

**HOUSE BILL No. 2186**

By Committee on Judiciary

1-26

---

1 AN ACT concerning **{dispute resolution; relating to}** arbitration;  
2 enacting the uniform arbitration act of 2000; **{teacher contracts;}**  
3 amending K.S.A. 50-6,100 and 66-1712 **{and K.S.A. 2016 Supp. 72-**  
4 **5436, 72-5438, 72-5439 and 72-5445}** and repealing the existing  
5 sections; also repealing K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-  
6 406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-  
7 416, 5-417, 5-418, 5-419, 5-420, 5-421 and 5-422.  
8

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

10 New Section 1. As used in sections 1 through 31, and amendments  
11 thereto:

12 (a) "Arbitration organization" means an association, agency, board,  
13 commission or other entity that is neutral and initiates, sponsors or  
14 administers an arbitration proceeding or is involved in the appointment of  
15 an arbitrator;

16 (b) "arbitrator" means an individual appointed to render an award,  
17 alone or with others, in a controversy that is subject to an agreement to  
18 arbitrate;

19 (c) "court" means a court of competent jurisdiction in this state;

20 (d) "knowledge" means actual knowledge;

21 (e) "person" means an individual, corporation, business trust, estate,  
22 trust, partnership, limited liability company, association, joint venture,  
23 government, governmental subdivision, agency, instrumentality, public  
24 corporation or any other legal or commercial entity; and

25 (f) "record" means information that is inscribed on a tangible medium  
26 or that is stored in an electronic or other medium and is retrievable in  
27 perceivable form.

28 New Sec. 2. (a) Except as otherwise provided in sections 1 through  
29 31, and amendments thereto, a person gives notice to another person by  
30 taking action that is reasonably necessary to inform the other person in  
31 ordinary course, whether or not the other person acquires knowledge of the  
32 notice.

33 (b) A person has notice if the person has knowledge of the notice or  
34 has received notice.

1 (c) A person receives notice when it comes to the person's attention or  
2 the notice is delivered at the person's place of residence or place of  
3 business, or at another location held out by the person as a place of  
4 delivery of such communications.

5 New Sec. 3. (a) Sections 1 through 31, and amendments thereto,  
6 govern an agreement to arbitrate made on or after July 1, 2017.

7 (b) Sections 1 through 31, and amendments thereto, govern an  
8 agreement to arbitrate made before July 1, 2017, if all parties to the  
9 agreement or to the arbitration proceeding so agree in the record.

10 New Sec. 4. (a) Except as otherwise provided in subsections (b) and  
11 (c), a party to an agreement to arbitrate or to an arbitration proceeding may  
12 waive or the parties may vary the effect of, the requirements of sections 1  
13 through 31, and amendments thereto, to the extent permitted by law.

14 (b) Before a controversy arises that is subject to an agreement to  
15 arbitrate, a party to the agreement may not:

16 (1) Waive or agree to vary the effect of the requirements of sections  
17 5(a), 6(a), 8, 17(a) or (b), 26 or 28, and amendments thereto;

18 (2) agree to unreasonably restrict the right under section 9, and  
19 amendments thereto, to notice of the initiation of an arbitration  
20 proceeding;

21 (3) agree to unreasonably restrict the right under section 12, and  
22 amendments thereto, to disclosure of any facts by a neutral arbitrator; or

23 (4) waive the right under section 16, and amendments thereto, of a  
24 party to an agreement to arbitrate to be represented by a lawyer at any  
25 proceeding or hearing under sections 1 through 31, and amendments  
26 thereto, but an employer and a labor organization may waive the right to  
27 representation by a lawyer in a labor arbitration.

28 (c) A party to an agreement to arbitrate or arbitration proceeding may  
29 not waive, or the parties may not vary the effect of, the requirements of  
30 this section or section 3(a) or (e), 7, 14, 18, 20(d) or (e), 22, 23, 24, 25(a)  
31 or (b), 29, 30 or 31, and amendments thereto.

32 New Sec. 5. (a) Except as otherwise provided in section 28, and  
33 amendments thereto, an application for judicial relief under sections 1  
34 through 31, and amendments thereto, must be made by motion to the court  
35 and heard in the manner provided by law or rule of court for making and  
36 hearing motions.

37 (b) Unless a civil action involving the agreement to arbitrate is  
38 pending, notice of an initial motion to the court under this act must be  
39 served in the manner provided by law for the service of a summons in a  
40 civil action. Otherwise, notice of the motion must be given in the manner  
41 provided by law or rule of court for serving motions in pending cases.

42 New Sec. 6. (a) An agreement contained in a record to submit to  
43 arbitration any existing or subsequent controversy arising between the

1 parties to the agreement is valid, enforceable and irrevocable, except upon  
2 a ground that exists at law or in equity for the revocation of a contract.

3 (b) The court shall decide whether an agreement to arbitrate exists or  
4 a controversy is subject to an agreement to arbitrate.

5 (c) An arbitrator shall decide whether a condition precedent to  
6 arbitrability has been fulfilled and whether a contract containing a valid  
7 agreement to arbitrate is enforceable.

8 (d) If a party to a judicial proceeding challenges the existence of, or  
9 claims that a controversy is not subject to, an agreement to arbitrate, the  
10 arbitration proceeding may continue, pending final resolution of the issue  
11 by the court, unless the court otherwise orders.

12 New Sec. 7. (a) On motion of a person showing an agreement to  
13 arbitrate and alleging another person's refusal to arbitrate, pursuant to the  
14 agreement:

15 (1) If the refusing party does not appear or does not oppose the  
16 motion, the court shall order the parties to arbitrate; and

17 (2) if the refusing party opposes the motion, the court shall proceed  
18 summarily to decide the issue and order the parties to arbitrate, unless it  
19 finds that there is no enforceable agreement to arbitrate.

20 (b) On motion of a person alleging that an arbitration proceeding has  
21 been initiated or threatened, but that there is no agreement to arbitrate, the  
22 court shall proceed summarily to decide the issue. If the court finds that  
23 there is an enforceable agreement to arbitrate, it shall order the parties to  
24 arbitrate.

25 (c) If the court finds that there is no enforceable agreement, it may  
26 not, pursuant to subsections (a) or (b), order the parties to arbitrate.

27 (d) The court may not refuse to order arbitration because the claim  
28 subject to arbitration lacks merit or grounds for the claim have not been  
29 established.

30 (e) If a proceeding involving a claim referable to arbitration under an  
31 alleged agreement to arbitrate is pending in court, a motion under this  
32 section must be made in that court. Otherwise, a motion under this section  
33 may be made in any court as provided in section 27, and amendments  
34 thereto.

35 (f) If a party makes a motion to the court to order arbitration, the  
36 court on just terms shall stay any judicial proceeding that involves a claim  
37 alleged to be subject to the arbitration until the court renders a final  
38 decision under this section.

39 (g) If the court orders arbitration, the court on just terms shall stay  
40 any judicial proceeding that involves a claim subject to the arbitration. If a  
41 claim subject to the arbitration is severable, the court may limit the stay to  
42 that claim.

43 New Sec. 8. (a) Before an arbitrator is appointed and is authorized

1 and able to act, the court, upon motion of a party to an arbitration  
2 proceeding and for good cause shown, may enter an order for provisional  
3 remedies to protect the effectiveness of the arbitration proceeding to the  
4 same extent and under the same conditions as if the controversy were the  
5 subject of a civil action.

6 (b) After an arbitrator is appointed and is authorized and able to act:

7 (1) The arbitrator may issue such orders for provisional remedies,  
8 including interim awards, as the arbitrator finds necessary to protect the  
9 effectiveness of the arbitration proceeding and to promote the fair and  
10 expeditious resolution of the controversy, to the same extent and under the  
11 same conditions as if the controversy were the subject of a civil action; and

12 (2) a party to an arbitration proceeding may move the court for a  
13 provisional remedy only if the matter is urgent and the arbitrator is not  
14 able to act timely or the arbitrator cannot provide an adequate remedy.

15 (c) A party does not waive a right of arbitration by making a motion  
16 under subsection (a) or (b).

17 New Sec. 9. (a) A person initiates an arbitration proceeding by giving  
18 notice in a record to the other parties to the agreement to arbitrate in the  
19 agreed manner between the parties or, in the absence of agreement, by  
20 certified or registered mail, return receipt requested and obtained, or by  
21 service as authorized for the commencement of a civil action. The notice  
22 must describe the nature of the controversy and the remedy sought.

23 (b) Unless a person objects for lack of insufficiency of notice under  
24 section 15(c), and amendments thereto, not later than the beginning of the  
25 arbitration hearing, the person, by appearing at the hearing, waives any  
26 objection to lack of or insufficiency of notice.

27 New Sec. 10. (a) Except as otherwise provided in subsection (c),  
28 upon motion of a party to an agreement to arbitrate or to an arbitration  
29 proceeding, the court may order consolidation of separate arbitration  
30 proceedings as to all or some of the claims if:

31 (1) There are separate agreements to arbitrate or separate arbitration  
32 proceedings between the same persons or one of them is a party to a  
33 separate agreement to arbitrate or a separate arbitration proceeding with a  
34 third person;

35 (2) the claims subject to the agreements to arbitrate arise in  
36 substantial part from the same transaction or series of related transactions;

37 (3) the existence of a common issue of law or fact creates the  
38 possibility of conflicting decisions in the separate arbitration proceedings;  
39 and

40 (4) prejudice resulting from a failure to consolidate is not outweighed  
41 by the risk of undue delay or prejudice to the rights of or hardship to  
42 parties opposing consolidation.

43 (b) The court may order consolidation of separate arbitration

1 proceedings as to some claims and allow other claims to be resolved in  
2 separate arbitration proceedings.

3 (c) The court may not order consolidation of the claims of a party to  
4 an agreement to arbitrate if the agreement prohibits consolidation.

5 New Sec. 11. (a) If the parties to an agreement to arbitrate agree on a  
6 method for appointing an arbitrator, that method must be followed, unless  
7 the method fails. If the parties have not agreed on a method, the agreed  
8 method fails or an arbitrator appointed fails or is unable to act and a  
9 successor has not been appointed, the court, on motion of a party to the  
10 arbitration proceeding, shall appoint the arbitrator. An arbitrator so  
11 appointed has all the powers of an arbitrator designated in the agreement  
12 to arbitrate or appointed pursuant to the agreed method.

13 (b) An individual who has a known, direct and material interest in the  
14 outcome of the arbitration proceeding or a known, existing and substantial  
15 relationship with a party may not serve as an arbitrator required by an  
16 agreement to be neutral.

17 New Sec. 12. (a) Before accepting appointment, an individual who is  
18 requested to serve as an arbitrator, after making a reasonable inquiry, shall  
19 disclose to all parties to the agreement to arbitrate and arbitration  
20 proceeding and to any other arbitrators any known facts that a reasonable  
21 person would consider likely to affect the impartiality of the arbitrator in  
22 the arbitration proceeding, including:

23 (1) A financial or personal interest in the outcome of the arbitration  
24 proceeding; and

25 (2) an existing or past relationship with any of the parties to the  
26 agreement to arbitrate or the arbitration proceeding, their counsel or  
27 representatives, a witness or other arbitrators.

28 (b) An arbitrator has a continuing obligation to disclose to all parties  
29 to the agreement to arbitrate and arbitration proceeding and to any other  
30 arbitrators any facts that the arbitrator learns after accepting appointment  
31 that a reasonable person would consider likely to affect the impartiality of  
32 the arbitrator.

33 (c) If an arbitrator discloses a fact required by subsection (a) or (b) to  
34 be disclosed and a party timely objects to the appointment or continued  
35 service of the arbitrator based upon the fact disclosed, the objection may  
36 be a ground under section 23(a)(2), and amendments thereto, for vacating  
37 an award made by the arbitrator.

38 (d) If the arbitrator did not disclose a fact as required by subsection  
39 (a) or (b), upon timely objection by a party, the court under section 23(a)  
40 (2), and amendments thereto, may vacate the award.

41 (e) An arbitrator appointed as a neutral arbitrator who does not  
42 disclose a known, direct and material interest in the outcome of the  
43 arbitration proceeding or a known, existing and substantial relationship

1 with a party is presumed to act with evident partiality under section 23(a)  
2 (2), and amendments thereto.

3 (f) If the parties to an arbitration proceeding agree to the procedures  
4 of an arbitration organization or any other procedures for challenges to  
5 arbitrators before an award is made, substantial compliance with those  
6 procedures is a condition precedent to a motion to vacate an award on that  
7 ground under section 23(a)(2), and amendments thereto.

8 New Sec. 13. If there is more than one arbitrator, the powers of an  
9 arbitrator must be exercised by a majority of the arbitrators, but all of them  
10 shall conduct the hearing under section 15(c), and amendments thereto.

11 New Sec. 14. (a) An arbitration organization acting in that capacity is  
12 immune from civil liability to the same extent as a judge of a court of this  
13 state acting in a judicial capacity.

14 (b) The immunity afforded by this section supplements any immunity  
15 under other law.

16 (c) The failure of an arbitrator to make a disclosure required by  
17 section 12, and amendments thereto, does not cause any loss of immunity  
18 under this section.

19 (d) In a judicial, administrative or similar proceeding, an arbitrator or  
20 representative of an arbitration organization is not competent to testify, and  
21 may not be required to produce records as to any statement, conduct,  
22 decision or ruling occurring during the arbitration proceeding, to the same  
23 extent as a judge of a court of this state acting in a judicial capacity. This  
24 subsection does not apply:

25 (1) To the extent necessary to determine the claim of an arbitrator,  
26 arbitration organization or representative of the arbitration organization  
27 against a party to the arbitration proceeding; or

28 (2) to a hearing on a motion to vacate an award under section 23(a)(1)  
29 or (2), and amendments thereto, if the movant establishes prima facie that  
30 a ground for vacating the award exists.

31 (e) If a person commences a civil action against an arbitrator,  
32 arbitration organization or representative of an arbitration organization  
33 arising from the services of an arbitrator, organization or representative or  
34 if a person seeks to compel an arbitrator or a representative of an  
35 arbitration organization to testify or produce records in violation of  
36 subsection (d), and the court decides that the arbitrator, arbitration  
37 organization or representative of an arbitration organization is immune  
38 from civil liability or that the arbitrator or representative of the  
39 organization is not competent to testify, the court shall award to the  
40 arbitrator, organization or representative reasonable attorney fees and other  
41 reasonable expenses of litigation.

42 New Sec. 15. (a) An arbitrator may conduct an arbitration in such  
43 manner as the arbitrator considers appropriate for a fair and expeditious

1 disposition of the proceeding. The authority conferred upon the arbitrator  
2 includes the power to hold conferences with the parties to the arbitration  
3 proceeding before the hearing and, among other matters, determine the  
4 admissibility, relevance, materiality and weight of any evidence.

5 (b) An arbitrator may decide a request for summary disposition of a  
6 claim or particular issue:

7 (1) If all interested parties agree; or

8 (2) upon request of one party to the arbitration proceeding, if that  
9 party gives notice to all other parties to the proceeding and the other  
10 parties have a reasonable opportunity to respond.

11 (c) If an arbitrator orders a hearing, the arbitrator shall set a time and  
12 place and give notice of the hearing not less than five days before the  
13 hearing begins. Unless a party to the arbitration proceeding makes an  
14 objection to lack or insufficiency of notice not later than the beginning of  
15 the hearing, the party's appearance at the hearing waives the objection.  
16 Upon request of a party to the arbitration proceeding and for good cause  
17 shown, or upon the arbitrator's own initiative, the arbitrator may adjourn  
18 the hearing from time to time as necessary but may not postpone the  
19 hearing to a time later than that fixed by the agreement to arbitrate for  
20 making the award unless the parties to the arbitration proceeding consent  
21 to a later date. The arbitrator may hear and decide the controversy upon the  
22 evidence produced, although a party who was duly notified of the  
23 arbitration proceeding did not appear. The court, on request, may direct the  
24 arbitrator to conduct the hearing promptly and render a timely decision.

25 (d) At a hearing under subsection (c), a party to the arbitration  
26 proceeding has a right to be heard, to present evidence material to the  
27 controversy, and to cross-examine witnesses appearing at the hearing.

28 (e) If an arbitrator ceases or is unable to act during the arbitration  
29 proceeding, a replacement arbitrator must be appointed in accordance with  
30 section 11, and amendments thereto, to continue the proceeding and to  
31 resolve the controversy.

32 New Sec. 16. A party to an arbitration proceeding may be represented  
33 by a lawyer.

34 New Sec. 17. (a) An arbitrator may issue a subpoena for the  
35 attendance of a witness and for the production of records and other  
36 evidence at any hearing and may administer oaths. A subpoena must be  
37 served in the manner for service of subpoenas in a civil action and, upon  
38 motion to the court by a party to the arbitration proceeding or the  
39 arbitrator, enforced in the manner for enforcement of subpoenas in a civil  
40 action.

41 (b) In order to make the proceedings fair, expeditious and most cost  
42 effective, upon request of a party to or a witness in an arbitration  
43 proceeding, an arbitrator may permit a deposition of any witness to be

1 taken for use as evidence at the hearing, including a witness who cannot be  
2 subpoenaed for or is unable to attend a hearing. The arbitrator shall  
3 determine the conditions under which the deposition is taken.

4 (c) An arbitrator may permit such discovery as the arbitrator decides  
5 is appropriate in the circumstances, taking into account the needs of the  
6 parties to the arbitration proceeding and other affected persons and the  
7 desirability of making the proceeding fair, expeditious and cost effective.

8 (d) If an arbitrator permits discovery under subsection (c), the  
9 arbitrator may order a party to the arbitration proceeding to comply with  
10 the arbitrator's discovery-related orders, issue subpoenas for the attendance  
11 of a witness and for the production of records and other evidence at a  
12 discovery proceeding, and take action against a noncomplying party to the  
13 extent a court could, if the controversy were the subject of a civil action in  
14 this state.

15 (e) An arbitrator may issue a protective order to prevent the  
16 disclosure of privileged information, confidential information, trade  
17 secrets and other information protected from disclosure to the extent a  
18 court could, if the controversy were the subject of a civil action in this  
19 state.

20 (f) All laws compelling a person under subpoena to testify and all  
21 fees for attending a judicial proceeding, a deposition or a discovery  
22 proceeding as a witness apply to an arbitration proceeding as if the  
23 controversy were the subject of a civil action in this state.

24 (g) The court may enforce a subpoena or discovery-related order for  
25 the attendance of a witness within this state and for the production of  
26 records and other evidence issued by an arbitrator in connection with an  
27 arbitration proceeding in another state upon conditions determined by the  
28 court as to make the arbitration proceeding fair, expeditious and cost  
29 effective. A subpoena or discovery-related order issued by an arbitrator in  
30 another state must be served in the manner provided by law for service of  
31 subpoenas in a civil action in this state and, upon motion to the court by a  
32 party to the arbitration proceeding or the arbitration, enforced in the  
33 manner provided by law for enforcement of subpoenas in a civil action in  
34 this state.

35 New Sec. 18. If an arbitrator makes a pre-award ruling in favor of a  
36 party to the arbitration proceeding, the party may request the arbitrator to  
37 incorporate the ruling into an award under section 19, and amendments  
38 thereto. A prevailing party may make a motion to the court for an  
39 expedited order to confirm the award under section 22, and amendments  
40 thereto, in which case the court shall summarily decide the motion. The  
41 court shall issue an order to confirm the award, unless the court vacates,  
42 modifies or corrects the award under section 23 or 24, and amendments  
43 thereto.



1 New Sec. 19. (a) An arbitrator shall make a record of an award. The  
2 record must be signed or otherwise authenticated by an arbitrator who  
3 concurs with the award. The arbitrator or the arbitration organization shall  
4 give notice of the award, including a copy of the award, to each party to  
5 the arbitration proceeding.

6 (b) An award must be made within the time specified by the  
7 agreement to arbitrate or, if not specified therein, within the time ordered  
8 by the court. The court may extend or the parties to the arbitration  
9 proceeding may agree in a record to extend the time. The court or the  
10 parties may do so within or after the time specified or ordered. A party  
11 waives any objection that an award was not timely made unless the party  
12 gives notice of the objection to the arbitrator before receiving notice of the  
13 award.

14 New Sec. 20. (a) On motion to an arbitrator by a party to an  
15 arbitration proceeding, the arbitrator may modify or correct an award:

16 (1) Upon a ground stated in section 24(a)(1) or (3), and amendments  
17 thereto;

18 (2) because the arbitrator has not made a final and definite award  
19 upon a claim submitted by the parties to the arbitration proceeding; or

20 (3) to clarify the award.

21 (b) A motion under subsection (a) must be made and notice given to  
22 all parties within 20 days after the movant receives notice of the award.

23 (c) A party to the arbitration proceeding must give notice of any  
24 objection to the motion within 10 days after receipt of the notice.

25 (d) If a motion to the court is pending under section 22, 23 or 24, and  
26 amendments thereto, the court may submit the claim to the arbitrator to  
27 consider whether to modify or correct the award:

28 (1) Upon a ground stated in section 24(a)(1) or (3), and amendments  
29 thereto;

30 (2) because the arbitrator has not made a final and definite award  
31 upon a claim submitted by the parties to the arbitration proceedings; or

32 (3) to clarify the award.

33 (e) An award modified or corrected pursuant to this section is subject  
34 to sections 19(a), 22, 23 and 24, and amendments thereto.

35 New Sec. 21. (a) An arbitrator may award punitive damages or other  
36 exemplary relief if such an award is authorized by law in a civil action  
37 involving the same claim and the evidence produced at the hearing  
38 justifies the award under the legal standards otherwise applicable to the  
39 claim.

40 (b) An arbitrator may award reasonable attorney fees and other  
41 reasonable expenses of arbitration if such an award is authorized by law in  
42 a civil action involving the same claim or by the agreement of the parties  
43 to the arbitration proceeding.

1 (c) As to all remedies other than those authorized by subsections (a)  
2 and (b), an arbitrator may order such remedies as the arbitrator considers  
3 just and appropriate under the circumstances of the arbitration proceeding.  
4 The fact that such a remedy could not or would not be granted by the court  
5 is not a ground for refusing to confirm an award under section 22, and  
6 amendments thereto, or for vacating an award under section 23, and  
7 amendments thereto.

8 (d) An arbitrator's expenses and fees, together with other expenses,  
9 must be paid as provided in the award.

10 (e) If an arbitrator awards punitive damages or other exemplary relief  
11 under subsection (a), the arbitrator shall specify in the award the basis in  
12 fact justifying and the basis in law authorizing the award and state  
13 separately the amount of punitive damages or other exemplary relief.

14 New Sec. 22. After a party to an arbitration proceeding receives  
15 notice of an award, the party may make a motion to the court for an order  
16 confirming the award, at which time the court shall issue a confirming  
17 order, unless the award is modified or corrected pursuant to section 20 or  
18 24, and amendments thereto, or is vacated pursuant to section 23, and  
19 amendments thereto.

20 New Sec. 23. (a) Upon motion to the court by a party to an arbitration  
21 proceeding, the court shall vacate an award made in the arbitration  
22 proceeding if:

23 (1) The award was procured by corruption, fraud or other undue  
24 means;

25 (2) there was:

26 (A) Evident partiality by an arbitrator appointed as a neutral  
27 arbitrator;

28 (B) corruption by an arbitrator; or

29 (C) misconduct by an arbitrator prejudicing the rights of a party to the  
30 arbitration proceeding;

31 (3) an arbitrator refused to postpone the hearing upon showing of  
32 sufficient cause for postponement, refused to consider evidence material to  
33 the controversy, or otherwise conducted the hearing contrary to section 15,  
34 and amendments thereto, so as to prejudice substantially the rights of a  
35 party to the arbitration proceeding;

36 (4) an arbitrator exceeded the arbitrator's powers;

37 (5) there was no agreement to arbitrate, unless the person participated  
38 in the arbitration proceeding without raising the objection under section  
39 15(c), and amendments thereto, not later than the beginning of the  
40 arbitration hearing; or

41 (6) the arbitration was conducted without proper notice of the  
42 initiation of an arbitration as required in section 9, and amendments  
43 thereto, so as to prejudice substantially the rights of a party to the

1 arbitration proceeding.

2 (b) A motion under this section must be filed within 90 days after the  
3 movant receives notice of the award pursuant to section 19, and  
4 amendments thereto, or within 90 days after the movant receives notice of  
5 the award pursuant to section 20, and amendments thereto, unless the  
6 movant alleges that the award was procured by corruption, fraud or other  
7 undue means, in which case, the motion must be made within 90 days after  
8 the ground is known or, by the exercise of reasonable care, would have  
9 been known by the movant.

10 (c) If the court vacates an award on a ground other than that set forth  
11 in subsection (a)(5), it may order a rehearing. If the award is vacated on a  
12 ground stated in subsection (a)(1) or (2), the rehearing must be before a  
13 new arbitrator. If the award is vacated on a ground stated in subsection (a)  
14 (3), (4) or (6), the rehearing must be before the arbitrator who made the  
15 award or the arbitrator's successor. The arbitrator must render the decision  
16 in the rehearing within the same time as that provided in section 19(b), and  
17 amendments thereto, for an award.

18 (d) If the court denies a motion to vacate an award, it shall confirm  
19 the award unless a motion to modify or correct the award is pending.

20 New Sec. 24. (a) Upon motion made within 90 days after the movant  
21 receives notice of the award pursuant to section 19, and amendments  
22 thereto, or within 90 days after the movant receives notice of a modified or  
23 corrected award pursuant to section 20, and amendments thereto, the court  
24 shall modify or correct the award if:

25 (1) There was an evident mathematical miscalculation or an evident  
26 mistake in the description of a person, thing or property referred to in the  
27 award;

28 (2) the arbitrator has made an award on a claim not submitted to the  
29 arbitrator and the award may be corrected without affecting the merits of  
30 the decision upon the claims submitted; or

31 (3) the award is imperfect in a matter of form not affecting the merits  
32 of the decision on the claims submitted.

33 (b) If a motion made under subsection (a) is granted, the court shall  
34 modify or correct and confirm the award as modified or corrected.  
35 Otherwise, unless a motion to vacate is pending, the court shall confirm  
36 the award.

37 (c) A motion to modify or correct an award pursuant to this section  
38 may be joined with a motion to vacate the award.

39 New Sec. 25. (a) Upon granting an order confirming, vacating  
40 without directing a rehearing, modifying or correcting an award, the court  
41 shall enter a judgment in conformity therewith. The judgment may be  
42 recorded, docketed and enforced as any other judgment in a civil action.

43 (b) A court may allow reasonable costs of the motion and subsequent

1 judicial proceedings.

2 (c) On application of a prevailing party to a contested judicial  
3 proceeding under section 22, 23 or 24, and amendments thereto, the court  
4 may add reasonable attorney fees and other reasonable expenses of  
5 litigation incurred in a judicial proceeding after the award is made to a  
6 judgment confirming, vacating without directing a rehearing, modifying or  
7 correcting an award.

8 New Sec. 26. (a) A court of this state having jurisdiction over the  
9 controversy and the parties may enforce an agreement to arbitrate.

10 (b) An agreement to arbitrate providing for arbitration in this state  
11 confers exclusive jurisdiction on the court to enter judgment on an award  
12 under sections 1 through 31, and amendments thereto.

13 New Sec. 27. A motion pursuant to section 5, and amendments  
14 thereto, must be made in the court of the county in which the agreement to  
15 arbitrate specifies the arbitration hearing is to be held or, if the hearing has  
16 been held, in the court of the county in which it was held. Otherwise, the  
17 motion may be made in the court of any county in which an adverse party  
18 resides or has a place of business or, if no adverse party has a residence or  
19 place of business in this state, in the court of any county in this state. All  
20 subsequent motions must be made in the court hearing the initial motion  
21 unless the court otherwise directs.

22 New Sec. 28. (a) An appeal may be taken from:

- 23 (1) An order denying a motion to compel arbitration;  
24 (2) an order granting a motion to stay arbitration;  
25 (3) an order confirming or denying confirmation of an award;  
26 (4) an order modifying or correcting an award;  
27 (5) an order vacating an award without directing a rehearing; or  
28 (6) a final judgment entered pursuant to sections 1 through 31, and  
29 amendments thereto.

30 (b) An appeal under this section must be taken as from an order or  
31 judgment in a civil action.

32 New Sec. 29. In applying and construing this uniform act,  
33 consideration must be given to the need to promote uniformity of the law  
34 with respect to its subject matter among states that enact it.

35 New Sec. 30. The provisions of sections 1 through 31, and  
36 amendments thereto, governing the legal effect, validity and enforceability  
37 of electronic records or electronic signatures and of contracts performed  
38 with the use of such records or signatures conform to the requirements of  
39 section 102 of the electronic signatures in global and national commerce  
40 act.

41 New Sec. 31. Sections 1 through 31, and amendments thereto, do not  
42 affect an action or proceeding commenced or right accrued before sections  
43 1 through 31, and amendments thereto, take effect. Subject to section 3,

1 and amendments thereto, an arbitration agreement made before the  
2 effective date of sections 1 through 31, and amendments thereto, is  
3 governed by article 4 of chapter 5 of the Kansas Statutes Annotated, prior  
4 to its repeal.

5 Sec. 32. K.S.A. 50-6,100 is hereby amended to read as follows: 50-  
6 6,100. (a) Each consumer shall have the option of submitting any dispute  
7 arising under this act to arbitration. Upon application of the consumer all  
8 ~~manufactures~~ *manufacturers* shall submit to such arbitration.

9 (b) Such arbitration shall be conducted in accordance with the  
10 provisions of the uniform arbitration act (~~K.S.A. 5-401 et seq., sections 1~~  
11 ~~through 31~~, and amendments thereto). Any agreement to arbitrate entered  
12 into under this section shall ensure the personal objectivity of the  
13 arbitrators and the right of each party to present its case, to be in  
14 attendance during any presentation made by the other party and to rebut or  
15 refute such presentation.

16 Sec. 33. K.S.A. 66-1712 is hereby amended to read as follows: 66-  
17 1712. (a) When any person desires to carry out temporarily any function or  
18 activity in closer proximity to any high voltage overhead line than is  
19 permitted by this act, the person or persons responsible for the function or  
20 activity shall notify the public utility which owns or operates the high  
21 voltage overhead line of the function or activity and shall make  
22 appropriate arrangements with the public utility for temporary barriers,  
23 temporary deenergization and grounding of the conductors, temporary  
24 rerouting of electric current or temporary relocating of the conductors  
25 before proceeding with any function or activity which would impair the  
26 clearances required by this act.

27 (b) A person or persons requesting a public utility to provide  
28 temporary clearances or other safety precautions shall be responsible for  
29 payment of only those costs incurred by such utility in the temporary  
30 rerouting of electric current or the temporary relocating of the conductors.  
31 Upon request, a public utility shall provide a written costs estimate for the  
32 work needed to provide temporary rerouting of electric current or  
33 temporary relocating of the conductors. Unless otherwise agreed to, or  
34 unless circumstances require a longer period of time before work  
35 commences in order to assure continuity of service to electric customers, a  
36 public utility shall commence work on such temporary rerouting of electric  
37 current, temporary relocating of the conductors, temporary barriers or  
38 temporary deenergization and grounding of the conductors as may be  
39 appropriate, within seven working days after such notification has been  
40 made in accordance with ~~subsection (a) of~~ K.S.A. 66-1712(a).

41 (c) If a person requesting a public utility to provide temporary  
42 rerouting of electric current or the temporary relocating of the conductors  
43 disagrees with the reasonableness of the written costs estimate or the

1 description of the work to be performed, the following options are  
2 available to such person:

3 (1) Such person under protest may pay the utility for the work in  
4 accordance with the written cost estimate, but shall be entitled to seek  
5 recovery of all or any part of the money so paid in an arbitration  
6 proceeding as hereinafter provided; or

7 (2) prior to directing the work to be performed, the person or persons  
8 may submit to binding arbitration, as hereinafter provided, to resolve the  
9 issue of the reasonableness of the written cost estimate or the description  
10 or extent of the work to be performed by the public utility under such  
11 estimate.

12 (d) Disputes submitted to binding arbitration under this section shall  
13 be submitted in accordance with the procedures set forth in ~~K.S.A. 5-401 et~~  
14 ~~seq. sections 1 through 31~~, and amendments thereto. The decision of the  
15 arbitrator or arbitrators as to the reasonableness of the costs or the  
16 necessity of the work to be performed shall be final and binding upon the  
17 parties.

18 **{Sec. 34. K.S.A. 2016 Supp. 72-5436 is hereby amended to read as**  
19 **follows: 72-5436. As used in this act K.S.A. 72-5436 and 72-5438 through**  
20 **72-5446, and amendments thereto: (a) "Teacher" means any professional**  
21 **employee who is required to hold a certificate to teach in any school**  
22 **district and any teacher or instructor in any technical college, the**  
23 **institute of technology at Washburn university or community college.**  
24 **The term "teacher" does not include within its meaning any**  
25 **supervisors, principals, superintendents or any person employed under the**  
26 **authority of K.S.A. 72-8202b, and amendments thereto, or any persons**  
27 **employed in an administrative capacity by any technical college, the**  
28 **institute of technology at Washburn university or community college.**

29 **(b) "Board" means the board of education of any school district, the**  
30 **governing body of any technical college or the institute of technology**  
31 **at Washburn university, and the board of trustees of any community**  
32 **college.**

33 **Sec. 35. K.S.A. 2016 Supp. 72-5438 is hereby amended to read as**  
34 **follows: 72-5438. (a) Whenever a teacher is given written notice of**  
35 **intention by a board to not renew or to terminate the contract of the**  
36 **teacher as provided in K.S.A. 72-5437, and amendments thereto, the**  
37 **written notice of the proposed nonrenewal or termination shall**  
38 **include: (1) A statement of the reasons for the proposed nonrenewal or**  
39 **termination; and (2) a statement that the teacher may have the matter**  
40 **heard by a hearing officer upon written request filed with the clerk of**  
41 **the board of education or the board of control or the secretary of the**  
42 **board of trustees within 15 calendar days from the date of such notice**  
43 **of nonrenewal or termination.**

1       **(b) Within 10 calendar days after the filing of any written request**  
2 **of a teacher to be heard as provided in subsection (a), the board shall**  
3 **notify the commissioner of education that a list of qualified hearing**  
4 **officers is required. Such notice shall contain the mailing address of**  
5 **the teacher. Within 10 days after receipt of notification from the**  
6 **board, the commissioner shall provide to the board and to the teacher,**  
7 **a list of five randomly selected, qualified hearing officers.**

8       **(c) Within five days after receiving the list from the**  
9 **commissioner, each party shall eliminate two names from the list, and**  
10 **the remaining individual on the list shall serve as hearing officer. In**  
11 **the process of elimination, each party shall eliminate no more than one**  
12 **name at a time, the parties alternating after each name has been**  
13 **eliminated. The first name to be eliminated shall be chosen by the**  
14 **teacher within five days after the teacher receives the list. The process**  
15 **of elimination shall be completed within five days thereafter.**

16       **(d) Either party may request that one new list be provided within**  
17 **five days after receiving the list. If such a request is made, the party**  
18 **making the request shall notify the commissioner and the other party,**  
19 **and the commissioner shall generate a new list and distribute it to the**  
20 **parties in the same manner as the original list.**

21       **(e) In lieu of using the process provided in subsections (b) and (c),**  
22 **if the parties agree, they may make a request to the American**  
23 **arbitration association for an arbitrator to serve as the hearing officer.**  
24 **Any party desiring to use this alternative procedure shall so notify the**  
25 **other party in the notice required under subsection (a). If the parties**  
26 **agree to use this procedure, the parties shall make a joint request to**  
27 **the American arbitration association for a hearing officer within 10**  
28 **days after the teacher files a request for a hearing. If the parties**  
29 **choose to use this procedure, the parties shall each pay one-half of the**  
30 **cost of the arbitrator and of the arbitrator's expenses.**

31       **(f) The commissioner of education shall compile and maintain a**  
32 **list of hearing officers comprised of residents of this state who are**  
33 **attorneys at law. Such list shall include a statement of the**  
34 **qualifications of each hearing officer.**

35       **(g) Attorneys interested in serving as hearing officers under the**  
36 **provisions of this act shall submit an application to the commissioner**  
37 **of education. The commissioner shall determine if the applicant is**  
38 **eligible to serve as a hearing officer pursuant to the provisions of**  
39 **subsection (h).**

40       **(h) An attorney shall be eligible for appointment to the list if the**  
41 **attorney has: (1) Completed a minimum of 10 hours of continuing**  
42 **legal education credit in the area of education law, due process,**  
43 **administrative law or employment law within the past five years; or**

1 (2) previously served as the chairperson of a due process hearing  
2 committee prior to the effective date of this act. An attorney shall not  
3 be eligible for appointment to the list if the attorney has been  
4 employed to represent a board or a teacher in a due process hearing  
5 within the past five years.

6 Sec. 36. K.S.A. 2016 Supp. 72-5439 is hereby amended to read as  
7 follows: 72-5439. The hearing provided for under K.S.A. 72-5438, and  
8 amendments thereto, shall commence within 45 calendar days after  
9 the hearing officer is selected unless the hearing officer grants an  
10 extension of time. The hearing shall afford procedural due process,  
11 including the following:

12 (a) The right of each party to have counsel of such party's own  
13 choice present and to receive the advice of such counsel or other  
14 person whom such party may select;

15 (b) the right of each party or such party's counsel to cross-  
16 examine any person who provides information for the consideration of  
17 the hearing officer, except those persons whose testimony is presented  
18 by affidavit;

19 (c) the right of each party to present such party's own witnesses  
20 in person, or their testimony by affidavit or deposition, except that  
21 testimony of a witness by affidavit may be presented only if such  
22 witness lives more than 100 miles from the location of *the unified*  
23 *school district office*, the technical college, institute of technology at  
24 Washburn university or community college, or is absent from the  
25 state, or is unable to appear because of age, illness, infirmity or  
26 imprisonment. When testimony is presented by affidavit the same  
27 shall be served upon *the clerk of the board of education*, the board of  
28 control, the secretary of the board of trustees or the agent of the board  
29 and upon the teacher in person or by first-class mail to the address of  
30 the teacher which is on file with the board not less than 10 calendar  
31 days prior to presentation to the hearing officer;

32 (d) the right of the teacher to testify in the teacher's own behalf  
33 and give reasons for the teacher's conduct, and the right of the board  
34 to present its testimony through such persons as the board may call to  
35 testify in its behalf and to give reasons for its actions, rulings or  
36 policies;

37 (e) the right of the parties to have an orderly hearing; and

38 (f) the right of the teacher to a fair and impartial decision based  
39 on substantial evidence.

40 Sec. 37. K.S.A. 2016 Supp. 72-5445 is hereby amended to read as  
41 follows: 72-5445. (a) *Except as otherwise provided in this section*, the  
42 provisions of K.S.A. 72-5438 through 72-5443, and amendments  
43 thereto, apply only to:



1       **(1) Teachers who have completed not less than three consecutive**  
2 **years of employment, and been offered a fourth contract, in *the school***  
3 ***district*, the technical college, institute of technology at Washburn**  
4 **university or community college by which any such teacher is**  
5 **currently employed; and**

6       **(2) teachers who have completed not less than two consecutive**  
7 **years of employment, and been offered a third contract, in *the school***  
8 ***district*, the technical college, institute of technology at Washburn**  
9 **university or community college by which any such teacher is**  
10 **currently employed if at any time prior to the current employment the**  
11 **teacher has completed the years of employment requirement of**  
12 **paragraph (1) of this subsection in any *school district*, technical**  
13 **college, the institute of technology at Washburn university or**  
14 **community college in this state.**

15       **(b) Any board may waive, at any time, the years of employment**  
16 **requirements of subsection (a)(1) for any teacher employed by it.**

17       **(c) The provisions of this ~~subsection~~ section are subject to the**  
18 **provisions of K.S.A. 72-5446, and amendments thereto.**

19       *(d) The provisions of K.S.A. 72-5438 through 72-5443, and*  
20 *amendments thereto, do not apply to any teacher whose license has been*  
21 *non-renewed or revoked by the state board of education because the*  
22 *teacher has:*

23       *(1) Been convicted of a felony under K.S.A. 2010 Supp. 21-36a01*  
24 *through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the*  
25 *Kansas Statutes Annotated, and amendments thereto, or any felony*  
26 *violation of any provision of the uniform controlled substances act prior to*  
27 *July 1, 2009;*

28       *(2) been convicted of a felony described in any section of article 34*  
29 *of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*  
30 *article 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016*  
31 *Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto, or*  
32 *an act described in K.S.A. 21-3412, prior to its repeal, or K.S.A. 2016*  
33 *Supp. 21-5413(a), or K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2016*  
34 *Supp. 21-5414, and amendments thereto, if the victim is a minor or*  
35 *student;*

36       *(3) been convicted of a felony described in any section of article 35*  
37 *of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*  
38 *article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2016*  
39 *Supp. 21-6419 through 21-6421, and amendments thereto, or has been*  
40 *convicted of an act described in K.S.A. 21-3517, prior to its repeal, or*  
41 *K.S.A. 2016 Supp. 21-5505(a), and amendments thereto, if the victim is a*  
42 *minor or student;*

43       *(4) been convicted of any act described in any section of article 36 of*

1 *chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*  
2 *article 56 of chapter 21 of the Kansas Statutes Annotated, and*  
3 *amendments thereto;*

4 (5) *been convicted of a felony described in article 37 of chapter 21 of*  
5 *the Kansas Statutes Annotated, prior to their repeal, or article 58 of*  
6 *chapter 21 of the Kansas Statutes Annotated or K.S.A. 2016 Supp. 21-*  
7 *6412(a)(6), and amendments thereto;*

8 (6) *been convicted of an attempt under K.S.A. 21-3301, prior to its*  
9 *repeal, or K.S.A. 2016 Supp. 21-5301, and amendments thereto, to commit*  
10 *any act specified in this subsection;*

11 (7) *been convicted of any act which is described in K.S.A. 21-4301,*  
12 *21-4301a or 21-4301c, prior to their repeal, or K.S.A. 2016 Supp. 21-6401*  
13 *or 21-6402, and amendments thereto;*

14 (8) *been convicted in another state or by the federal government of*  
15 *an act similar to any act described in this subsection; or*

16 (9) *has entered into a criminal diversion agreement after having been*  
17 *charged with any offense described in this subsection.}*

18 ~~Sec. 34. {38.}~~ K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-  
19 407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417,  
20 5-418, 5-419, 5-420, 5-421, 5-422, 50-6,100 and 66-1712 **{and K.S.A.**  
21 **2016 Supp. 72-5436, 72-5438, 72-5439 and 72-5445}** are hereby  
22 repealed.

23 ~~Sec. 35. {39.}~~ This act shall take effect and be in force from and after  
24 its publication in the statute book.