different meaning:

(a) "Commissioner" means the ~~livestock~~ animal health commissioner of the state of Kansas.

(b) "Livestock" means and includes cattle, swine, sheep, goats, horses, mules, domesticated deer, all creatures of the ratiite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas, and any other animal as deemed necessary by the commissioner established through rules and regulations.

(c) "Person" means and includes any individual, partnership, corporation or association.

(d) "Producer" means any person engaged in the business of breeding, grazing or feeding livestock.

(e) "Consignor" means any person who ships or delivers to any public livestock market livestock for handling, sale or resale at a public livestock market.

(f) "Public livestock market" means any place, establishment or facility commonly known as a "livestock market," "livestock auction market," "sales ring," "stockyard," "community sale" as such term is used in article 10 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, which includes any business conducted or operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold or kept for sale or shipment except that this term shall not apply to any livestock market where federal veterinary inspection is regularly maintained.

(g) "Public livestock market operator" means any person who, in this state, receives on consignment, or solicits from the producer or consignor thereof, or holds in trust or custody for another, any livestock for sale or exchange, on behalf of such producer or consignor at a public livestock market, or sells, or offer for sale, at a public livestock market, for the account of the producer or consignor thereof, any livestock or directly or indirectly owns, conducts or operates a public livestock market. The term "public livestock market operator" shall not be construed to include any packer or agent of a packer who receives or purchases livestock for prompt slaughter.

(h) "Packer" means any person engaged in the business of buying livestock for purposes of slaughter, or of manufacturing or preparing meats or meat food products for sale or shipment, or of manufacturing or preparing livestock products for sale or

shipment, or of marketing meats, meat food products, livestock products, dairy products, poultry or poultry products.

(i) "Board" means any three members of the Kansas animal health board designated by the chairperson of the Kansas animal health board for each particular hearing. The chairperson may be included in such designation.

(j) "Dealer" as used in article 10 of chapter 47 of the Kansas Statutes Annotated, ~~to which this act is amendatory and supplemental and amendments thereto~~, shall have the same meaning as the term "public livestock market operator."

(k) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

(l) "Occasional livestock sale" means livestock auctions or sales, that receive on consignment, or solicits from the producer or consignor thereof, or holds in trust or custody for another, any livestock for sale or exchange, on behalf of such producer or consignor at such auction or sale, or sells, or offers for sale, at such auction or sale, for the account of the producer or consignor thereof, any livestock or directly or indirectly owns, conducts or operates such auction or sale and such auctions or sales are held 12 or less times per year.

(m) "Electronic auction" means a live audio-visual broadcast of an actual auction where livestock are offered for sale and shall include auctions conducted by satellite communications and over the internet.

Sec. 82. K.S.A. 47-1001d is hereby amended to read as follows: 47-1001d. (a) ~~The livestock animal health~~ commissioner, through rules and regulations, may exempt occasional livestock sales or issue a license for such occasional livestock sales at a fee of not more than \$100 without a hearing.

(b) All livestock consigned and delivered on the premises of any licensed occasional livestock sale, before being offered for sale, shall be inspected by a licensed veterinarian who shall visually examine each animal consigned to such sale, for the purpose of determining its condition of health and freedom of clinical signs of infectious or contagious animal diseases that are determined to be reportable by the ~~livestock animal health~~ commissioner. Such veterinarian may issue certificates of inspections, on a form to be approved by the commissioner.

(c) Licensed occasional livestock sales shall not: (1) Collect a fee per head pursuant to K.S.A. 47-1011, and amendments thereto; (2) collect an inspection fee per head pursuant to K.S.A. 47-1008, and amendments thereto; or (3) be required to furnish a bond in the manner required by K.S.A. 47-1002, and amendments thereto.

Sec. 83. K.S.A. 2011 Supp. 47-1001e is hereby amended to read as follows: 47-1001e. (a) Each livestock market operator shall pay annually, on or before June 30, a renewal market license fee in an amount set by the Kansas animal health board and adopted by rules and regulations of the commissioner of not more than \$250 to the commissioner for each public livestock market operated by such operator, which payment shall constitute a renewal until June 30 of the following year. The renewal market license fee established by this section on the day preceding the effective date of this act shall continue in effect until a different renewal market license fee is set as provided under this section.

(b) Any person who owns or operates an electronic auction which is simulcast into the state of Kansas and at which livestock located in the state of Kansas are offered for

sale, shall apply to the ~~livestock animal health~~ commissioner for an electronic auction license. A license shall be granted to such person upon a showing that such person meets the bond requirements, as established in K.S.A. 47-1002, and amendments thereto, and has paid an annual fee in an amount set by the Kansas animal health board and adopted by rules and regulations of the commissioner of not more than \$250. Any such license shall expire on June 30 of each year.

Sec. 84. K.S.A. 2011 Supp. 47-1008 is hereby amended to read as follows: 47-1008. (a) Livestock shall not be offered for sale or sold at any licensed public livestock market if such livestock:

- (1) Is infected with a disease that permanently renders the livestock unfit for human consumption;
- (2) has severe neoplasia;
- (3) has severe actinomycosis;
- (4) is unable to rise to its feet by itself; or
- (5) has an obviously fractured long bone or other fractures or dislocation of a joint that renders the livestock unable to bear weight on the affected limb without that limb collapsing.

(b) If, in the judgment of an accredited veterinarian, the livestock consigned and delivered on the premises of any licensed public livestock market is in any of the conditions described in subsection (a), such veterinarian shall euthanize humanely the livestock or direct the consignor to immediately remove the livestock from the premises of the public livestock market. All expenses incurred for euthanasia and disposal of the livestock under the provisions of this subsection shall be the responsibility of the consignor. Collection of expenses shall not be the responsibility of the consignee.

(c) All livestock consigned and delivered on the premises of any licensed public livestock market, before being offered for sale, shall be inspected by a veterinarian authorized by the commissioner who shall visually examine or test, or both, each animal consigned to such market, for the purpose of determining its condition of health and freedom of clinical signs of infectious or contagious animal diseases that are determined to be reportable by the ~~livestock animal health~~ commissioner. Such regulatory veterinary services shall be contracted for by the ~~livestock animal health~~ commissioner who shall select an accredited veterinarian for each public livestock market. The public livestock market operator, for each public livestock market, shall submit to the ~~livestock animal health~~ commissioner a list of accredited veterinarians to be considered for the position or positions. Such veterinarian shall be authorized to make all required examinations and tests, and to issue certificates of inspection at the public livestock market where such veterinarian serves. All livestock sold, resold, exchanged or transferred, or offered for sale or exchange at a livestock market shall be treated as may be necessary to prevent the spread of contagious or infectious diseases. A certificate of inspection, on a form to be approved by the commissioner, shall be issued to the purchaser by the inspector. For the visual inspection of livestock offered for sale, there shall be collected by the market operator from the consignor a fee which shall be determined by negotiation between the market operator and the market veterinarian but shall not be less than \$.07 per head, except that no fee for inspection shall be collected unless the inspection actually has been made. If the charges per head collected on all livestock inspected at a livestock market on any sales day do not amount to a minimum per diem of \$40 or any amount greater than \$40 negotiated by the operator, the market

operator shall be required to supply sufficient funds to provide such amount. Any amount lesser or greater than the \$40 amount specified, shall be determined by negotiation between the market operator and the market veterinarian. A copy of any agreement or contract shall be on file with the commissioner. Payments for veterinary services rendered under a contract as provided in this section shall be paid from the veterinary inspection fee fund, and for such services rendered prior to the end of a fiscal year, payment may be made within 90 days after the end of the fiscal year.

(d) Livestock market operators shall pay amounts received and amounts due under this section to the ~~livestock~~ animal health commissioner. The commissioner shall remit all such amounts received 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 veterinary inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner or by a person or persons designated by such commissioner.

(e) The ~~livestock~~ animal health commissioner shall promulgate rules and regulations as may be necessary to carry out the purposes of this section, including, but not limited to, rules and regulations designating any disease as a disease that renders livestock or the carcasses thereof permanently unfit for human consumption. The ~~livestock~~ animal health commissioner shall promulgate all such rules and regulations in accordance with existing antemortem inspection regulations promulgated by the United States department of agriculture food safety and inspection service, as in effect on July 1, 1997.

(f) All livestock sold by a licensed electronic auction, before being delivered to an out-of-state buyer, shall have a health certificate issued by a licensed, accredited veterinarian. Kansas buyers shall be furnished a health certificate upon request.

Sec. 85. K.S.A. 2011 Supp. 47-1011a is hereby amended to read as follows: 47-1011a. (a) The public livestock market operator shall collect from the consignor of cattle sold at a public livestock market, where brand inspection of such cattle is requested, by the public livestock market operator, as a brand inspection fee, in addition to amounts specified in K.S.A. 47-1011, and amendments thereto, a sum of not more than \$.40 per head on all such cattle. Such amount shall be determined by the ~~livestock~~ animal health commissioner. If a public livestock market operator requests brand inspection at a public livestock market pursuant to this section, the public livestock market operator shall contract with the ~~livestock~~ animal health commissioner to perform such brand inspection services.

(b) Where cattle consigned to, or sold at, such public livestock market originate in, and have brand inspection clearance from a county option brand inspection area, operating under K.S.A. 47-434 through 47-445, and amendments thereto, such livestock brand inspection fee under this section shall not be required.

(c) The public livestock market operator shall pay all amounts received under this section to the ~~livestock~~ animal health commissioner.

(d) The ~~livestock~~ animal health commissioner shall remit all amounts received under this section 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 livestock market

brand inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock animal health commissioner or by a person or persons designated by the commissioner.

Sec. 86. K.S.A. 2011 Supp. 47-1201 is hereby amended to read as follows: 47-1201. As used in this act, except where the context clearly indicates a different meaning:

(a) "Commissioner" means the livestock animal health commissioner of the state of Kansas.

(b) "Person" means any individual, partnership, firm, corporation or association.

(c) "Disposal plant" means a place of business or a location where the carcasses of domestic animals or packing house refuse is purchased, received or unloaded and where such carcasses or refuse are processed for the purpose of obtaining the hide, skin, grease, residue, or any other byproduct from the animal or refuse, in any way whatsoever.

(d) "Substation" means a concentration site equipped with at least one storage building and operated and maintained for the temporary deposit or storage of the carcasses of domestic animals pending final delivery of the carcasses to the disposal plant.

(e) "Place of transfer" means a reloading site, authorized for use in direct transferring of carcasses of domestic animals from vehicles making original pickup or loading to a line vehicle for the transportation of the carcasses to the disposal plant.

(f) "Carcasses of domestic animals" means bodies, or any part or portion thereof, of dead domestic animals not slaughtered for human food.

Sec. 87. K.S.A. 2011 Supp. 47-1218 is hereby amended to read as follows: 47-1218. (a) All moneys received by the livestock animal health commissioner under article 12 of chapter 47 of Kansas Statutes Annotated, and amendments thereto, 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 the animal disease control fund.

(b) On July 1, 1986, the director of accounts and reports shall transfer all moneys in the animal health department fee fund to the animal disease control fund. On July 1, 1986, all liabilities of the animal health department fee fund are hereby imposed upon the animal disease control fund, and the animal health department fee fund is hereby abolished.

Sec. 88. K.S.A. 2011 Supp. 47-1302 is hereby amended to read as follows: 47-1302. (a) Except as provided in subsection (b) ~~or (e)~~, it shall be unlawful for any person, firm, partnership or corporation to feed garbage to animals.

~~(b) Any person, firm, partnership or corporation who on the effective date of this act is registered as a garbage feeding operator may continue to feed garbage to animals through October 31, 2001, if such garbage has been heated to a temperature of 212 degrees Fahrenheit (boiling point) for at least 30 minutes as provided by rules and regulations promulgated by the state livestock commissioner.~~

~~(e) Nothing in this section shall prohibit an individual from feeding such individual's own animals only the garbage obtained from such individual's own household.~~

Sec. 89. K.S.A. 2011 Supp. 47-1303 is hereby amended to read as follows: 47-

1303. (a) It shall be unlawful for the governing body of any city, or any official or employee of a city, to enter into any contract or agreement for the collection or disposal of garbage unless such contract or agreement requires a disposal of garbage in accordance with rules and regulations of the state livestock animal health commissioner, when disposed of by other means.

(b) It shall be unlawful for any person to give, sell or transfer garbage to another person, if such person knows that such other person is commercially feeding the garbage to a cloven hoofed animal.

Sec. 90. K.S.A. 2011 Supp. 47-1304 is hereby amended to read as follows: 47-1304. The state livestock animal health commissioner is hereby authorized to promulgate and enforce all rules and regulations deemed necessary to carry out the provisions of K.S.A. 47-1301 through 47-1307, and amendments thereto.

Sec. 91. K.S.A. 47-1501 is hereby amended to read as follows: 47-1501. As used in this act:

(a) "Feedlot" means: (1) A livestock feedlot, or feed yard, having more than 1,000 head of livestock at one time during the licensed year; or (2) any other livestock feedlot whose operator elects to come under this act.

(b) "Feed yard feeding" means the feeding of livestock in lots or pens which are not used normally for raising crops and in which no vegetation, intended for livestock feed, is growing.

(c) "Livestock" means cattle, swine, sheep and horses.

(d) "Operator" means the owner, or the person having charge or control, of a feedlot.

(e) "Person" means an individual, a corporation, a group of individuals, joint venturers, a partnership or any other business entity.

(f) "Commissioner" means the state livestock animal health commissioner.

(g) "Board" means the Kansas animal health board.

Sec. 92. K.S.A. 2011 Supp. 47-1503 is hereby amended to read as follows: 47-1503. (a) It shall be unlawful for any person to operate a feedlot within the state of Kansas without having first obtained a license from the livestock animal health commissioner authorizing and permitting such operation.

(b) An operator of any feedlot in the state of Kansas, or a person desiring to operate a feedlot in the state of Kansas; shall obtain; from the livestock animal health commissioner, a license to operate a feedlot, unless exempted therefrom. The owner or operator of any livestock feedlot, with a capacity of less than 1,000 head of livestock, may apply for and obtain a license for feedlot operations, if such owner or operator chooses and elects to come under the terms and provisions of this act, but the licensing for operations at a capacity of less than 1,000 head shall not be required.

(c) Application for a livestock feedlot license shall be filed with the livestock animal health commissioner, on a form prescribed and furnished by the commissioner. Upon the filing of such an application and payment of the required fees, the commissioner shall issue a livestock feedlot license to such applicant, provided the application discloses information assuring the commissioner that the operation of such feedlot will be conducted in accordance with the standards set forth elsewhere in this act, and with rules and regulations adopted by the commissioner.

(d) Feedlot licenses shall be issued for the term of one year, to expire on June 30 following the date of issuance. Feedlot licenses may be continued in force by annual

renewal or extension of such license with the payment of an annual license fee, and with continued compliance by the operator with the provisions of this act, ~~and acts amendatory of the provisions thereof and supplemental thereto,~~ and rules and regulations adopted hereunder.

(e) Each cattle feedlot operator, who shall be granted a license, shall pay a fee in an amount set by the Kansas animal health board and adopted by rules and regulations of the commissioner for such license and for annual renewal thereof, in accordance with and subject to the following schedule of maximum fees:

<i>Feedlot capacity</i>	<i>Maximum fee</i>
Under 1,000 head	\$75
1,000 to 2,999 head	\$350
3,000 to 5,999 head	\$650
6,000 to 9,999 head	\$750
10,000 to 17,999 head	\$1,100
18,000 to 29,999 head	\$1,500
30,000 to 49,999 head	\$1,650
50,000 to 99,999 head	\$1,800
100,000 head and over	\$2,000

The fees established by this subsection on the day preceding the effective date of this act shall continue in effect until different fees are set as provided under this subsection.

(f) For the purposes of this subsection, "animal unit" means the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of goats multiplied by 0.1. Each swine, sheep and goat feedlot operator, who shall be granted a license, shall pay a fee in an amount set by the Kansas animal health board and adopted by rules and regulations of the commissioner for such license and for annual renewal thereof, in accordance with and subject to the following schedule of maximum fees:

<i>Feedlot capacity</i>	<i>Maximum fee</i>
300 to 999 Animal units	\$75
1,000 to 2,999 Animal units	\$350
3,000 to 5,999 Animal units	\$650
6,000 to 9,999 Animal units	\$750
10,000 to 17,999 Animal units	\$1,100
18,000 to 29,999 Animal units	\$1,500
30,000 to 49,999 Animal units	\$1,650
50,000 to 99,999 Animal units	\$1,800
100,000 Animal units and over	\$2,000

(g) If an original feedlot license expires within six months after date of issuance, only 50% of the applicable license fee shall be required. An application for feedlot license shall not be approved, nor shall a license be issued to any applicant unless the application is accompanied by the applicable license fee under the schedule of fees in this section. Each licensed feedlot operator shall pay an annual license fee in accordance with the schedule of fees in this section and, upon payment of such fee and a showing of compliance with other requirements, shall be entitled to a renewal or extension of such operator's license for the ensuing license year.

(h) The ~~livestock~~ animal health commissioner shall remit all moneys received by or

for the commissioner under article 15 of chapter 47 of Kansas Statutes Annotated, and amendments thereto, 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 animal disease control fund.

Sec. 93. K.S.A. 47-1506 is hereby amended to read as follows: 47-1506. (a) The animal health commissioner shall have the power to: (1) Receive applications for feedlot licenses; (2) issue licenses to qualifying applicants; (3) make and enforce reasonable regulations pertaining to the operation of feedlots, within the framework of the standards set forth in this act, and acts amendatory and supplemental thereto; (4) make rules of procedure for the administration and enforcement of this act; and (5) determine adequateness of the compliance with the requirements fixed in standards prescribed in this act.

(b) The commissioner shall have the duty to: (1) Prepare, design and have printed application forms which shall be available to feedlot operators and to applicants for such a license. Such forms shall provide for answers and statements by applicants, to disclose whether such applicants can, and are capable of complying with standards of operation set forth in this act, and as set forth in the regulations made by such commissioner under authority of this act; (2) keep, maintain and compile all necessary records; and (3) undertake and carry through research studies, investigations and surveys which are needed and required for the proper administration of this act.

(c) The commissioner shall have the power to call upon the university of Kansas and Kansas state university for aid and assistance in conducting such research studies and surveys.

(d) The commissioner, or authorized agents or employees, are authorized to investigate all complaints concerning the operation of feedlots within the state of Kansas when an operator of such a feedlot is charged with any violations of the provisions of this act. The commissioner shall have the power to enter upon feedlot premises and to investigate the methods of operation of all such feedlots.

(e) The commissioner shall have the power and the duty to suspend or revoke the license of any feedlot operator; after a hearing; and after an administrative determination that such an operator has violated, or has failed to comply with any of the provisions of this act, or any regulation adopted thereunder. The commissioner shall have the power and duty to reinstate any such suspended or revoked licenses, upon a satisfactory and acceptable showing and assurance that such feedlot operator conducted feedlot operations in conformity with, and in compliance with, the provisions of this act and regulations adopted thereunder, and that such conformity and compliance will be continuous. A feedlot license shall not be suspended or revoked by the commissioner, until charges have been submitted, in writing, concerning alleged violations, and until the licensee shall have been given an opportunity to be heard in such licensee's defense in accordance with the provisions of the Kansas administrative procedure act.

Sec. 94. K.S.A. 47-1511 is hereby amended to read as follows: 47-1511. Upon request of the livestock animal health commissioner, the secretary of health and environment shall make staff engineers available to assist: (1) An operator of any feedlot in the state of Kansas; and (2) any person who has applied for a license to operate a feedlot in the state of Kansas, in the development of plans and in the design for the construction of facilities for a feedlot in order to control pollution of streams and

lakes. Nothing in this act shall be construed as limiting the authority of the secretary of health and environment in matters of stream and lake pollution as provided for in K.S.A. 65-161 ~~to through~~ 65-171h, ~~inclusive~~, and amendments thereto.

Sec. 95. K.S.A. 47-1701 is hereby amended to read as follows: 47-1701. As used in the Kansas pet animal act, unless the context otherwise requires:

(a) "Adequate feeding" means supplying, at suitable intervals (not to exceed 24 hours), ~~of~~ a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

(b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species, not to exceed intervals of 12 hours.

(c) "Ambient temperature" means the temperature surrounding the animal.

(d) (1) "Animal" means any live dog, cat, rabbit, rodent, nonhuman primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate.

(2) Animal does not include horses, cattle, sheep, goats, swine, ratites, domesticated deer or domestic fowl.

(e) "Animal breeder" means any person who operates animal breeder premises.

(f) "Animal breeder premises" means any premises where all or part of six or more litters of dogs or cats, or both, or 30 or more dogs or cats, or both, are sold, or offered or maintained for sale, primarily at wholesale for resale to another.

(g) "Animal shelter" or "pound" means a facility which is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. Animal shelter or pound also includes a facility of an individual or organization, profit or nonprofit, maintaining 20 or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption.

(h) "Cat" means an animal which is wholly or in part of the species *Felis domesticus*.

(i) "Commissioner" means the ~~livestock animal health~~ livestock animal health commissioner appointed by the ~~Kansas animal health board~~ secretary of agriculture.

(j) "Dog" means any animal which is wholly or in part of the species *Canis familiaris*, but does not include any greyhound, as defined by K.S.A. 74-8802, and amendments thereto.

(k) "Animal control officer" means any person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this law, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, dog warden, constable or other employee, whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

(l) "Euthanasia" means the humane destruction of an animal, which may be accomplished by any of those methods provided for in K.S.A. 47-1718, and amendments thereto.

(m) "Hobby breeder premises" means any premises where all or part of 3, 4 or 5 litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale. This provision applies only if the total number of dogs or cats, or both, sold,

offered or maintained for sale is less than 30 individual animals.

- (n) "Hobby breeder" means any person who operates a hobby breeder premises.
- (o) "Housing facility" means any room, building or area used to contain a primary enclosure or enclosures.
- (p) "Kennel operator" means any person who operates an establishment where four or more dogs or cats, or both, are maintained in any one week for boarding, training or similar purposes for a fee or compensation.
- (q) "Kennel operator premises" means the facility of a kennel operator.
- (r) "License year" or "permit year" means the 12-month period ending on June 30.
- (s) "Person" means any individual, association, partnership, corporation or other entity.
- (t) (1) "Pet shop" means any premises where there are sold, or offered or maintained for sale, at retail and not for resale to another:
 - (A) Any dogs or cats, or both; or (B) any other animals except those which are produced and raised on such premises and are sold, or offered or maintained for sale, by a person who resides on such premises.
 - (2) Pet shop does not include: (A) Any pound or animal shelter; (B) any premises where only fish are sold, or offered or maintained for sale; or (C) any animal distributor premises, hobby breeder premises, retail breeder premises or animal breeder premises.
 - (3) Nothing in this section prohibits inspection of those premises which sell only fish to verify that only fish are being sold.
- (u) "Pet shop operator" means any person who operates a pet shop.
- (v) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.
- (w) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.
- (x) "Sale," "sell" and "sold" include transfers by sale or exchange. Maintaining animals for sale is presumed whenever 20 or more dogs or cats, or both, are maintained by any person.
- (y) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.
- (z) "Animal distributor" means any person who operates an animal distributor premises.
 - (aa) "Animal distributor premises" means the premises of any person engaged in the business of buying for resale dogs or cats, or both, as a principal or agent, or who holds such distributor's self out to be so engaged.
 - (bb) "Out-of-state distributor" means any person residing in a state other than Kansas, who is engaged in the business of buying for resale dogs or cats, or both, within the state of Kansas, as a principal or agent.
 - (cc) "Food animals" means rodents, rabbits, reptiles, fish or amphibians that are sold or offered or maintained for sale for the sole purpose of being consumed as food by other animals.
 - (dd) (1) "Adequate veterinary medical care" means:
 - (A) A documented program of disease control and prevention, euthanasia and routine veterinary care shall be established and maintained under the supervision of a

licensed veterinarian, on a form provided by the commissioner, and shall include a documented on-site visit to the premises by the veterinarian at least once a year; and

(B) that diseased, ill, injured, lame or blind animals shall be provided with veterinary care as is needed for the health and well-being of the animal.

(2) As used in the Kansas pet animal act, "adequate veterinary medical care" shall not apply to United States department of agriculture licensed animal breeders or animal distributors.

(ee) "Ratites" means all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas.

(ff) "Retail breeder" means any person who operates a retail breeder premises.

(gg) "Retail breeder premises" means any premises where all or part of six or more litters or 30 or more dogs or cats, or both, are sold, or offered or maintained for sale, primarily at retail and not for resale to another.

(hh) "Retail" means any transaction where the animal is sold to the final consumer.

(ii) "Wholesale" means any transaction where the animal is sold for the purpose of resale to another.

Sec. 96. K.S.A. 2011 Supp. 47-1706a is hereby amended to read as follows: 47-1706a. (a) When an animal is seized or impounded pursuant to K.S.A. 47-1706, 47-1707 or 47-1715, and amendments thereto, the owner or person who was in possession of the animal at the time such animal was seized or impounded may post a cash or security bond as provided in this section which shall prevent the sale, placement or euthanasia of the animal. Such cash or security bond shall be in an amount sufficient to pay for the animal's care and keeping for a period of at least 30 days, commencing on the date which the animal was seized or impounded. Any such security bond or any security bond as provided in subsection (b) shall be approved by the Kansas ~~animal health department~~ department of agriculture division of animal health.

(b) Such bond shall be filed with the Kansas ~~animal health department~~ department of agriculture division of animal health and shall be posted on or before the date of the disposition hearing or within ~~ten~~ 10 days after the animal is seized or impounded, whichever is earlier. At the end of the time for which expenses are covered by the bond if the owner or person who was in possession of the animal at the time it was seized or impounded desires to prevent disposition of the animal, such owner or person shall post a new cash or security bond prior to the previous bond's expiration. At the end of the time for which expenses are covered by the bond, the animal may be sold, placed or euthanized.

(c) The authority seizing or impounding an animal shall give notice by delivering a copy of this section to a person residing on the property where the animal was seized or by posting a copy at the place where the animal was seized.

(d) Nothing in this section shall prevent the euthanasia at any time of an animal seized or impounded which is determined by a licensed veterinarian to be diseased or disabled beyond recovery for any useful purpose.

(e) This act is supplemental to and shall become a part of the Kansas pet animal act.

Sec. 97. K.S.A. 2011 Supp. 47-1709 is hereby amended to read as follows: 47-1709. (a) The commissioner or the commissioner's authorized, trained representatives shall make an inspection of the premises for which an application for an original license or permit is made under K.S.A. 47-1701 *et seq.*, and amendments thereto, before issuance of such license or permit. The application for a license shall conclusively be

deemed to be the consent of the applicant to the right of entry and inspection of the premises sought to be licensed or permitted by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for denial of the license or permit. Notice need not be given to any person prior to inspection.

(b) The commissioner or the commissioner's authorized, trained representatives may make an inspection of each premises for which a license or permit has been issued under K.S.A. 47-1701 *et seq.*, and amendments thereto. If such premises are premises of a person licensed or permitted under public law 91-579 (7 U.S.C. § 2131 *et seq.*), such premises may be inspected at least once each year. Otherwise, the premises may be inspected at least twice each year. The acceptance of a license or permit shall conclusively be deemed to be the consent of the licensee or permittee to the right of entry and inspection of the licensed or permitted premises by the commissioner or the commissioner's authorized, trained representatives at reasonable times with the owner or owner's representative present. Refusal of such entry and inspection shall be grounds for suspension or revocation of the license or permit. Notice need not be given to any person prior to inspection.

(c) The commissioner or the commissioner's authorized, trained representatives shall make inspections of the premises of a person required to be licensed or permitted under K.S.A. 47-1701 *et seq.*, and amendments thereto, upon a determination by the commissioner that there are reasonable grounds to believe that the person is violating the provisions of K.S.A. 47-1701 *et seq.*, and amendments thereto, or rules and regulations adopted thereunder or that there are grounds for suspension or revocation of such person's license or permit.

(d) Any complaint filed with the commissioner shall be confidential and shall not be released to any person other than employees of the commissioner as necessary to carry out the duties of their employment.

(e) Any person making inspections under this section shall be trained by the commissioner in reasonable standards of animal care.

(f) The commissioner may request a licensed veterinarian to assist in any inspection or investigation made by the commissioner or the commissioner's authorized representative under this section.

(g) Any person acting as the commissioner's authorized representative for purposes of making inspections and conducting investigations under this section who knowingly falsifies the results or findings of any inspection or investigation or who intentionally fails or refuses to make an inspection or conduct an investigation pursuant to this section shall be guilty of a class A nonperson misdemeanor.

(h) No person shall act as the commissioner's authorized representative for the purposes of making inspections and conducting investigations under this section if such person has a beneficial interest in a person required to be licensed or permitted pursuant to K.S.A. 47-1701 *et seq.*, and amendments thereto.

(i) Records of inspections pursuant to this section shall be maintained in the office of the Kansas ~~animal health department~~ department of agriculture division of animal health. Records of a deficiency or violation shall not be maintained for longer than three years after the deficiency or violation is remedied.

(j) The commissioner shall, in consultation with Kansas state university college of veterinary medicine: (1) Continue procedures to provide for pet animal training or

updated training for authorized trained representatives who inspect premises under the pet animal act and to allow the owners of such facilities licensed or permitted under the pet animal act to attend and participate at the training workshops for the authorized trained representatives; and (2) make available to such owners and other interested persons an inspection handbook describing the duties and responsibilities of such authorized trained representatives.

Sec. 98. K.S.A. 2011 Supp. 47-1721 is hereby amended to read as follows: 47-1721. (a) Each application for issuance or renewal of a license or permit required under K.S.A. 47-1701 *et seq.*, and amendments thereto, shall be accompanied by the fee prescribed by the commissioner under this section. Such fees shall be as follows:

(1) Except as provided in paragraph (5) or (6), for a license for premises of a person licensed under public law 91-579 (7 U.S.C. § 2131 *et seq.*), an amount not to exceed \$200;

(2) except as provided in paragraph (5) or (6), for a license for any other premises, an amount not to exceed \$405;

(3) for a temporary closing permit, an amount not to exceed \$95;

(4) for an out-of-state distributor permit, an amount not to exceed \$675;

(5) for a hobby breeder license or a kennel operator license an amount not to exceed \$95;

(6) for a license for an animal shelter or a pound, an amount not to exceed \$300; and

(7) a late fee of \$70 shall be assessed to any person whose permit or license renewal is more than 45 days¹ late.

(b) The commissioner shall determine annually the amount necessary to carry out and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto, for the next ensuing fiscal year and shall fix by rules and regulations the license and permit fees for such year at the amount necessary for that purpose, subject to the limitations of this section. In fixing such fees, the commissioner may establish categories of licenses and permits, based upon the type of license or permit, size of the licensed or permitted business or activity and the premises where such business or activity is conducted, and may establish different fees for each such category. The fees in effect immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the commissioner as provided by this subsection.

(c) If a licensee, permittee or applicant for a license or permit requests an inspection of the premises of such licensee, permittee or applicant, the commissioner shall assess the costs of such inspection, as established by rules and regulations of the commissioner, to such licensee, permittee or applicant.

(d) No fee or assessment required pursuant to this section shall be refundable.

(e) The commissioner shall remit all moneys received by or for the commissioner under this section 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 animal dealers fee fund, which is hereby created in the state treasury. Moneys in the animal dealers fee fund may be expended only to administer and enforce K.S.A. 47-1701 *et seq.*, and amendments thereto. All expenditures from the animal dealers fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the Kansas ~~livestock animal health~~

commissioner or the commissioner's designee.

(f) Premises required to be licensed under the Kansas pet animal act shall not be required to pay for more than one license. If more than one operation is ongoing at the premises, each operation shall comply with the applicable statutes and rules and regulations pertaining to such operation.

(g) Except as provided further, when a premises required to be licensed or permitted under the Kansas pet animal act applies for an initial license or permit, the commissioner shall prorate to the nearest whole month the license or permit fee established in subsection (a). The commissioner shall have discretion to determine whether the application is an initial application or an application for a premises which has been doing business but is not licensed or permitted. If the commissioner determines the premises has been doing business without a license or permit, the commissioner is not required to prorate the fee.

(h) This section shall be part of and supplemental to K.S.A. 47-1701 *et seq.*, and amendments thereto.

Sec. 99. K.S.A. 47-1725 is hereby amended to read as follows: 47-1725. (a) There is hereby created the Kansas pet animal advisory board, consisting of 10 members. Members shall be appointed by the governor as follows:

- (1) One member shall be a representative of a licensed animal shelter or pound;
 - (2) one member shall be an employee of a licensed research facility;
 - (3) one member shall be a licensed animal breeder;
 - (4) one member shall be a licensed retail breeder;
 - (5) one member shall be a licensed pet shop operator;
 - (6) one member shall be a licensed veterinarian and shall be selected from a list of three names presented to the governor by the Kansas veterinary medical association;
 - (7) one member shall be a private citizen with no link to the industry;
 - (8) one member shall be a licensed animal distributor;
 - (9) one member shall be a licensed hobby breeder; and
 - (10) one member shall be a licensed kennel operator.
- (b) Of the members first appointed to the board, the governor shall designate three whose terms shall expire June 30, 1992; three whose terms shall expire June 30, 1993; and three whose terms shall expire June 30, 1994. After the expiration of such terms, each member shall be appointed for a term of three years and until a successor is appointed and qualified.

(c) A vacancy on the board of a member shall be filled for the unexpired term by appointment by the governor.

(d) The board shall meet at least once every calendar quarter regularly or at such other times as the chairperson or a majority of the board members determine. A majority of the members shall constitute a quorum for conducting board business.

(e) The members of the board shall annually elect a chairperson.

(f) The board shall have the following duties, authorities and powers:

- (1) To advise the Kansas ~~livestock~~ animal health commissioner on hiring a director to implement the Kansas pet animal act;
- (2) to review the status of the Kansas pet animal act;
- (3) to make recommendations on changes to the Kansas pet animal act; and
- (4) to make recommendations concerning the rules and regulations for the Kansas pet animal act.

(g) Board members who are required to be licensed, except retail breeders, shall be affiliated with or a member of an organized pet animal association which is representative of the position such person will hold on the board.

(h) Upon the effective date of this act, the governor shall appoint a licensed kennel operator. When the current board members' terms expire, the governor shall appoint persons or representatives in accordance with this section.

Sec. 100. K.S.A. 2011 Supp. 47-1731 is hereby amended to read as follows: 47-1731. (a) No dog or cat may be transferred to the permanent custody of a prospective owner by a pound or animal shelter, as defined by K.S.A. 47-1701, and amendments thereto, or by a humane society, unless:

(1) Such dog or cat has been surgically spayed or neutered before the physical transfer of the animal occurs; or

(2) the prospective owner signs an agreement to have the dog or cat spayed or neutered and deposits with the pound or animal shelter funds not less than the lowest nor more than the highest cost of spaying or neutering in the community. Any funds deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog or cat has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the animal, the pound or animal shelter shall keep the deposit and may reclaim the unspayed or unneutered animal.

(b) No person shall spay or neuter any dog or cat for or on behalf of a pound or animal shelter unless such person is a licensed veterinarian or a student currently enrolled in the college of veterinary medicine, Kansas state university, who has completed at least two years of study in the veterinary medical curriculum and is participating in a spay or neuter program and as part of the curriculum under the direct supervision of a licensed veterinarian. Students shall only spay or neuter any dog or cat that belongs to the pound or animal shelter, and shall not spay or neuter any dog or cat that belongs to a member or of the public. No pound or animal shelter shall designate the veterinarian which a person must use, or a list from which a person must select a veterinarian, to spay or neuter a dog or cat transferred by such person from such pound or animal shelter. Any premises located in the state of Kansas where the spaying, neutering or any other practice of veterinary medicine occurs shall register such premises with the board of veterinary examiners.

(c) With the written approval of the livestock animal health commissioner, any pound or shelter may use an innovative spay or neuter program not precisely meeting the requirements of subsection (a)(2), if the pound or shelter can prove to the commissioner that it is actively enforcing the spaying and neutering requirements set forth in this statute.

(d) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by a pound or animal shelter and which may be claimed by its rightful owner within the holding period established in K.S.A. 47-1710, and amendments thereto.

(e) The livestock animal health commissioner shall promulgate rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 101. K.S.A. 47-1735 is hereby amended to read as follows: 47-1735. (a) A licensee, permittee or applicant for a license or permit shall not interfere with, hinder, threaten or abuse, including verbal abuse, any representative or employee of the animal

health department who is carrying out such representative's or employee's duties under the provisions of the Kansas pet animal act.

(b) This section shall be part of and supplemental to the Kansas pet animal act.

Sec. 102. K.S.A. 47-1804 is hereby amended to read as follows: 47-1804. As used in this act, unless the context otherwise requires:

(a) "Commissioner" means the ~~livestock~~ animal health commissioner of the state of Kansas.

(b) "Livestock" means cattle, swine, horses, sheep, goats, poultry, all creatures of the ratite family that are not indigenous to this state, including, but not limited to, ostriches, emus and rheas and domesticated deer.

(c) (1) "Livestock dealer" means any person engaged in the business of buying or selling livestock in commerce, either on that person's own account or as the employee or agent of the seller or purchaser, or any person engaged in the business of buying or selling livestock in commerce on a commission basis and shall include any person who buys or sells livestock with the use of a video.

(2) "Livestock dealer" does not include any person who buys or sells livestock as part of that person's own breeding, feeding or dairy operation, nor any person who receives livestock exclusively for immediate slaughter.

(d) (1) "Person" means any individual, partnership, corporation, company, firm or association.

(2) "Person" does not include any public livestock market operator licensed under K.S.A. 47-1001 *et seq.*, and amendments thereto, or any feedlot operator licensed under K.S.A. 47-1501 *et seq.*, and amendments thereto.

(e) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for: (1) Breeding stock; ~~for~~ (2) any carcass, skin or part of such animal; ~~for~~ (3) exhibition; or ~~for~~ (4) companionship.

Sec. 103. K.S.A. 2011 Supp. 47-1805 is hereby amended to read as follows: 47-1805. (a) Any person operating as a livestock dealer in Kansas shall register with the Kansas ~~animal health department~~ department of agriculture division of animal health. Registration shall be made on an application form approved by the ~~livestock animal health~~ animal health commissioner. The application shall be accompanied by the livestock dealer registration fee or renewal fee fixed by the commissioner under subsection (b). If an application for registration or renewal of registration is denied by the commissioner or withdrawn by the applicant, the fee shall not be refunded. Unless renewed under this section, each registration shall expire on the June 30 following the date of issuance.

(b) The ~~livestock animal health~~ animal health commissioner shall determine annually the amount of funds which will be required for the administration and enforcement of this section and K.S.A. 47-1806, and amendments thereto, and shall fix and adjust from time to time a livestock dealer registration fee and a renewal fee in such reasonable amounts as may be necessary for such purposes, except that in no case shall either the livestock dealer registration fee or the renewal fee exceed \$75.

(c) The ~~livestock animal health~~ animal health commissioner shall remit all moneys received by or for the commissioner under this section 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 animal disease control fund.

Sec. 104. K.S.A. 47-1808 is hereby amended to read as follows: 47-1808. (a) Except if bonded under the packers and stockyards act, 1921, as amended and supplemented, 7 U.S.C. § 181 *et seq.*, every livestock dealer required to be registered pursuant to K.S.A. 47-1805, and amendments thereto, upon notification by the ~~livestock~~ animal health commissioner of the amount of bond required, shall file with the ~~livestock~~ animal health commissioner a bond with good corporate surety qualified under the laws of the state of Kansas in a sum computed by dividing the dollar value of livestock sold during the preceding business year, or the substantial part of that business year, in which the livestock dealer did business, by the actual number of days on which livestock was sold. The divisor, the number of days on which livestock was sold, shall not exceed 130. The amount of bond coverage must be the next multiple of \$5,000 above the amount so determined. When the computation exceeds \$75,000, the amount of bond coverage need not exceed \$75,000 plus 10% of the excess over \$75,000, raised to the next \$5,000 multiple. In cases where a business operation is being commenced, an estimated amount of business to be transacted during the next 12 months may be used subject to adjustment later, if indicated. In no event shall the bond be for an amount less than \$10,000.

(b) The bond shall be in favor of the state of Kansas for the benefit of all persons interested, their legal representatives, attorneys or assigns and shall be conditioned on the faithful performance of all the registrant's duties as a livestock dealer. Any person injured by the breach of any obligation of the livestock dealer may commence suit on the bond in any court of competent jurisdiction to recover damages that the person has sustained, but any suit commenced shall either be a class action or shall join as parties plaintiff or parties defendant or other persons who may be affected by such suit on the bond. No bond shall be ~~cancelled~~ canceled by the surety on less than 30 days' notice by mail to the ~~livestock~~ animal health commissioner and the principal except that no such notice shall be required for cancellation of any bond by reason of nonpayment of the premium thereon. The liability of the surety on the bond may continue for each successive registration period the bond covers. The total liability of the surety shall be limited to the amount stated on the current bond or on an appropriate rider or endorsement to the current bond. It is the intent of this statute that the bonds be nonaccumulative, that stacking of bonds not occur in excess of the face value of the current bond.

(c) Whenever the ~~livestock~~ animal health commissioner determines that any bond given by any livestock dealer is inadequate and insufficient security against any loss that might arise under the terms of the bond, the ~~livestock~~ animal health commissioner shall require any additional bond that the ~~livestock~~ animal health commissioner considers necessary to provide adequate security. If the ~~livestock~~ animal health commissioner considers the financial condition of the surety upon any livestock dealer and the livestock dealer's bond to be impaired, the ~~livestock~~ animal health commissioner shall require any substituted or additional bond that the ~~livestock~~ animal health commissioner considers necessary except this act shall not apply to those who buy livestock for others incidentally to their own farming operation.

(d) In all actions hereafter commenced in which judgment is rendered against any surety company on any surety bond furnished under the provisions of this section, if it appears from the evidence that the surety company has refused without just cause to pay the loss upon demand, the court shall allow the plaintiff a reasonable sum as attorney

fees to be recovered and collected as a part of the costs. When a tender is made by the surety company before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of the tender, no such costs shall be allowed.

(e) Any person violating or failing to comply with the provisions of this section shall be deemed guilty of a class A misdemeanor.

(f) This section shall be part of and supplemental to article 18 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.

Sec. 105. K.S.A. 2011 Supp. 47-1809 is hereby amended to read as follows: 47-1809. (a) As used in this section, "feral swine" means any untamed or undomesticated hog, boar or pig; swine whose reversion from the domesticated state to the wild state is apparent; or an otherwise freely roaming swine having no visible tags, markings or characteristics indicating that such swine is from a domestic herd, and reasonable inquiry within the area does not identify an owner.

(b) No person shall import, transport or possess live feral swine in this state.

(c) No person shall intentionally or knowingly release any hog, boar, pig or swine to live in a wild or feral state upon public or private land.

(d) No person shall engage in, sponsor, instigate, assist or profit from the release, killing, wounding or attempted killing or wounding of feral swine for the purpose of sport, pleasure, amusement or production of a trophy.

(e) Violation of subsection (b) or (c) may result in a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(f) Violation of subsection (d) may result in a civil penalty of not less than \$250 nor more than \$2,500 for each such violation.

(g) Any duly authorized agent of the ~~livestock~~ animal health commissioner, upon a finding that any person, or agent or employee thereof, has violated any of the provisions stated above, may impose a civil penalty upon such person as provided in this section.

(h) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the ~~livestock~~ animal health commissioner to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the commissioner. Any such person, within 20 days after notification, may make written request to the commissioner for a hearing in accordance with the provisions of the Kansas administrative procedure act. The commissioner shall affirm, reverse or modify the order and shall specify the reasons therefor.

(i) Any person aggrieved by an order of the commissioner made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(j) Any civil penalty recovered pursuant to the provisions of this section 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 the state general fund.

(k) The ~~livestock~~ animal health commissioner, or the authorized representative of the ~~livestock~~ animal health commissioner, may destroy or require the destruction of any feral swine upon discovery of such swine.

(l) The provisions of this section shall not be construed to prevent owners or legal

occupants of land, the employees of such owners or legal occupants or persons designated by such owners or legal occupants from killing any feral swine when found on their premises or when destroying property. Such designees shall have a permit issued by the livestock animal health commissioner in their possession at the time of the killing of the feral swine.

(m) The livestock animal health commissioner may adopt rules and regulations to carry out the provisions of this section.

Sec. 106. K.S.A. 2011 Supp. 47-1831 is hereby amended to read as follows: 47-1831. (a) The livestock animal health commissioner is hereby authorized to:

(1) Register original veterinary certificates of inspection for livestock, as defined in K.S.A. 47-1001, and amendments thereto; and

(2) provide official calthood vaccination tags. Such tags shall not exceed \$.25 for each tag.

(b) The commissioner shall determine annually tag fee and shall fix such fee by rules and regulations.

(c) The commissioner shall remit all moneys received by or for the commissioner under this section 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 animal disease control fund.

Sec. 107. K.S.A. 47-1832 is hereby amended to read as follows: 47-1832. The livestock animal health commissioner is hereby authorized to establish rules and regulations on disease control programs for and on the sale and importation into Kansas of farm animals and exotic animals. As used in this section "farm animals" and "exotic animal" means the definitions given by rules and regulations in 9 C.F.R. § 1.1, pursuant to 7 U.S.C. § 2131 *et seq.*

Sec. 108. K.S.A. 2011 Supp. 47-2101 is hereby amended to read as follows: 47-2101. (a) It shall be unlawful for any person to engage in the business of raising domesticated deer unless such person has obtained from the livestock animal health commissioner a domesticated deer permit. Application for such permit shall be made in writing on a form provided by the commissioner. The permit period shall be for the permit year ending on June 30 following the issuance date.

(b) Each application for issuance or renewal of a permit shall be accompanied by a fee of not more than \$150 as established by the commissioner in rules and regulations.

(c) The livestock animal health commissioner shall adopt any rules and regulations necessary to enforce this section.

(d) Any person who fails to obtain a permit as prescribed in section (a) shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$150. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(e) The commissioner may refuse to issue or renew or may suspend or revoke any permit for any one of the following reasons:

(1) Material misstatement in the application for the original permit or in the application for any renewal of a permit;

(2) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(3) substantial misrepresentation;

(4) the person who is issued a permit is found to be adding to such person's herd by poaching or illegally obtaining deer;

(5) willful disregard to any rule or regulation adopted under this section.

(f) Any refusal to issue or renew a permit and any suspension or revocation of a permit under this section shall be in accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

(g) Domesticated deer shall be identified through implantation of microchips, ear tags, ear tattoos, ear notches or any other permanent identification on such deer as to identify such deer as domesticated deer. Any person who receives a permit issued pursuant to subsection (a) shall keep records of the deer herd pursuant to rules and regulations.

(h) The ~~livestock animal health~~ commissioner shall inspect any premises where a domesticated deer herd has been issued a permit upon receipt of a written, signed complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations.

(i) The ~~livestock animal health~~ commissioner, on a quarterly basis, shall transmit to the secretary of wildlife and parks a current list of persons issued a permit pursuant to this section.

(j) All moneys received under this section 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 the animal disease control fund.

(k) As used in this section:

(1) "Deer" means any member of the family cervidae.

(2) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for: (1) Breeding stock; ~~for (2) any carcass, skin or part of such animal; for (3) exhibition; or for (4) companionship.~~

Sec. 109. K.S.A. 2011 Supp. 48-3502 is hereby amended to read as follows: 48-3502. (a) There is hereby established the Kansas national bio and agro defense facility interagency working group.

(b) The working group shall consist of the following members *ex officio*: The secretary of health and environment, the secretary of commerce or designee, the secretary of administration or designee, the secretary of agriculture or designee, the ~~livestock animal health~~ commissioner or designee, the secretary of revenue or designee, the attorney general or designee, the state board of regents or designee, the mayor of the city of Manhattan or designee, the chairperson of the Leavenworth county board of commissioners or designee, the adjutant general (the state director of homeland security) or designee and the superintendent of the Kansas highway patrol or designee.

(c) The secretary of health and environment shall serve as chairperson of the working group, and the working group may elect a vice-chairperson from among the members of the working group.

(d) All appointments of designees must be made and submitted to the Kansas bioscience authority no more than 30 days after enactment of this act.

Sec. 110. K.S.A. 65-171i is hereby amended to read as follows: 65-171i. Nothing in this act shall be construed as limiting the authority of the state ~~livestock animal health~~

commissioner in matters concerning the administration of the law concerning feedlots (, K.S.A. 47-1501 *et seq.*), and amendments thereto.

Sec. 111. K.S.A. 2011 Supp. 65-5721 is hereby amended to read as follows: 65-5721. (a) There is hereby established the commission on emergency planning and response.

(b) The membership of the commission on emergency planning and response shall consist of the agency head or secretary or a designated person of authority from the following agencies:

- (1) The fire marshal;
- (2) the department of health and environment;
- (3) the department of transportation;
- (4) the Kansas highway patrol;
- (5) the adjutant general;
- (6) the department of commerce;
- (7) the Kansas bureau of investigation;
- (8) the Kansas department of agriculture; and
- (9) the Kansas ~~animal health department~~ department of agriculture division of animal health.

(c) In addition, the membership of the commission on emergency planning and response shall also consist of 18 members appointed by the governor as follows:

- (1) One individual shall be representative of counties;
- (2) one individual selected to represent cities;
- (3) three individuals selected to represent businesses and industries, one of which represents broadcasting;
- (4) one individual selected to represent agriculture, crop or livestock;
- (5) one individual selected to represent transportation, trucking or rail;
- (6) one individual selected to represent energy;
- (7) one individual selected to represent law enforcement officers;
- (8) one individual selected to represent fire fighters;
- (9) one individual selected to represent county emergency managers;
- (10) one individual selected to represent emergency medical services;
- (11) one individual selected to represent public works services;
- (12) one individual selected to represent hospitals;
- (13) one individual selected to represent public health;
- (14) one individual selected to represent the tribes of Kansas;
- (15) one individual selected to represent individuals with disabilities; and
- (16) one individual selected to represent the seven regional homeland security councils.

(d) A designee of the adjutant general shall serve as the secretary of the commission on emergency planning and response. The adjutant general shall provide staff support for the commission on emergency planning and response.

(e) Of the members first appointed to the commission on emergency planning and response by the governor, one representative of cities, one representative of counties, and one representative of business and industry shall serve a term of two years, and the remainder of the members appointed by the governor shall serve terms of three years. Thereafter, members appointed pursuant to subsection (c) shall serve terms of four years and until the successor has been appointed. Any vacancy in the office of an

appointed member shall be filled for the unexpired term by appointment by the governor.

(f) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(g) For attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, those members of the commission appointed by the governor shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

Sec. 112. K.S.A. 66-1319 is hereby amended to read as follows: 66-1319. (a) Members of the Kansas highway patrol shall exercise the power and authority of the superintendent of the Kansas highway patrol in the execution of the duties imposed upon the superintendent by this act to the extent that the exercise of such power and authority is delegated to such members by the superintendent or is prescribed by law. In enforcing the laws referred to in K.S.A. 66-1318, and amendments thereto, members of the highway patrol are authorized and empowered to inspect any motor vehicle required by law to comply with any of such laws and rules and regulations relating thereto. Except as otherwise provided in K.S.A. 8-1910, and amendments thereto, whenever any member of the highway patrol shall determine that any vehicle is not properly registered under or not in compliance with any of such laws, such member of the highway patrol may require such vehicle to be driven to the nearest motor carrier inspection station, if there is one within five miles, and if not, to another suitable place, and remain there until the driver thereof has complied with any or all of such laws. Any driver of a vehicle who fails or refuses to drive such vehicle to the nearest inspection station or other suitable place when so directed by a member of the highway patrol shall be deemed guilty of a misdemeanor.

(b) The superintendent of the Kansas highway patrol or any other member thereof designated by the superintendent may issue any license, permit, registration or certificate required under any of such laws when so directed by law or by the head of the agency administering such laws.

(c) The superintendent of the Kansas highway patrol, the secretary of revenue, the secretary of transportation, the chairperson of the state corporation commission and the livestock animal health commissioner shall cooperate in all functions relating to the enforcement of such laws.

Sec. 113. K.S.A. 74-4002 is hereby amended to read as follows: 74-4002. The members of the Kansas animal health board shall choose their own chairman, who shall serve for a term of one (1) year. ~~Said Such~~ board shall meet at least once in each quarter. Meetings may be called and held at the discretion of the chairman, and meetings shall be called by the chairman upon written request of a majority of the members of ~~said such~~ board. Members of the Kansas animal health board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. Amounts paid under this section shall be paid from appropriations to the livestock animal health commissioner upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the commissioner.

Sec. 114. K.S.A. 74-4003 is hereby amended to read as follows: 74-4003. It shall

be the duty of the Kansas animal health board to serve in an advisory capacity to the ~~livestock animal health~~ commissioner. It shall aid ~~him~~ the commissioner in determining policies and plans relating to ~~his~~ the commissioner's office.

Sec. 115. K.S.A. 75-1901 is hereby amended to read as follows: 75-1901. ~~A livestock~~ An animal health commissioner shall be appointed by the ~~Kansas animal health board secretary of agriculture~~ and shall serve as the executive officer of the Kansas ~~animal health department which is hereby created~~ department of agriculture division of animal health. The person so appointed shall have been actively engaged in one of the major phases of the livestock industry for a period of not less than five (5) years immediately preceding ~~his or her~~ such person's appointment. Before entering upon the duties of ~~said such~~ office, such commissioner shall take and subscribe an oath of office to faithfully and honestly discharge the duties of ~~said such~~ office to the best of ~~his or her~~ such commissioner's knowledge and ability, and shall file the same with the secretary of state. The ~~livestock animal health~~ commissioner shall serve at the pleasure of the secretary of agriculture and the animal health board.

Sec. 116. K.S.A. 75-1903 is hereby amended to read as follows: 75-1903. (a) Whenever in any of the statutes of this state the term "livestock sanitary commissioner" is used, or the term "commissioner" is used to refer to the livestock sanitary commissioner, such terms shall be construed to mean the ~~livestock animal health~~ commissioner appointed by the ~~Kansas animal health board secretary of agriculture~~ pursuant to K.S.A. ~~75-1901~~ 74-5,119, and amendments thereto.

(b) Whenever in any of the statutes of this state the terms "Kansas livestock commission" or "livestock commission" are used, or the term "commission" is used to refer to the Kansas livestock commission, such terms shall be construed to mean the Kansas animal health board created in K.S.A. 74-4001, ~~as amended and amendments~~ thereto.

Sec. 117. K.S.A. 75-3141 is hereby amended to read as follows: 75-3141. The ~~livestock animal health~~ commissioner shall devote full time to the discharge of official duties, and shall be within the unclassified service under the Kansas civil service act. The commissioner's compensation shall be determined by the ~~Kansas animal health board secretary of agriculture~~, subject to the approval of the governor.

Sec. 118. K.S.A. 75-3142 is hereby amended to read as follows: 75-3142. The ~~livestock animal health~~ commissioner is hereby authorized to appoint, within the provisions of the civil service law and within available appropriations, such employees as are necessary to properly discharge the duties of office.

Sec. 119. K.S.A. 2011 Supp. 75-37,121 is hereby amended to read as follows: 75-37,121. (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a

presiding officer. The office may employ regular part-time personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Department of social and rehabilitation services, juvenile justice authority, department on aging, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas ~~animal health department~~ department of agriculture division of animal health and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council, Kansas health policy authority and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife and parks and state court of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, ~~state conservation commission~~ Kansas department of agriculture division of conservation, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All

transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

Sec. 120. K.S.A. 2011 Supp. 74-567 is hereby amended to read as follows: 74-567. (a) The state board of agriculture shall have such powers, duties and functions as prescribed by this section. The board shall serve in an advisory capacity to the governor and the secretary to review and make recommendations on department legislative initiatives and proposed rules and regulations or proposed revised rules and regulations prior to the submission of such rules and regulations to the secretary of administration pursuant to K.S.A. 77-420, and amendments thereto, other than rules and regulations pertaining to personnel matters of the department, rules and regulations of the division of water resources and rules and regulations of the division of food safety. The board shall not have any powers, duties or functions concerning the day-to-day operations of the Kansas department of agriculture.

(b) The board shall serve in an advisory capacity to the agriculture ~~products development division of the department of commerce~~ marketing and promotions program within the Kansas department of agriculture. The board shall advise the division program on issues and concerns relating to agriculture products development and marketing.

(c) The agriculture ~~products development division~~ marketing and promotions program of the Kansas department of commerce agriculture shall report to the board, at not less than two meetings of such board each year, on the activities and functions of the division program.

Sec. 121. K.S.A. 2011 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 Kansas department of commerce agriculture the agriculture ~~products development division~~ marketing and promotions program. The secretary of ~~commerce agriculture~~ shall appoint a director of such division program 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~~ marketing and promotions program 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~~ marketing and promotions program 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~~ marketing and promotions program 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 entrepreneurs 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~~ marketing and promotions program 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 Kansas department of ~~commerce~~ agriculture 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~~ agriculture or a person designated by the secretary.

(e) (1) In conjunction with any trademark registered by the Kansas department of ~~commerce~~ agriculture, the agriculture ~~products development division marketing and promotions program~~ 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~~ agriculture 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~~ agriculture or a person designated by the secretary.

(f) On or before February 1 of each year, the agriculture ~~products development division marketing and promotions program~~ 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 program~~ 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 marketing and promotions program~~ of the Kansas department of ~~commerce agriculture~~ 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 marketing and promotions program~~ of the Kansas department of ~~commerce agriculture~~ 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 marketing and promotions program~~ of the Kansas department of ~~commerce agriculture~~ for each fiscal year. ~~In the report to the 1997 legislature, the division's report shall include a mission statement for the reorganized division.~~

New Sec. 122. In addition to the powers and duties conferred in K.S.A. 2011 Supp. 74-5,126, and amendments thereto, the Kansas department of agriculture division of conservation shall have all the powers, duties and functions delegated pursuant to K.S.A. 2011 Supp. 74-5,126, and amendments thereto. It shall also employ an administrative officer and such technical experts as it may require and shall determine their qualifications and duties. Such officer and experts shall be in the unclassified service of the Kansas civil services act and shall receive annual salaries fixed by the division and approved by the state finance council. All other agents and employees, permanent or temporary, required by the division of conservation, shall be within the classified services of the Kansas civil service act. The division may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to one or more agents or employees, such powers and duties as it deems proper. It shall be supplied with suitable office accommodations at the state capital, and shall be furnished with the necessary supplies and equipment. Upon request of the division, for the purpose of carrying out any of its functions, the supervision officer of any state agency or of any state institution of learning, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, shall assign or detail to the division members of the staff or personnel of such agency or institution of learning and make such special reports, surveys or studies as the division may request.

Sec. 123. K.S.A. 2-1903 is hereby amended to read as follows: 2-1903. As used in this act:

(1) "District" or "conservation district" means a governmental subdivision of this state, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) "Commission" or "state conservation commission" means the ~~agency-~~ conservation program policy board created in K.S.A. 2-1904, and amendments thereto.

(4) "State" means the state of Kansas.

(5) "Agency of this state" includes the government of this state and any subdivision, agency or instrumentality, corporation or otherwise, of the government of this state.

(6) "United States" or "agencies of the United States" includes the United States of America, the soil conservation service of the United States department of agriculture

and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(7) "Government" or "governmental" includes the government of this state, the government of the United States and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(8) "Division" or "division of conservation" means the agency established in K.S.A. 2011 Supp. 74-5,126, and amendments thereto.

Sec. 124. K.S.A. 2-1904 is hereby amended to read as follows: 2-1904. (a) There is hereby established, to serve as ~~an agency~~ a conservation program policy board of the state and to perform the functions conferred upon it in this act, the state conservation commission. The state conservation commission shall succeed to all the powers, duties and property of the state soil conservation committee. The commission shall consist of nine members as follows:

(1) The director of the cooperative extension service and the director of the state agricultural experiment station located at Manhattan, Kansas, or such persons' designees shall serve, *ex officio*, as members of the commission.

(2) The commission shall request the secretary of agriculture of United States of America to appoint one person and the secretary of the Kansas department of agriculture to appoint one person, each of whom shall be residents of the state of Kansas to serve as members of the commission. These members shall hold office for four years and until a successor is appointed and qualifies, with terms commencing on the second Monday in January beginning in 1973.

(3) Five members of the state commission shall be elected by the conservation district supervisors at a time and place to be designated by the state conservation commission. The method of electing such members to be conducted as follows: The state is to be divided into five separate areas. Area No. I to include the following counties: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Osborne, Rooks, Graham, Sheridan, Thomas, Sherman, Wallace, Logan, Gove, Trego, Ellis and Russell. Area No. II to include: Greeley, Wichita, Scott, Lane, Ness, Rush, Pawnee, Hodgeman, Finney, Kearny, Hamilton, Edwards, Ford, Gray, Haskell, Grant, Stanton, Morton, Stevens, Seward, Meade, Clark, Comanche and Kiowa. Area No. III to include: Jewell, Republic, Mitchell, Cloud, Lincoln, Ottawa, Ellsworth, Saline, Rice, McPherson, Reno, Harvey, Kingman, Sedgwick, Sumner, Harper, Barber, Pratt, Barton and Stafford. Area No. IV to include: Washington, Marshall, Nemaha, Brown, Doniphan, Clay, Riley, Pottawatomie, Jackson, Atchison, Jefferson, Leavenworth, Wyandotte, Johnson, Douglas, Shawnee, Wabaunsee, Geary, Dickinson, Morris, Osage, Franklin and Miami. Area No. V to include: Marion, Chase, Lyon, Coffey, Anderson, Linn, Bourbon, Allen, Woodson, Greenwood, Butler, Elk, Wilson, Neosho, Crawford, Cowley, Chautauqua, Montgomery, Labette and Cherokee. Areas II and IV will elect in even number years and Areas I, III and V shall elect in odd number years for two year terms. The elected commission members from Areas I, III and V shall take office on January 1, of the even number years. The remaining two elected members of the state commission from Areas II and IV shall take office on January 1, of the odd number years. The method of election is to be by area caucus of the district supervisors of each of the five separate areas of Kansas. The commission shall give each district notice of the time and place of such annual election meeting by letter if a member is to be elected to the commission from that area that year. The selection of a successor to fill an unexpired term shall be

by appointment by the commission. The successor who is appointed to fill the unexpired term shall be a resident of the same area as that of the predecessor.

(b) The commission shall keep a record of its official actions, shall adopt a seal which seal shall be judicially noticed, and may perform such acts, hold such public hearings and adopt rules and regulations necessary for the execution of its functions under this act.

(c) In addition to the powers and duties conferred in this section, the state conservation commission may employ an administrative officer and such technical experts as it may require and shall determine their qualifications and duties. Such officer and experts shall be in the unclassified service of the Kansas civil service act and shall receive annual salaries fixed by the commission and approved by the state finance council. All other agents and employees, permanent or temporary, required by the state conservation commission, shall be within the classified service of the Kansas civil service act. The commission may call upon the attorney general of the state for such legal services as it may require. It shall have authority to delegate to its chairperson, to one or more of its members or to one or more agents or employees, such powers and duties as it deems proper. It shall be supplied with suitable office accommodations at the state capital, and shall be furnished with the necessary supplies and equipment. Upon request of the commission, for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning, insofar as may be possible under available appropriations and having due regard to the needs of the agency to which the request is directed, shall assign or detail to the commission members of the staff or personnel of such agency or institution of learning and make such special reports, surveys or studies as the commission may request shall have the powers and duties not delegated to the Kansas department of agriculture division of conservation pursuant to K.S.A. 2011 Supp. 74-5,126, and amendments thereto.

(d) The commission shall designate its chairperson and, from time to time, may change such designation. A majority of the commission shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. Members of the state conservation commission attending meetings of such commission or attending a subcommittee meeting thereof authorized by such commission shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. The commission shall provide for keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted.

(e) In addition to the duties and powers hereinafter conferred upon The state conservation commission, it shall together with the Kansas department of agriculture division of conservation shall make conservation program policy decisions, including modification of current conservation programs, creation of new conservation programs and budget recommendations.

(f) The Kansas department of agriculture division of conservation in consultation with the state conservation commission shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs;

(2) to keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts

organized hereunder and to facilitate an interchange of advice and experience between such districts and cooperation between them;

(3) to coordinate the programs of the several conservation districts organized hereunder;

(4) to secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state, in the work of such districts and to contract with or to accept donations, grants, gifts and contributions in money, services or otherwise from the United States or any of its agencies or from the state or any of its agencies in order to carry out the purposes of this act;

(5) to disseminate information throughout the state concerning the activities and programs of the conservation districts organized hereunder and to encourage the formation of such districts in areas where their organization is desirable;

(6) to cooperate with and give assistance to watershed districts and other special purpose districts in the state of Kansas for the purpose of cooperating with the United States through the secretary of agriculture in the furtherance of conservation pursuant to the provisions of the watershed protection and flood prevention act, as amended;

(7) to cooperate in and carry out, in accordance with state policies, activities and programs to conserve and develop the water resources of the state and maintain and improve the quality of such water resources;

(8) to enlist the cooperation and collaboration of state, federal, regional, interstate, local, public and private agencies with the conservation districts; and

(9) to facilitate arrangements under which conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation of natural resources.

Sec. 125. K.S.A. 2-1907 is hereby amended to read as follows: 2-1907. The governing body of the district shall consist of five supervisors who are qualified electors residing within the district. The supervisors who are first elected shall serve for terms of one, two and three years according to the following plan: The two persons receiving the highest number of votes in the election shall hold office for three years; the two persons receiving the next highest number of votes shall hold such office for a term of two years and the remaining supervisor shall hold office for a term of one year. In the event of a tie vote, such terms shall be decided by lot. Nothing in this section shall be construed as affecting the length of the term of supervisors holding office on January 1, 1995. Successors to such persons shall be elected for terms of three years. An annual meeting of all qualified electors of the district shall be held in the month of January or February. Notice of the time and place of such meeting shall be given by such supervisors by publishing a notice in the official county paper once each week for two consecutive weeks prior to the week in which such meeting is to be held. At such meeting the supervisors shall make full and due report of their activities and financial affairs since the last annual meeting and shall conduct an election by secret ballot of all of the qualified electors of the district there present for the election of supervisors whose terms have expired. Whenever a vacancy occurs in the membership of the governing body the remaining supervisors of the district shall appoint a qualified elector of the district to fill the office for the unexpired term. The supervisors shall designate a chairperson and may from time to time change such designation. A supervisor shall hold office until a successor has been elected or appointed and has qualified. A majority of the supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any

matter within their duties shall be required for its determination. A supervisor shall receive no compensation for services, but may be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties. The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties and compensation. The supervisors may call upon the county attorney of the county in which a major portion of the district lies, or the attorney general for such legal services as they may require. The supervisors may delegate to their chairperson, to one or more supervisors, or to one or more agents, or employees such powers and duties as they may deem proper. The supervisors shall furnish to the ~~state conservation commission~~ Kansas department of agriculture division of conservation, upon request, copies of such rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act. The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts and receipts and disbursements. Any supervisor may be removed by the state conservation commission upon notice and hearing in accordance with the provisions of the Kansas administrative procedure act, for neglect of duty or malfeasance in office, but for no other reason. The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Sec. 126. K.S.A. 2011 Supp. 2-1907c is hereby amended to read as follows: 2-1907c. On or before September 1 of each year, each conservation district shall submit to the ~~state conservation commission~~ Kansas department of agriculture division of conservation a certification of the amount of money to be furnished by the county commissioners for conservation district activities for the ensuing calendar year. Such amount shall be the same as authorized for such purposes in each approved county budget. For the purpose of providing state financial assistance to conservation districts, the ~~state conservation commission~~ Kansas department of agriculture division of conservation in the regular budget request, as a line item for the forthcoming fiscal year, shall submit a special request for an amount equal to the sum of the allocations of each county to each conservation district, but in no event to exceed the sum of \$25,000 per district. This \$25,000 limitation shall be applicable for fiscal year 2008, and thereafter, subject to appropriations therefor. The ~~state conservation commission~~ Kansas department of agriculture division of conservation as soon as practicable after July 1 of the following year shall disburse such moneys as may be appropriated by the state for this purpose to each conservation district to match funds allocated by the commissioners of each county. Distribution shall be prorated in proportion to county allocations in the event that appropriations are insufficient for complete matching of funds. Municipal accounting procedures shall be used in the distribution of and in the expenditure of all funds.

Sec. 127. K.S.A. 2011 Supp. 2-1915 is hereby amended to read as follows: 2-1915. (a) Appropriations may be made for grants out of funds in the treasury of this state for

terraces, terrace outlets, check dams, dikes, ponds, ditches, critical area planting, grassed waterways, tailwater recovery irrigation systems, precision land forming, range seeding, detention and grade stabilization structures and other enduring water conservation practices installed on public lands and on privately owned lands and, the control and eradication of sericea lespedeza as provided in subsection (n) of K.S.A. 2-1908, and amendments thereto, on public lands and on privately owned lands. Except as provided by the multipurpose small lakes program act, any such grant shall not exceed 80% of the total cost of any such practice.

(b) A program for protection of riparian and wetland areas shall be developed by the ~~state conservation commission~~ Kansas department of agriculture division of conservation and implemented by the conservation districts. The conservation districts shall prepare district programs to address resource management concerns of water quality, erosion and sediment control and wildlife habitat as part of the conservation district long-range and annual work plans. Preparation and implementation of conservation district programs shall be accomplished with assistance from appropriate state and federal agencies involved in resource management.

(c) Subject to the provisions of K.S.A. 2-1919, and amendments thereto, any holder of a water right, as defined by subsection (g) of K.S.A. 82a-701, and amendments thereto, who is willing to voluntarily return all or a part of the water right to the state shall be eligible for a grant not to exceed 80% of the total cost of the purchase price for such water right. The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the ~~state conservation commission~~ Kansas department of agriculture division of conservation that any water right for which application for cost-share is received under this section is eligible in accordance with the criteria established in K.S.A. 2-1919, and amendments thereto.

(d) (1) Subject to appropriation acts therefor, the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall develop the Kansas water quality buffer initiative for the purpose of restoring riparian areas using best management practices. The executive director of the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall ensure that the initiative is complementary to the federal conservation reserve program.

(2) There is hereby created in the state treasury the Kansas water quality buffer initiative fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive director of the ~~state conservation commission~~ Kansas department of agriculture division of conservation or the executive director's designee. Money credited to the fund shall be used for the purpose of making grants to install water quality best management practices pursuant to the initiative.

(3) The county or district appraiser shall identify and map riparian buffers consisting of at least one contiguous acre per parcel of real property located in the appraiser's county. Notwithstanding any other provisions of law, riparian buffers shall be valued by the county or district appraiser as tame grass land, native grass land or waste land, as appropriate. As used in this subsection (3), "riparian buffer" means an area of stream-side vegetation that: (A) Consists of tame or native grass and may include forbs and woody plants; (B) is located along a perennial or intermittent stream,

including the stream bank and adjoining floodplain; and (C) is a minimum of 66 feet wide and a maximum of 180 feet wide.

(e) ~~The Kansas department of agriculture division of conservation with the approval of the~~ state conservation commission shall adopt rules and regulations to administer such grant and protection programs.

(f) Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices. ~~The state conservation commission~~ Kansas department of agriculture division of conservation may enter into agreements with other state and federal agencies to implement the Kansas water quality buffer initiative.

Sec. 127. K.S.A. 2011 Supp. 2-1930 is hereby amended to read as follows: 2-1930.

(a) There is hereby established the water right transition assistance pilot project program. The program shall be administered by ~~the state conservation commission~~ Kansas department of agriculture division of conservation. The Kansas department of agriculture, division of water resources and recognized local governing agencies, including groundwater management districts, shall cooperate in program implementation. The program shall be administered for the purpose of reducing consumptive use in the target or high priority areas of the state by issuing water right transition grants for privately held water rights.

(b) (1) ~~The state conservation commission~~ Kansas department of agriculture division of conservation may receive and expend funds from the federal or state government, or private source for the purpose of carrying out the provisions of this section. ~~The state conservation commission~~ Kansas department of agriculture division of conservation and the participating groundwater management districts shall carry over unexpended funds from one fiscal year to the next.

(2) Federal and state funds shall not exceed \$1,500,000 per year.

(3) ~~State conservation commission~~ Kansas department of agriculture division of conservation expenditures for permanent partial water right retirements shall not exceed 30% of the total amount of funds for the water right transition assistance pilot project program.

(c) ~~The state conservation commission~~ Kansas department of agriculture division of conservation may enter into water right transition assistance pilot project program contracts with landowners that will result in the permanent retirement of part or all of landowner historic consumptive use water rights by action of the chief engineer as provided for in subsection (f) of this section.

(d) All applications for permanent water right retirements shall be considered for funding.

(e) Permanent retirement of partial water rights shall only be approved by the Kansas department of agriculture division of water resources when the groundwater management district has the metering and monitoring capabilities necessary to ensure compliance with the program. When prioritizing among water right applications for acceptance under the water right transition assistance pilot project, where rights with similar hydrologic impacts are considered, priority should be given to the senior right as determined under the Kansas water appropriation act.

(f) Water rights enrolled in the water right transition assistance pilot project program for permanent retirement shall require the written consent of all landowners and authorized agents to voluntarily request dismissal and forfeiture of priority of the

enrolled water right. Upon enrollment of the water right into the water right transition assistance pilot project program, the chief engineer of the Kansas department of agriculture division of water resources shall concurrently dismiss and terminate the water right in accordance with the terms of the contract.

(g) (1) The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall make water right transition grants available only in areas that have been designated as target or high priority areas by the groundwater management districts and the chief engineer of the Kansas department of agriculture division of water resources or priority areas outside the groundwater management districts as designated by the chief engineer of the Kansas department of agriculture division of water resources.

(2) Two of the target or high priority areas shall be the prairie dog creek area located in hydrologic unit code 10250015 and the rattlesnake creek subbasin located in hydrologic unit code 11030009.

(h) Contracts accepted under the water right transition assistance program shall result in a net reduction in consumptive use equivalent to the amount of historic consumptive use of the water right or rights enrolled in the program based on the average historic consumptive water use. Except as provided for in subsections (i) and (j), once a water right transition assistance pilot project program grant has been provided, the land authorized to be irrigated by the water right or water rights associated with that grant shall not be irrigated permanently. Water right transition assistance pilot project program contracts shall be subject to such terms, conditions and limitations as may be necessary to ensure that such reduction in consumptive use occurs and can be adequately monitored and enforced.

"Historic consumptive water use" means the average amount of water consumed by crops as a result of the lawful beneficial use of water for irrigation during four of the six preceding calendar years, with the highest and lowest years removed from the analysis. For purposes of this program, historic consumptive water use will be determined by multiplying the average reported water use for the four selected years by a factor of 0.85 for center pivot sprinkler irrigation systems, 0.75 for flood or gravity irrigation systems and 0.95 for subsurface drip irrigation systems, but not to exceed the net irrigation requirements for the 50% chance rainfall for the appropriate county as shown in K.A.R. 5-5-12. The applicant may also submit an engineering study that determines the average historic consumptive water use as an alternative method if it is demonstrated to be more accurate for the water right or water rights involved.

(i) Enrollment in the water right transition assistance pilot project program shall not subsequently prohibit irrigation of the land that, prior to enrollment, was authorized by the water right or water rights if irrigation can be lawfully allowed by another water right or permit pursuant to the rules and regulations and consideration of any future changes to other water rights that may be proposed to be transferred to such land.

(j) If more than one water right overlaps the place of use authorized by the water right proposed to be enrolled in the water right transition assistance pilot project program, then all overlapping water rights shall be enrolled in water right transition assistance pilot project program or the landowners shall take the necessary lawful steps to eliminate the overlap with the water right to be enrolled. The burden shall be on the landowner to provide sufficient information to substantiate that the proposed use of water by the resulting exercise of all water rights involved will result in the net

reduction amount of historic consumptive water use by the water right or water rights to be enrolled. The ~~state conservation commission~~ Kansas department of agriculture division of conservation may require such documentation to be provided by someone with special knowledge or experience related to water rights and such operations.

(k) The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall adopt rules and regulations as necessary for the administration of this section. When adopting such rules and regulations the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall consider cropping, system design, metered water use and all other pertinent information that will permit a verifiable reduction in annual water consumptive use and permit alternative crop or other use of the land so that the landowner's economic opportunities are taken into account.

(l) The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall report annually to the senate standing committee on natural resources and the house standing committee on environment on the economic impact studies being conducted on the reduction of water consumption and the financial impact on the communities within the program areas. Such studies shall include comparative data for areas and communities outside the program areas.

(m) The water right transition assistance pilot project program shall expire five years from the effective date of the fiscal year for which state moneys are appropriated thereof and approval of program rules and regulations.

(n) Water right transition assistance grants for water rights to remain unused for the contract period shall constitute due and sufficient cause for nonuse pursuant to K.S.A. 82a-718, and amendments thereto, pursuant to the determination of the chief engineer for the duration of the water right transition assistance pilot project program contract.

(o) The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall hold at least two meetings in each water right transition assistance pilot project program area prior to entering into any water right transition assistance pilot project program contract for the permanent retirement of part or all of landowner historic consumptive use water rights. Such meetings shall inform the public of the possible economic and hydrologic impacts of the program. The ~~state conservation commission~~ Kansas department of agriculture division of conservation shall provide notice of such meetings through publication in local newspapers of record and in the Kansas register.

Sec. 129. K.S.A. 2011 Supp. 2-1931 is hereby amended to read as follows: 2-1931. (a) Any person who commits any of the following may incur a civil penalty as provided by this section:

(1) Any violation of the Kansas water right transition assistance pilot project program act or any rule and regulation adopted thereunder; and

(2) any violation of term, condition or limitation defined and or imposed within the contractual agreement between the ~~state conservation commission~~ Kansas department of agriculture division of conservation and the water right owner.

(b) Any participant who violates any section of a water right transition assistance pilot project program contract shall be subject to either one or both of the following:

(1) A civil penalty of not less than \$100 nor more than \$1,000 per violation. Each day shall constitute a separate violation for purposes of this section; and

(2) repayment of the grant amount in its entirety plus a penalty at six percent of the

full grant amount.

(c) Any penalties or reimbursements received under this act shall be reappropriated for use in the water right transition assistance pilot project program.

Sec. 130. K.S.A. 24-1211 is hereby amended to read as follows: 24-1211. In not less than 12 months, nor more than 13 months after the recording of the certificates of incorporation, and annually thereafter, a meeting shall be held for the election of directors whose terms expire and also to render a report on the financial condition and activities of the district including the estimated construction date of all proposed projects to be initiated within the next five years and the board's determination as to whether each of these projects is still cost effective and in the current public interest. Notice of the annual meeting shall be given at least 10 days prior to the date thereof by one publication in a newspaper of general circulation in each of the counties of which said watershed district is a part. Elections shall be by ballot. Qualified voters in attendance shall be entitled to vote at any such meeting. The directors shall fill any vacancy occurring on the board prior to the expiration of the term of any director by electing a substitute director to serve for the unexpired term.

The number of directors of a district or the date of the annual meeting, or both, may be changed at an annual meeting if notice of the proposition of making such change or changes is given at the annual meeting immediately preceding the annual meeting at which such change or changes are considered. If the number of directors is proposed to be changed, the proposition shall be introduced in the same manner as other items of business and shall clearly show the changes in representation of subwatersheds, if any, and in the length of terms of the directors. It shall be the duty of the board of directors to include the proposition in the notice of the annual meeting at which such changes are being considered. If a majority of those voting are favorable, the election of directors shall be in conformance with the adopted proposal and all powers shall be exercised by the newly constituted board beginning immediately after the annual meeting. Copies of the minutes of the annual meeting and report on the financial condition and activities of the district shall be furnished to the ~~state conservation commission~~ Kansas department of agriculture division of conservation.

Sec. 131. K.S.A. 24-1212 is hereby amended to read as follows: 24-1212. Regular meetings of the board of directors shall be held no less than once each quarter on such day and place as is selected by the board of directors. Notice of such meeting shall be mailed to each director at least five days prior to the date thereof, and special meetings may be held at any time upon waiver of notice of such meeting by all directors or may be called by the president or any two directors at any time. Notice in writing, signed by the persons calling any special meeting, shall be mailed to each director at least two days prior to the time fixed for such special meeting. A majority of the directors shall constitute a quorum for the transaction of business and in the absence of any of the duly elected officers of the district a quorum at any meeting may select a director to act as such officer *pro tem*. Each meeting of the board, whether regular or special, shall be open to the public. Copies of the minutes of regular and special meetings shall be furnished to the ~~state conservation commission~~ Kansas department of agriculture division of conservation.

Sec. 132. K.S.A. 49-603 is hereby amended to read as follows: 49-603. As used in this act:

(a) "Director" means the executive director of the ~~commission~~ Kansas department

of agriculture division of conservation or a designee.

(b) "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited, or both, but shall not include crushing areas, stockpile areas or roads.

(c) "Commission" means the state conservation commission.

(d) "Mine" means any underground or surface mine developed and operated for the purpose of extracting rocks, minerals and industrial materials, other than coal, oil and gas. Mine does not include borrow areas created for construction purposes.

(e) "Operator" means any person who engages in surface mining or operation of an underground mine or mines.

(f) "Overburden" means all of the earth and other materials which lie above the natural deposits of material being mined or to be mined.

(g) "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(h) "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.

(i) "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.

(j) (1) "Surface mining" means the mining of material, except for coal, oil and gas, for sale or for processing or for consumption in the regular operation of a business by removing the overburden lying above natural deposits and mining directly from the natural deposits exposed, or by mining directly from deposits lying exposed in their natural state, or the surface effects of underground mining. Surface mining shall include dredge operations lying outside the high banks of streams and rivers.

(2) Removal of overburden and mining of limited amounts of any materials shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity or quality of the natural deposit, if the materials removed during exploratory excavation or mining are not sold, processed for sale or consumed in the regular operation of a business.

(k) "Topsoil" means the natural medium located at the land surface with favorable characteristics for growth of vegetation, which is normally the A or B, or both, soil horizon layers of the four soil horizons.

(l) "Active site" means a site where surface mining is being conducted.

(m) "Inactive site" means a site where surface mining is not being conducted but where overburden has been disturbed in the past for the purpose of conducting surface mining and an operator anticipates conducting further surface mining operations in the future.

(n) "Materials" means natural deposits of gypsum, clay, stone, sandstone, sand, shale, silt, gravel, volcanic ash or any other minerals of commercial value found on or in the earth with the exception of coal, oil and gas and those located within cut and fill portions of road rights-of-way.

(o) "Reclamation" means the reconditioning of the area of land affected by surface mining to a usable condition for agricultural, recreational or other use.

(p) "Stockpile" means the finished products of the mining of gypsum, clay, shale, stone, sandstone, sand, silt, gravel, volcanic ash or other minerals and removal from its natural position and deposited elsewhere for future use in the normal operation as a business.

(q) "Underground mining" means the extraction of rocks, minerals and industrial materials, other than coal, oil and gas, from the earth by developing entries or shafts from the surface to the seam or deposit before recovering the product by underground extraction methods.

(r) "Person" means any individual, firm, partnership, corporation, government or other entity.

(s) "Division" or "Kansas department of agriculture division of conservation" means the agency established by K.S.A. 2011 Supp. 74-5,126, and amendments thereto.

Sec. 133. K.S.A. 2011 Supp. 82a-220 is hereby amended to read as follows: 82a-220. (a) As used in this act:

(1) "Conservation project" means any project or activity that the director of the Kansas water office determines will assist in restoring, protecting, rehabilitating, improving, sustaining or maintaining the banks of the Arkansas, Kansas or Missouri rivers from the effects of erosion;

(2) "director" means the director of the Kansas water office; and

(3) "state property" means real property currently owned in full or in part by the state in the Arkansas, Kansas or Missouri rivers in Kansas, in and along the bed of the river to the ordinary high water mark on the banks of such rivers.

(b) (1) The director is hereby authorized to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners in such projects for the expected life of the project and with such terms and conditions as the director, after consultation with the Kansas department of agriculture, the Kansas department of health and environment, the Kansas department of wildlife ~~and parks, parks and tourism~~ and the ~~state conservation commission~~ Kansas department of agriculture division of conservation, may deem appropriate.

(2) Notice of the easement shall be given to the county or counties in which the easement is proposed and to any municipality or other governmental entity that, in the opinion of the director, holds a riparian interest in the river and may have an interest in the project or results thereof. Those persons or entities receiving notice shall have a period, not to exceed 30 days, to provide comment on the proposed easement to the director.

(3) In the event such an easement is proposed to be granted on state property owned or managed by any other agency of the state, the director shall give notice of the proposed easement and project to that agency and shall jointly negotiate any easement so granted.

(4) A copy of all easements so entered shall be filed by the director with the office of the secretary of state and the office of the register of deeds for the county or counties in which the easement is located.

(c) The director shall adopt rules and regulations necessary to carry out the provisions of this act.

Sec. 134. K.S.A. 82a-326 is hereby amended to read as follows: 82a-326. When used in this act:

(a) "Water development project" means any project or plan which may be allowed or permitted pursuant to K.S.A. 24-126, 24-1213, 82a-301 *et seq.*, and amendments thereto, or the multipurpose small lakes program act, and amendments thereto;

(b) "environmental review agencies" means the:

(1) Kansas department of wildlife ~~and parks, parks and tourism~~;

- (2) Kansas forest service;
- (3) state biological survey;
- (4) Kansas department of health and environment;
- (5) state historical society;
- (6) ~~state conservation commission~~ Kansas department of agriculture division of conservation; and
- (7) state corporation commission.

Sec. 135. K.S.A. 2011 Supp. 82a-903 is hereby amended to read as follows: 82a-903. In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The division of water resources of the Kansas department of agriculture, state geological survey, the division of environment of the department of health and environment, department of wildlife ~~and parks~~, ~~state conservation commission~~, ~~parks and tourism~~, Kansas department of agriculture division of conservation and all other interested state agencies shall cooperate with the office in formulation of such plan.

Sec. 136. K.S.A. 2011 Supp. 82a-1602 is hereby amended to read as follows: 82a-1602. In order to provide public water supply storage and water related recreational facilities in the state there is hereby established a multipurpose small lakes program. The program shall be administered by the ~~state conservation commission~~ Kansas department of agriculture division of conservation. Except as otherwise provided by this act, ~~the Kansas department of agriculture division of conservation, with the approval of the state conservation commission~~ shall adopt all rules and regulations necessary to implement the provisions of this act.

Sec. 137. K.S.A. 2011 Supp. 82a-1603 is hereby amended to read as follows: 82a-1603. When used in this act:

(a) "Chief engineer" means the chief engineer of the division of water resources of the department of agriculture.

(b) "Class I funded project" means a proposed new project or renovation of an existing project located within the boundaries of an organized watershed district which is receiving or is eligible to receive financial participation from the ~~state conservation commission~~ Kansas department of agriculture division of conservation for the flood control storage portion of the project.

(c) "Class II funded project" means a proposed new project or renovation of an existing project which is receiving or is eligible to receive financial participation from

the federal government.

(d) "Class III funded project" means a proposed new project or renovation of an existing project located outside the boundaries of an organized watershed district which is not receiving or is not eligible to receive financial participation from the ~~state conservation commission~~ Kansas department of agriculture division of conservation or the federal government except as provided in K.S.A. 82a-1606, and amendments thereto.

(e) "Flood control storage" means storage space in reservoirs to hold flood waters.

(f) "Future use public water supply storage" means storage space which the Kansas water office determines will be needed within the next 20 years for use by public water supply users in an area but for which there is no current sponsor.

(g) "General plan" means a preliminary engineering report describing the characteristics of the project area, the nature and methods of dealing with the soil and water problems within the project area, and the projects proposed to be undertaken by the sponsor within the project area. Such plan shall include maps, descriptions and other data as may be necessary for the location, identification and establishment of the character of the work to be undertaken; a cost-benefit analysis of alternatives to the project, including but not limited to, nonstructural flood control options and water conservation and reuse to reduce need for new water supply storage; and any other data and information as the chief engineer may require.

(h) "Land right" means real property as that term is defined by the laws of the state of Kansas and all rights thereto and interest therein and shall include any road, highway, bridge, street, easement or other right-of-way thereon.

(i) "Multipurpose small lake project" means a dam and lake containing: (1) Flood control storage; and (2) either public water supply storage or recreation features or both.

(j) "Public water supply" means a water supply for municipal, industrial or domestic use.

(k) "Public water supply storage" means storage of water for municipal, industrial or domestic use.

(l) "Recreation feature" means water storage and related facilities for activities such as swimming, fishing, boating, camping or other related activities.

(m) "Renovation" means repair or restoration of an existing lake which contains water storage space for use as a public water supply and which has either recreational purposes or flood control purposes, or both.

(n) "Sponsor" means: (1) Any political subdivision of the state which has the power of taxation and the right of eminent domain; (2) any public wholesale water supply district; or (3) any rural water district.

(o) "Water user" means any city, rural water district, wholesale water district or any other political subdivision of the state which is in the business of furnishing municipal or industrial water to the public.

Sec. 138. K.S.A. 82a-1607 is hereby amended to read as follows: 82a-1607. Sponsors shall apply to the state conservation commission for participation in the multipurpose small lakes program. The review and approval process of the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall be established by rules and regulations which shall be consistent with the state water plan. Following review, the Kansas department of agriculture division of conservation with the approval of the state conservation commission shall request

appropriations for specific projects from the legislature. Any funds appropriated to carry out the provisions of this act shall be administered by the ~~state conservation commission~~ Kansas department of agriculture division of conservation.

Sec. 139. K.S.A. 82a-1608 is hereby amended to read as follows: 82a-1608. (a) If state financial participation is approved for a multipurpose small lake project, the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall require a local nonpoint source management plan for the watersheds draining into the proposed lake. Such plan shall be submitted to and approved by the ~~state conservation commission~~ Kansas department of agriculture division of conservation before any state funds may be used for the proposed project.

(b) If public water supply storage is included in such a project, the sponsor shall have a water conservation plan which has been submitted to and approved by the chief engineer.

(c) Any funding provided by the state shall include money necessary to pay for cost-sharing expenses incurred for nonpoint source management pursuant to the plan required by subsection (a).

Sec. 140. K.S.A. 82a-1609 is hereby amended to read as follows: 82a-1609. (a) Before the ~~state conservation commission~~ Kansas department of agriculture division of conservation requests any appropriation for any multipurpose small lake project, the chief engineer shall review the cost-benefit analysis of alternatives to the project and shall:

(1) Submit the general plan to the appropriate state environmental review agencies pursuant to K.S.A. 82a-325, 82a-326 and 82a-327, and amendments thereto, for review and comment as provided by those sections; and

(2) publish notice of the review in the Kansas register, make the general plan available to the public and receive public comments on the proposed project for a period of 30 days following publication of the notice.

(b) If, in the review, a reasonable, less expensive alternative to the proposed project is identified and the ~~state conservation commission~~ Kansas department of agriculture division of conservation nevertheless requests an appropriation for the proposed project, the ~~commission division~~ shall submit its reasons for proceeding with participation in the project, together with substantiating documentation, with the budget estimate and program statement for such project.

(c) This section shall be part of and supplemental to the multipurpose small lakes program act.

Sec. 141. K.S.A. 82a-1702 is hereby amended to read as follows: 82a-1702. (a) The state shall provide financial assistance to certain public corporations for part of the costs or reimbursement of part of the costs of installation of water development projects, which derive general benefits to the state as a whole, or to a section thereof beyond the boundaries of such public corporation.

(b) Any public corporation shall be eligible for state financial assistance for a part of the costs it becomes actually and legally obligated to pay for all lands, easements, and rights-of-way for the water development projects in the event the state conservation commission shall find that: (1) Such public corporation has made application for approval of such financial assistance with the ~~state conservation commission~~ Kansas department of agriculture division of conservation in such form and manner as the ~~state conservation commission~~ Kansas department of agriculture division of conservation

may require, which application each public corporation is hereby authorized to make; (2) such works will confer general flood control benefits beyond the boundaries of such public corporation in excess of 20% of the total flood control benefits of the works; (3) such works are consistent with the state water plan; (4) such public corporation will need such financial assistance for actual expenditures within the fiscal year next following; and (5) the legislature has appropriated funds for the payment of such sum. The payment authorized hereunder shall be limited to an amount equal to the total costs the public corporation shall become actually and legally obligated to spend for lands, easements, and rights-of-way for such water resource development works, multiplied by the ratio that the flood control benefits conferred beyond the boundaries of the public corporation bear to the total flood control benefits of the project. Such findings shall each be made at and in such manner as is provided by procedural rules and regulations which shall be adopted by the Kansas department of agriculture division of conservation with the approval of the state conservation commission.

(c) Any public corporation receiving financial assistance under this section shall apply those sums toward the satisfaction of the legal obligations for the specific lands, easements, and rights-of-way for which it receives them or toward the reimbursement of those accounts from which those legal obligations were satisfied, in whole or in part, and it shall return to the state any sums that are not in fact so applied. In ascertaining costs of lands, easements, and rights-of-way under this section, the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall not consider any costs which relate to land treatment measures nor any costs for which federal aid for construction costs is granted pursuant to the watershed protection and flood prevention acts or pursuant to any other federal acts.

Sec. 142. K.S.A. 82a-1703 is hereby amended to read as follows: 82a-1703. The governing body of each public corporation eligible for state financial assistance under the provisions of this act shall make application for state payment each year to the ~~state conservation commission~~ Kansas department of agriculture division of conservation in such form and manner as the ~~state conservation commission~~ Kansas department of agriculture division of conservation may prescribe by its rules and regulations. Each year the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall determine what persons are eligible to receive financial assistance from the state, and the amounts thereof, pursuant to this act. In the event the ~~state conservation commission~~ Kansas department of agriculture division of conservation shall determine that any such application, including the amounts thereof, is proper and in compliance with this act and is supported by a resolution as provided in K.S.A. 82a-1704, and amendments thereto, the ~~state conservation commission~~ Kansas department of agriculture division of conservation may submit a request therefor as a part of its annual budget requests and estimates. Each such request shall be separately stated and identified. The budget item for each project shall contain the name of the project, the name of the public corporation to which the item relates, the county or counties in which such public corporation is located, the identification of the agreement or resolution supporting the request, and the amount of state payment requested therefor.

Sec. 143. K.S.A. 82a-1704 is hereby amended to read as follows: 82a-1704. In order that any public corporation eligible for state payments under the provisions of this act may receive payment from the state, the governing body of the public corporation shall adopt and transmit to the ~~state conservation commission~~ Kansas department of

agriculture division of conservation an appropriate resolution requesting the ~~state conservation commission~~ Kansas department of agriculture division of conservation to approve payment to the requesting body of a sum or sums to be named within the limits of and for the purposes defined in this act. The resolution shall show the total cost allocated to the requesting body for providing the lands, easements, and rights-of-way for the works of improvement of the requesting body and shall pledge that all money received from the state under authority of this act will be applied solely to the purposes specified in this act.

Sec. 144. K.S.A. 2011 Supp. 82a-2007 is hereby amended to read as follows: 82a-2007. Subject to appropriations, there shall be an additional employee at the ~~state conservation commission~~ Kansas department of agriculture division of conservation to work on total maximum daily load compliance and to coordinate with the department and other appropriate federal and state agencies to further implement voluntary incentive based conservation programs to protect water quality.

Sec. 145. K.S.A. 2011 Supp. 82a-2101 is hereby amended to read as follows: 82a-2101. (a) On and after January 1, 2002, there is hereby imposed a clean drinking water fee at the rate of \$.03 per 1,000 gallons of water sold at retail by a public water supply system and delivered through mains, lines or pipes. Such fee shall be paid, administered, enforced and collected in the manner provided for the fee imposed by subsection (a)(1) of K.S.A. 82a-954, and amendments thereto. The price to the consumer of water sold at retail by any such system shall not include the amount of such fee.

(b) (1) A public water supply system may elect to opt out of the fee imposed by this section by notifying, before October 1, 2001, the Kansas water office and the department of revenue of the election to opt out. Except as provided by subsection (b) (2), such election shall be irrevocable. Such public water supply system shall continue to pay all applicable sales tax on direct and indirect purchases of tangible personal property and services purchased by such system.

(2) On and after January 1, 2005, any public water supply system which elected to opt out of the fee imposed by subsection (a) may elect to collect such fee as provided by subsection (a) and direct and indirect purchases of tangible personal property and services by such system shall be exempt from sales tax as provided by K.S.A. 79-3606, and amendments thereto. Such election shall be irrevocable.

(c) The director of taxation shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received or collected from the fee imposed pursuant to this section. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it as follows:

(1) $\frac{5}{106}$ of such amount shall be credited to the state highway fund and the remainder to the state general fund; and

(2) on and after July 1, 2007, $\frac{5}{106}$ of such amount shall be credited to the state highway fund and the remaining amount shall be credited to the state water plan fund created by K.S.A. 82a-951, and amendments thereto, for use as follows: (A) Not less than 15% shall be used to provide on-site technical assistance for public water supply systems, as defined in K.S.A. 65-162a, and amendments thereto, to aid such systems in conforming to responsible management practices and complying with regulations of the United States environmental protection agency and rules and regulations of the department of health and environment; and (B) the remainder shall be used to renovate

and protect lakes which are used directly as a source of water for such public water supply systems, so long as where appropriate, watershed restoration and protection practices are planned or in place.

(d) ~~The state conservation commission~~ Kansas department of agriculture division of conservation shall promulgate rules and regulations in coordination with the Kansas water office establishing the project application evaluation criteria for the use of such moneys under subsection (c)(2)(B).";

And by renumbering sections accordingly;

On page 5, in line 41, by striking all after "K.S.A."; in line 42, by striking all before "are" and inserting " 2-909, 2-1903, 2-1904, 2-1907, 24-1211, 24-1212, 47-122a, 47-230, 47-239, 47-414, 47-414a, 47-416, 47-416a, 47-417, 47-418a, 47-420, 47-422, 47-428, 47-429, 47-432, 47-433, 47-434, 47-435, 47-441, 47-442, 47-446, 47-448, 47-605, 47-607, 47-607a, 47-607d, 47-608, 47-610, 47-613, 47-616, 47-618, 47-619, 47-620, 47-622, 47-626, 47-627, 47-629, 47-629a, 47-629b, 47-629c, 47-631, 47-632, 47-632a, 47-633a, 47-634, 47-635, 47-646a, 47-650, 47-651, 47-653, 47-653a, 47-653b, 47-653d, 47-653e, 47-653f, 47-653g, 47-653h, 47-654, 47-655, 47-657, 47-658a, 47-658b, 47-660, 47-666, 47-667, 47-673, 47-1001, 47-1001d, 47-1501, 47-1506, 47-1511, 47-1701, 47-1725, 47-1735, 47-1804, 47-1808, 47-1832, 49-603, 65-171i, 66-1319, 74-551, 74-4002, 74-4003, 74-50,161, 75-1901, 75-1903, 75-3141, 75-3142, 82a-326, 82a-1607, 82a-1608, 82a-1609, 82a-1702, 82a-1703 and 82a-1704 and K.S.A. 2011 Supp. 2-907, 2-1907c, 2-1915, 2-1930, 2-1931, 2-1932, 2-3709, 32-951, 47-417a, 47-437, 47-611, 47-612, 47-624, 47-672, 47-674, 47-816, 47-1001e, 47-1008, 47-1011a, 47-1201, 47-1218, 47-1302, 47-1303, 47-1304, 47-1307, 47-1503, 47-1706a, 47-1709, 47-1721, 47-1731, 47-1805, 47-1809, 47-1831, 47-2101, 48-3502, 65-5721, 74-552, 74-553, 74-555, 74-567, 74-50,156, 74-50,157, 74-50,158, 74-50,159, 74-50,160, 74-50,162, 74-50,163, 75-37,121, 82a-220, 82a-903, 82a-1602, 82a-1603, 82a-2007 and 82a-2101";

On page 1, in the title, in line 1, before "agricultural" by inserting "the Kansas department of agriculture; changes due to the establishment of the division of animal health, the agriculture marketing and promotions program and the division of conservation," in line 2, by striking all after "K.S.A."; by striking all in line 3; in line 4, by striking all before the last period and inserting "2-909, 2-1903, 2-1904, 2-1907, 24-1211, 24-1212, 47-122a, 47-230, 47-239, 47-414, 47-414a, 47-416, 47-416a, 47-417, 47-418a, 47-420, 47-422, 47-428, 47-429, 47-432, 47-433, 47-434, 47-435, 47-441, 47-442, 47-446, 47-448, 47-605, 47-607, 47-607a, 47-607d, 47-608, 47-610, 47-613, 47-616, 47-618, 47-619, 47-620, 47-622, 47-626, 47-627, 47-629, 47-629a, 47-629b, 47-629c, 47-631, 47-632, 47-632a, 47-633a, 47-634, 47-635, 47-646a, 47-650, 47-651, 47-653, 47-653a, 47-653b, 47-653d, 47-653e, 47-653f, 47-653g, 47-653h, 47-654, 47-655, 47-657, 47-658a, 47-658b, 47-660, 47-666, 47-667, 47-673, 47-1001, 47-1001d, 47-1501, 47-1506, 47-1511, 47-1701, 47-1725, 47-1735, 47-1804, 47-1808, 47-1832, 49-603, 65-171i, 66-1319, 74-4002, 74-4003, 75-1901, 75-1903, 75-3141, 75-3142, 82a-326, 82a-1607, 82a-1608, 82a-1609, 82a-1702, 82a-1703 and 82a-1704 and K.S.A. 2011 Supp. 2-907, 2-1907c, 2-1915, 2-1930, 2-1931, 2-3709, 32-951, 47-417a, 47-437, 47-611, 47-612, 47-624, 47-672, 47-674, 47-816, 47-1001e, 47-1008, 47-1011a, 47-1201, 47-1218, 47-1302, 47-1303, 47-1304, 47-1503, 47-1706a, 47-1709, 47-1721, 47-1731, 47-1805, 47-1809, 47-1831, 47-2101, 48-3502, 65-5721, 74-552, 74-553, 74-567, 74-50,156, 74-50,163, 75-37,121, 82a-220, 82a-903, 82a-1602, 82a-1603, 82a-2007 and 82a-2101 and repealing the existing sections; also repealing K.S.A. 74-551 and 74-

50,161 and K.S.A. 2011 Supp. 2-1932, 47-1307, 74-555, 74-50,157, 74-50,158, 74-50,159, 74-50,160 and 74-50,162";

And your committee on conference recommends the adoption of this report.

MARK TADDIKEN

RUTH TEICHMAN

MARCI FRANCISCO

Conferees on part of Senate

LARRY R. POWELL

DAN KERSCHEN

JERRY D. WILLIAMS

Conferees on part of House

Senator Taddiken moved the Senate adopt the Conference Committee Report on **HB 2503**.

On roll call, the vote was: Yeas 38; Nays 1; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: A. Schmidt.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2568** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 2, following line 13, by inserting:

"(5) is convicted of sexual battery, as defined in K.S.A. 21-3517, prior to its repeal, or subsection (a) of K.S.A. 2011 Supp. 21-5505, and amendments thereto";

And by renumbering remaining paragraphs accordingly;

On page 3, by striking all in lines 17 through 19;

And by renumbering remaining paragraphs accordingly;

On page 24, in line 28, after "conviction" by inserting "or adjudication"; in line 30, after "conviction" by inserting "or adjudication"; in line 33, after "conviction" by inserting "or adjudication"; in line 35, after "conviction" by inserting "or adjudication"; in line 37, after "conviction" by inserting "or adjudication";

And your committee on conference recommends the adoption of this report.

THOMAS C. OWENS
 JEFF KING
 DAVID HALEY
Conferees on part of Senate

PAT COLLOTON
 LANCE KINZER
 MELODY MCCRAY-MILLER
Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2568**.

On roll call, the vote was: Yeas 37; Nays 2; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Teichman, Umbarger, Vratil, Wagle.

Nays: Huntington, Taddiken.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2655** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Amended by Senate Committee, as follows:

On page 1, by striking all in lines 6 through 34;

By striking all on page 2;

On page 3, by striking all in lines 1 and 2 and by inserting:

"Section 1. K.S.A. 2011 Supp. 58a-411 is hereby amended to read as follows: 58a-411. (a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all qualified beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an attorney in fact under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed. This subsection does not apply to irrevocable trusts created before, or to revocable trusts that became irrevocable before, January 1, 2003.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the qualified beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the qualified beneficiaries if the court concludes

that modification is not inconsistent with a material purpose of the trust.

(c) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the qualified beneficiaries.

(e) If not all of the qualified beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) If all of the qualified beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a qualified beneficiary who does not consent will be adequately protected.

Sec. 2. K.S.A. 58a-1013 is hereby amended to read as follows: 58a-1013. (a) Instead of furnishing a copy of the trust instrument to a person other than a qualified beneficiary, the trustee may furnish to the person an acknowledged certification of trust containing the following information:

(1) That the trust exists and the date the trust instrument was executed;

(2) the identity of the settlor;

(3) the identity and address of the currently acting trustee;

(4) the powers of the trustee;

(5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee; and

~~(7) the trust's taxpayer identification number; and~~

~~(8)~~(7) the manner of taking title to trust property.

(b) A certification of trust may be signed or otherwise authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust need not contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

(f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust

instrument in a judicial proceeding concerning the trust.";

Also on page 3, in line 3, before "K.S.A." by inserting "K.S.A. 58a-1013 and"; also in line 3, by striking "21-5905 is" and inserting "58a-411 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; in line 2, by striking "judicial process" and inserting "the uniform trust code; relating to modification or termination of noncharitable irrevocable trusts; certification of trusts"; also in line 2, after "amending" by inserting "K.S.A. 58a-1013 and"; also in line 2, by striking "21-5905" and inserting "58a-411"; in line 3, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

THOMAS C. OWENS

JEFF KING

DAVID HALEY

Conferees on part of Senate

LANCE KINZER

JOE PATTON

JANICE L. PAULS

Conferees on part of House

Senator Owens moved the Senate adopt the Conference Committee Report on **HB 2655**.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **Senate Substitute for HB 2730** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. 2730, as follows:

On page 25, in line 27, by striking "(1)" and inserting "and (c)(1)"; in line 28, by striking "(b)(5)" and inserting "(c)(4)";

And your committee on conference recommends the adoption of this report.

MARK TADDIKEN

RUTH TEICHMAN

MARCI FRANCISCO

Conferees on part of Senate

LARRY R. POWELL
 DAN KEISCHEN
 JERRY D. WILLIAMS
Conferees on part of House

Senator Taddiken moved the Senate adopt the Conference Committee Report on **S Sub for HB 2730**.

On roll call, the vote was: Yeas 36; Nays 3; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pyle, Reitz, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Lynn, Pilcher-Cook, A. Schmidt.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

EXPLANATION OF VOTE

MR. PRESIDENT: I vote no on **S Sub for HB 2730** because it goes too far in restricting lodging establishments from providing breakfasts, receptions, and other offering of food items to its occupants. As stated in hearings regarding food inspections, it will now require all lodging establishments to acquire a food establishment license to serve any food that is not offered in a packaged format. This is a restriction which is unnecessary and will diminish such offerings from lodging establishments.

Furthermore, S Sub for HB 2730 does not go far enough in supporting our small neighborhood meat processing facilities that are vital businesses to rural communities. – ALLEN C. SCHMIDT

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 134** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Further Amended by House Committee of the Whole, as follows:

On page 1, in line 12, by striking all following "Section 1.";

Also on page 1, by striking all in lines 13 through 30;

By striking all on pages 2 through 57 and inserting:

"K.S.A. 2011 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner;

(2) the patient or research subject at the direction and in the presence of the practitioner; or

(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

~~(d)~~(e) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

~~(e)~~(f) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

~~(f)~~(g) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

~~(g)~~(h) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

~~(h)~~(i) "Co-licensee" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) "DEA" means the U.S. department of justice, drug enforcement administration.

~~(i)~~(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.

~~(j)~~(l) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

~~(k)~~(m) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

~~(l)~~(n) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

~~(m)~~(o) "Distribute" means to deliver, other than by administering or dispensing,

any drug.

(p) "Distributor" means a person who distributes a drug.

(q) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

(r) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) "Durable medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(v) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(w) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(x) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

~~(y)~~ (y) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

~~(s) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.~~

~~(z)~~ (z) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes but is not limited to transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(aa) "Generic name" means the established chemical name or official name of a drug or drug product.

~~(bb)~~ (bb) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

- (A) Inmates of a jail or correctional institution or facility;
- (B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;
- (C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;
- (D) employees of a business or other employer; or
- (E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

- (A) Any registered pharmacy;
- (B) any office of a practitioner; or
- (C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

~~(cc)~~ (cc) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

~~(w)~~(ee) "Medical care facility" shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for the mentally retarded.

~~(x)~~(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

~~(y)~~(gg) "Manufacturer" means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

~~(z)~~(hh) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(ii) "Normal distribution channel" means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer's co-licensed partner, from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

~~(aa)~~(jj) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(bb)~~(kk) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

~~(ee)~~(ll) "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

~~(mm)~~ "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

~~(dd)~~(nn) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

~~(ee)~~ "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in a accredited school of pharmacy.

~~(oo)~~ "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers or servers, and is controlled by the pharmacy.

~~(ff)~~(pp) "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

~~(gg)~~(qq) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

~~(hh)~~(rr) "Preceptor" means a licensed pharmacist who possesses at least two years' experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

~~(ii)~~ "Prescription" means, according to the context, either a prescription order or a prescription medication.

~~(ss)~~ "Prescriber" means a practitioner or a mid-level practitioner.

~~(jj)~~(tt) "Prescription" or "prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber's professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

(uu) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

~~(kk)~~(vv) "Prescription-only drug" means any drug whether intended for use by man or animal, required by federal or state law (including 21 U.S.C. § 353, ~~as amended~~), to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

~~(ll)~~ "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner or a mid-level practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner or mid-level practitioner.

~~(mm)~~(ww) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

~~(nn)~~(xx) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

~~(oo)~~(yy) "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

~~(pp)~~(aaa) "Secretary" means the executive secretary of the board.

~~(qq)~~(bbb) "Third party logistics provider" means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but

does not take title to the prescription drug or have general responsibility to direct the prescription drug's sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

~~(#)~~(ccc) "Unprofessional conduct" means:

- (1) Fraud in securing a registration or permit;
- (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;
- (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;
- (4) intentionally falsifying or altering records or prescriptions;
- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or
- (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

~~(ss) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.~~

~~(tt)~~(ddd) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(eee) "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

~~(uu)~~(fff) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

~~(vv)~~(ggg) "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy

warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

~~(www)~~(hhh) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

(1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;

(2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

(3) intracompany transactions, as defined in this section, unless in violation of own use provisions;

(4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;

(5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;

(7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;

(8) the sale, purchase or trade of blood and blood components intended for transfusion;

(9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;

(10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;

(11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;

(12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or

(13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 2. K.S.A. 2011 Supp. 65-1637 is hereby amended to read as follows: 65-1637.
 (a) In every store, shop or other place defined in this act as a "pharmacy" there shall be a pharmacist-in-charge and, except as otherwise provided by law, the compounding and dispensing of prescriptions shall be limited to pharmacists only. ~~Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured. Prescription orders may be written, oral, telephonic or by electronic transmission unless prohibited by law. Blank forms for written prescription orders may have two signature lines. If there are two lines, one signature line shall state: "Dispense as written" and the other signature line shall state: "Brand exchange permissible." Prescriptions shall only be filled or refilled in accordance with the following requirements:~~

(a) ~~All prescriptions shall be filled in strict conformity with any directions of the prescriber, except that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:~~

(1) ~~The prescriber, in the case of a prescription signed by the prescriber and written on a blank form containing two signature lines, signs the signature line following the statement "dispense as written," or~~

(2) ~~the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription, or~~

(3) ~~the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated, or~~

(4) ~~the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.~~

(b) ~~Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the physician shall bear the name of the person so telephoning. Nothing in this paragraph shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.~~

(c) (1) ~~Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.~~

(2) ~~A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a~~

~~prescription order under this subsection (c)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (c)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (c)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.~~

~~(d) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.~~

~~(e) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.~~

~~(f) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.~~

~~Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled~~

~~(b) Except as otherwise provided by the pharmacy act of this state, when a pharmacist is not in attendance at a pharmacy, the premises shall be enclosed and secured.~~

New Sec. 3. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. A pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission provided that the first and last names of the transmitting agent are included in the order.

(c) (1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription which is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) In consultation with industry, the state board of pharmacy shall conduct a study on the issues of electronic transmission of prior authorizations and step therapy protocols. The report on the results of such study shall be completed and submitted to

the legislature no later than January 15, 2013.

(5) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by paragraph (1).

(e) Regardless of the means of transmission to a pharmacy, only a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order from a prescriber or transmitting agent. A pharmacist, a pharmacist intern or a registered pharmacy technician may receive a refill or renewal order from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

(1) A prescription for a prescription drug or device that is not a controlled substance may authorize no more than 12 refills within 18 months following the date on which the prescription is issued.

(2) A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.

(g) Prescriptions shall only be filled or refilled in accordance with the following requirements:

(1) All prescriptions shall be filled in strict conformity with any directions of the prescriber, except that a pharmacist who receives a prescription order for a brand name drug product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) The prescriber, in the case of a prescription manually or electronically signed by the prescriber and prepared on a form containing two signature lines, signs the signature line following the statement "dispense as written";

(B) the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;

(C) the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or

(D) the federal food and drug administration has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication.

(h) If a prescription order contains a statement that during any particular time the

prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(i) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the name of the person so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(j) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this paragraph be more than a seven day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this subsection (j)(2) shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this subsection (j)(2). A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this subsection (j)(2) unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(k) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(l) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

(m) Nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if in the pharmacist's professional judgment and discretion such pharmacist is of the opinion that it should not be filled or refilled.

Sec. 4. K.S.A. 2011 Supp. 65-1683 is hereby amended to read as follows: 65-1683. (a) The board shall establish and maintain a prescription monitoring program for the monitoring of scheduled substances and drugs of concern dispensed in this state or dispensed to an address in this state.

(b) Each dispenser shall submit to the board by electronic means information

required by the board regarding each prescription dispensed for a substance included under subsection (a). The board shall promulgate rules and regulations specifying the nationally recognized telecommunications format to be used for submission of information that each dispenser shall submit to the board. Such information may include, but not be limited to:

- (1) The dispenser identification number;
- (2) the date the prescription is filled;
- (3) the prescription number;
- (4) whether the prescription is new or is a refill;
- (5) the national drug code for the drug dispensed;
- (6) the quantity dispensed;
- (7) the number of days supply of the drug;
- (8) the patient identification number;
- (9) the patient's name;
- (10) the patient's address;
- (11) the patient's date of birth;
- (12) the prescriber identification number;
- (13) the date the prescription was issued by the prescriber; and
- (14) the source of payment for the prescription.

(c) The board shall promulgate rules and regulations specifying the transmission methods and frequency of the dispenser submissions required under subsection (b).

(d) The board may issue a waiver to a dispenser that is unable to submit prescription information by electronic means. Such waiver may permit the dispenser to submit prescription information by paper form or other means, provided that all information required by rules and regulations is submitted in this alternative format.

(e) The board is hereby authorized to apply for and to accept grants and may accept any donation, gift or bequest made to the board for furthering any phase of the prescription monitoring program.

(f) The board shall remit all moneys received by it under subsection (e) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the non-federal gifts and grants fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

Sec. 5. K.S.A. 2011 Supp. 65-1685 is hereby amended to read as follows: 65-1685.

(a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 *et seq.*, and amendments thereto, except as provided in subsections (c) and (d).

(b) The board shall maintain procedures to ensure that the privacy and

confidentiality of patients and patient information collected, recorded, transmitted and maintained is not disclosed to persons except as provided in subsections (c) and (d).

(c) The board is hereby authorized to provide data in the prescription monitoring program to the following persons:

(1) Persons authorized to prescribe or dispense scheduled substances and drugs of concern, for the purpose of providing medical or pharmaceutical care for their patients;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established by the board;

(3) designated representatives from the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern;

(4) local, state and federal law enforcement or prosecutorial officials engaged in the administration, investigation or enforcement of the laws governing scheduled substances and drugs of concern subject to the requirements in K.S.A. 22-2502, and amendments thereto;

(5) designated representatives from the ~~Kansas health policy authority~~ department of health and environment regarding authorized medicaid program recipients;

(6) persons authorized by a grand jury subpoena, inquisition subpoena or court order in a criminal action;

(7) personnel of the prescription monitoring program advisory committee for the purpose of operation of the program; ~~and~~

(8) personnel of the board for purposes of administration and enforcement of this act or the uniform controlled substances act, K.S.A. 65-4101 *et seq.*, and amendments thereto;

(9) persons authorized to prescribe or dispense scheduled substances and drugs of concern, when an individual is obtaining prescriptions in a manner that appears to be misuse, abuse or diversion of scheduled substances or drugs of concern; and

(10) medical examiners, coroners or other persons authorized under law to investigate or determine causes of death.

(d) The prescription monitoring program advisory committee established pursuant to K.S.A. 65-1689, and amendments thereto, is authorized to review and analyze the data for purposes of identifying patterns and activity of concern.

(1) If a review of information appears to indicate a person may be obtaining prescriptions in a manner that may represent misuse or abuse of controlled substances and drugs of concern, the advisory committee is authorized to notify the prescribers and dispensers who prescribed or dispensed the prescriptions. If the review identifies patterns or other evidence sufficient to create a reasonable suspicion of criminal activity, the advisory committee is authorized to notify the appropriate law enforcement agency.

(2) If a review of information appears to indicate that a violation of state or federal law relating to prescribing controlled substances and drugs of concern may have occurred, or that a prescriber or dispenser has knowingly prescribed, dispensed or obtained controlled substances and drugs of concern in a manner that is inconsistent with recognized standards of care for the profession, the advisory committee shall determine whether a report to the professional licensing, certification or regulatory agencies charged with administrative oversight of those persons engaged in prescribing or dispensing of controlled substances and drugs of concern or to the appropriate law

enforcement agency is warranted.

(A) For purposes of such determination the advisory committee may, in consultation with the appropriate regulatory agencies and professional organizations, establish criteria regarding appropriate standards and utilize volunteer peer review committees of professionals with expertise in the particular practice to create such standards and review individual cases.

(B) The peer review committee or committees appointed herein shall have authority to request and receive information in the prescription monitoring program database from the director of the prescription monitoring program.

(C) If the determination is made that a referral to a regulatory or law enforcement agency is not warranted but educational or professional advising might be appropriate, the advisory committee may refer the prescribers or dispensers to other such resources.

(e) The board is hereby authorized to provide data in the prescription monitoring program to public or private entities for statistical, research or educational purposes after removing information that could be used to identify individual practitioners, dispensers, patients or persons who received prescriptions from dispensers.

Sec. 6. K.S.A. 2011 Supp. 65-1693 is hereby amended to read as follows: 65-1693.

(a) A dispenser who knowingly fails to submit prescription monitoring information to the board as required by this act or knowingly submits incorrect prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(b) A person authorized to have prescription monitoring information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony.

(c) A person authorized to have prescription monitoring information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony.

(d) A person who knowingly and without authorization, obtains or attempts to obtain prescription monitoring information shall be guilty of a severity level 10, nonperson felony.

(e) It shall not be a violation of this act for a practitioner or dispenser to disclose or use information obtained pursuant to this act when such information is disclosed or used solely in the course of such practitioner's or dispenser's care of the patient who is the subject of the information.

Sec. 7. K.S.A. 2011 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

~~(d)~~ "Board" means the state board of pharmacy.

~~(e)~~ "Bureau" means the bureau of narcotics and dangerous drugs, United States

department of justice, or its successor agency.

~~(e)~~(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

~~(g)~~(1) "Controlled substance analog" means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

~~(h)~~(h) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

~~(g)~~(i) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) "DEA" mean the U.S. department of justice, drug enforcement administration.

(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

~~(h)~~(l) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

~~(h)~~(m) "Dispenser" means a practitioner or pharmacist who dispenses.

~~(h)~~(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

~~(h)~~(o) "Distributor" means a person who distributes.

~~(h)~~(p) "Drug" means:

(1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary

or any supplement to any of them;

(2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;

(3) substances, (other than food), intended to affect the structure or any function of the body of man or animals; and

(4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

~~(m)~~(q) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

~~(n)~~(r) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(t) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(u) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(v) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled

substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

~~(a)~~(aa) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

~~(b)~~(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

~~(c)~~(cc) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

~~(d)~~(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~(e)~~(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

~~(f)~~(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

~~(g)~~(gg) "Person" means individual, corporation, government, or governmental

subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

~~(t)(hh)~~ "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., to practice pharmacy.

~~(ii)~~ "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

~~(ji)~~ "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by the pharmacy.

~~(kk)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~(u)~~ "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state:

~~(v)(ll)~~ "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

~~(w)(mm)~~ "Prescriber" means a practitioner or a mid-level practitioner.

~~(nn)~~ "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

~~(x)(oo)~~ "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

~~(pp)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

~~(y)~~ "Isomer" means all enantiomers and diastereomers.

~~(z)~~ "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

~~(aa)~~ "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

~~(bb) (1)~~ "Controlled substance analog" means a substance that is intended for human consumption, and:

~~(A)~~ The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

~~(B)~~ which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules

designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption.

(cc) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

Sec. 8. K.S.A. 2011 Supp. 65-4111 is hereby amended to read as follows: 65-4111.

(a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam	2882
(2) Barbitol	2145
(3) Bromazepam	2748
(4) Camazepam	2749
<u>(5) Carisoprodol</u>	<u>8192</u>
(5) (6) Chloral betaine	2460
(6) (7) Chloral hydrate	2465
(7) (8) Chlordiazepoxide	2744
(8) (9) Clobazam	2751
(9) (10) Clonazepam	2737
(10) (11) Clorazepate	2768
(11) (12) Clotiazepam	2752
(12) (13) Cloxazolam	2753
(13) (14) Delorazepam	2754
(14) (15) Diazepam	2765
(15) (16) Dichloralphenazone	2467
(16) (17) Estazolam	2756
(17) (18) Ethchlorvynol	2540
(18) (19) Ethinamate	2545

(19) <u>(20)</u> Ethyl loflazepate	2758
(20) <u>(21)</u> Fludiazepam	2759
(21) <u>(22)</u> Flunitrazepam	2763
(22) <u>(23)</u> Flurazepam	2767
(23) <u>(24)</u> Fospropofol	2138
(24) <u>(25)</u> Halazepam	2762
(25) <u>(26)</u> Haloxazolam	2771
(26) <u>(27)</u> Ketazolam	2772
(27) <u>(28)</u> Loprazolam	2773
(28) <u>(29)</u> Lorazepam	2885
(29) <u>(30)</u> Lormetazepam	2774
(30) <u>(31)</u> Mebutamate	2800
(31) <u>(32)</u> Medazepam	2836
(32) <u>(33)</u> Meprobamate	2820
(33) <u>(34)</u> Methohexital	2264
(34) <u>(35)</u> Methylphenobarbital (mephobarbital)	2250
(35) <u>(36)</u> Midazolam	2884
(36) <u>(37)</u> Nimetazepam	2837
(37) <u>(38)</u> Nitrazepam	2834
(38) <u>(39)</u> Nordiazepam	2838
(39) <u>(40)</u> Oxazepam	2835
(40) <u>(41)</u> Oxazolam	2839
(41) <u>(42)</u> Paraldehyde	2585
(42) <u>(43)</u> Petrichloral	2591
(43) <u>(44)</u> Phenobarbital	2285
(44) <u>(45)</u> Pinazepam	2883
(45) <u>(46)</u> Prazepam	2764
(46) <u>(47)</u> Quazepam	2881
(47) <u>(48)</u> Temazepam	2925
(48) <u>(49)</u> Tetrazepam	2886
(49) <u>(50)</u> Triazolam	2887
(50) <u>(51)</u> Zolpidem	2783
(51) <u>(52)</u> Zaleplon	2781
(52) <u>(53)</u> Zopiclone	2784

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine)	1230
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(2) Diethylpropion 1610
 (3) Fencamfamin 1760
 (4) Fenproporex 1575
 (5) Mazindol 1605
 (6) Mefenorex 1580
 (7) Pemoline (including organometallic complexes and chelates thereof) 1530
 (8) Phentermine 1640

The provisions of this subsection (d)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(9) Pipradrol 1750
 (10) SPA((-)-1-dimethylamino-1, 2-diphenylethane) 1635
 (11) Sibutramine 1675
 (12) Mondafinil 1680

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

(1) Pentazocine 9709
 (2) Butorphanol (including its optical isomers) 9720

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit 9167
 (2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propion-oxybutane) 9278

(g) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(h) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 9. K.S.A. 2011 Supp. 65-4113 is hereby amended to read as follows: 65-4113.

(a) The controlled substances or drugs, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section are included in schedule V.

(b) Any compound, mixture or preparation containing limited quantities of any of the following narcotic drugs which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine or any of its salts per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine or any of its salts per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine or any of its salts per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than .5 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose)..... 8161

(2) Pyrovalerone..... 1485

(d) Any compound, mixture or preparation containing any detectable quantity of ephedrine, its salts or optical isomers, or salts of optical isomers.

(e) Any compound, mixture or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers.

(f) Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Ezogabine N-[2-amino-4(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester 2779

(~~1~~)(2) Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide] 2746

(~~2~~)(3) Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid] 2782

Sec. 10. K.S.A. 65-4123 is hereby amended to read as follows: 65-4123. (a) Except as otherwise provided in K.S.A. 65-4117, and amendments thereto, or in this subsection (a), no schedule I controlled substance may be dispensed. The board by rules and regulations may designate in accordance with the provisions of this subsection (a) a schedule I controlled substance as a schedule I designated prescription substance. ~~A schedule I controlled substance designated as a schedule I designated prescription substance may be dispensed only upon the written prescription of a practitioner. Prior to designating a schedule I controlled substance as a schedule I designated prescription substance, the board shall find: (1) That the schedule I controlled substance has an accepted medical use in treatment in the United States; (2) that the public health will benefit by the designation of the substance as a schedule I designated prescription substance; and (3) that the substance may be sold lawfully under federal law pursuant to a prescription. No prescription for a schedule I designated prescription substance may be refilled.~~

(b) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written or electronic prescription of a ~~practitioner or a mid-level practitioner~~ prescriber. In emergency situations, as defined by rules and regulations of the board, schedule II drugs may be dispensed upon oral prescription of a ~~practitioner or a mid-level practitioner~~ prescriber reduced promptly to writing or transmitted electronically and filed by the pharmacy. No prescription for a schedule II substance may be refilled.

(c) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III, ~~or IV or V~~ which is a prescription drug shall not be dispensed without ~~a written or oral prescription of a practitioner or a mid-level practitioner~~ either a paper prescription manually signed by a prescriber, a facsimile of a manually signed paper prescription transmitted by the prescriber or the prescriber's agent to the pharmacy, an electronic prescription that has been digitally signed by a prescriber with a digital certificate, or an oral prescription made by an individual prescriber and promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times.

(d) A controlled substance shall not be distributed or dispensed ~~other than for a medical purpose~~. Prescriptions shall be retained in conformity with the requirements of K.S.A. 65-4121 and amendments thereto, except by a valid prescription order as defined in K.S.A. 65-1626, and amendments thereto. Electronic prescriptions shall be retained electronically for five years from the date of their creation or receipt. The records must be readily retrievable from all other records and easily rendered into a format a person can read. Paper, oral and facsimile prescriptions shall be maintained as a hard copy for five years at the registered location.

New Sec. 11. A controlled substance listed in schedules II through V, excluding schedule V nonnarcotic depressants that have an effect on the central nervous system, shall not be distributed on a gratuitous basis by a manufacturer or distributor to a practitioner, mid-level practitioner, pharmacist or any other person.

Sec. 12. K.S.A. 65-4123 and K.S.A. 2011 Supp. 65-1626, 65-1637, 65-1683, 65-1685, 65-1693, 65-4101, 65-4111 and 65-4113 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the Kansas Register.";

On page 1, in the title, in line 1, by striking all following "ACT"; by striking all in lines 2 through 9 and inserting "concerning prescription of drugs; relating to controlled substances, electronic prescription and the prescription monitoring program; amending K.S.A. 65-4123 and K.S.A. 2011 Supp 65-1626, 65-1637, 65-1683, 65-1685, 65-1693, 65-4101, 65-4111 and 65-4113 and repealing the existing sections.";

And your committee on conference recommends the adoption of this report.

BRENDA LANDWEHR
OWEN DONOHOE
GERALDINE FLAHERTY
Conferees on part of House

VICKI SCHMIDT
 PETE BRUNGARDT
 LAURA KELLY
Conferees on part of Senate

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **SB 134**.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Absent or Not Voting: Steineger.

The Conference Committee Report was adopted.

REPORT ON ENROLLED BILLS

H Sub SB 74; SB 301, SB 303; H Sub for SB 315; SB 387; Sub SB 397; SB 424 reported correctly enrolled, properly signed and presented to the Governor on April 3, 2012.

SR 1854, SR 1855, SR 1856 reported correctly enrolled, properly signed and presented to the Secretary of the Senate April 3, 2012.

REPORTS OF STANDING COMMITTEES

Committee on **Ways and Means** recommends **SB 434** be passed.

ORIGINAL MOTION

On motion of Senator Owens, the Senate acceded to the request of the House for a conference on **HB 2562**.

The President appointed Senators Owens, King and Haley as conferees on the part of the Senate.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Thursday, April 26, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*

PAT SAVILLE, *Secretary of the Senate.*

