

## CHAPTER 112

SENATE Substitute for Substitute for HOUSE BILL No. 2647  
(Amended by Chapters 173 and 183)

AN ACT concerning economic development; creating a Kansas bioscience authority and providing for the powers and duties thereof; providing for bioscience development and funding; establishing the Kansas center for entrepreneurship; providing for the membership and organization thereof; prescribing powers, duties and functions therefore; providing tax credits for donation in the Kansas community entrepreneurship fund; Kansas investments in major projects and comprehensive training act; rural business development tax credits; tax credits for investment in qualifying businesses; powers and duties of the Kansas technology enterprise corporation; establishing the Kansas downtown redevelopment act; establishing tax benefits for improvements made to real property; amending K.S.A. 12-1771, 12-1772, 40-2803 and 40-2804 and K.S.A. 2003 Supp. 12-1770a, 74-50,103, 74-50,104, 74-50,107, 74-50,108, 74-8004 and 79-32,117 and repealing the existing sections; also repealing K.S.A. 74-8224, 74-8227, 74-8228 and 74-8229 and K.S.A. 2003 Supp. 74-8221, 74-8222, 74-8223, 74-8225 and 74-8226.

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

New Section 1. Sections 1 to 17, inclusive, and sections 50, 52 and 54, and amendments thereto, shall be known and may be cited as the bioscience authority act.

New Sec. 2. (a) The legislature of the state of Kansas hereby finds and declares that:

(1) Biosciences develop uses of biochemistry, molecular biology, genetics, biotechnology, bioengineering and life sciences to promote and enhance health care, veterinary medicine, agriculture, forestry, energy, pharmacy, environment and other industries in the state of Kansas;

(2) high-paying jobs and innovative commercial products ensue from the biosciences, which requires an educated workforce with advanced technical skills;

(3) the universities, colleges, nonprofit institutions and private enterprises in the state of Kansas will be able to further educate and train scientists, health care professionals and technicians to provide a supportive environment for bioscience research, development, testing and product commercialization activities through increased targeted investments;

(4) manufacturing, licensing and commercialization of products derived from the biosciences will benefit the state's economy and will facilitate the development of the bioscience industry and associated educational institutions in the state of Kansas;

(5) the mission of the Kansas bioscience authority is to make Kansas the most desirable state in which to conduct, facilitate, support, fund and perform bioscience research, development and commercialization, to make Kansas a national leader in bioscience, to create new jobs, foster economic growth, advance scientific knowledge and improve the quality of life for the citizens of the state of Kansas;

(6) the needs of the citizens of the state of Kansas and the public and private entities engaged in the biosciences will be best served by an independent public authority charged with the mission of facilitating, supporting, funding and performing bioscience projects for the benefit of its citizens to promote the state's research, development and commercialization objectives.

(b) The exercise of the powers permitted by this act are deemed to be an essential governmental function in matters of public necessity in the provision of bioscience, education, research, development and commercialization.

New Sec. 3. As used in the bioscience authority act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

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

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

(c) "Bioscience" means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry,

microbiology, veterinary medicine, plant biology, agriculture and industrial, environmental, and homeland security applications of bioscience, and future developments in the biosciences. Bioscience includes biotechnology and life sciences.

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

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

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

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

(h) “Biotechnology” means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing and bioinformatics.

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

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

(k) “Bioscience development and investment fund” means the fund created by section 21, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

(v) “State employee” means a person employed by the state of Kansas whether or not a classified or unclassified employee in the state personnel system. Authority employees shall not be considered state employees, as

such term is defined in this act or in any other statute or rule and regulation.

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

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

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

(z) "This act" means the bioscience authority act.

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

(1) Induced abortion in humans, performed after the date of enactment of this act, or the use of cells or tissues derived therefrom; or

(2) any research the federal funding of which would be contrary to federal laws that are in effect on the date of enactment of this act.

New Sec. 4. (a) There is hereby established a body politic and corporate, with corporate succession, to be known as the Kansas bioscience authority. The authority shall be an independent instrumentality of the state. Its exercise of the rights, powers and privileges conferred by this act shall be deemed and held to be the performance of an essential governmental function.

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

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

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

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

(f) After the expiration of the terms of the authority's first board, or

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

(g) Except for appointments of nonvoting members, each appointment shall be forwarded to the senate for confirmation as provided in K.S.A. 75-4315b and amendments thereto. Except as provided by K.S.A. 2003 Supp. 46-2601 and amendments thereto, no person appointed to the board shall exercise any power, duty or function as a member of the board until confirmed by the senate. In case of a vacancy when the senate is not in session, the appointing entity may make a temporary appointment to the board until the next meeting of the senate. Any person who is temporarily appointed by the appointing entity to the board shall have all of the powers, duties and functions as a member of the board during such temporary appointment.

(h) The board annually shall elect a voting member as chairperson and at least one other as vice-chairperson. The board also shall elect a secretary and treasurer for terms to be determined by the board. The board may elect the same person to serve as both secretary and treasurer. The board shall establish an executive committee, nominating committee and other standing or special committees, and prescribe their duties and powers. Any executive committee of the board may exercise all such powers and duties of the board as the board may delegate.

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

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

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

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

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

(n) The board may provide supplemental benefits to the president

and other authority employees designated by the board in addition to the benefits provided under this act.

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

New Sec. 5. (a) The board shall establish an executive committee of the authority, to be composed of the chairperson, the vice-chairperson, the secretary and two additional members of the board to be chosen by the chairperson from the remaining voting directors.

(b) The executive committee, in intervals between meetings of the board, may transact any business of the board that has been delegated to the executive committee.

New Sec. 6. (a) All resolutions and orders of the board shall be recorded and authenticated by the signature of the secretary or any assistant secretary of the board. The book of resolutions, orders, minutes of open meetings, annual reports and annual financial statements of the authority shall be public records as defined by K.S.A. 45-215 *et seq.* and amendments thereto. All public records shall be subject to regular audit as provided in K.S.A. 46-1106 and amendments thereto.

(b) (1) Notwithstanding any provision of K.S.A. 45-215 *et seq.* and amendments thereto to the contrary, the following records of the authority shall not be subject to the provisions of the Kansas open records act, when in the opinion of the board, the disclosure of the information in the records would be harmful to the competitive position of the authority:

(A) Proprietary information gathered by or in the possession of the authority from third parties pursuant to a promise of confidentiality;

(B) contract cost estimates prepared for confidential use in awarding contracts for research development, construction, renovation, commercialization or the purchase of goods or services; and

(C) data, records or information of a proprietary nature produced or collected by or for the authority, its employees, officers or members of its board; financial statements not publicly available that may be filed with the authority from third parties; the identity, accounts or account status of any customer of the authority; consulting or other reports paid for by the authority to assist the authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the authority.

(2) The provisions of this subsection shall expire on July 1, 2009. Prior to such date the legislature shall review the provisions of this subsection.

(c) Notwithstanding any provision of this section to the contrary, the authority may claim the benefit of any other exemption to the Kansas open records act listed in K.S.A. 45-215 *et seq.* and amendments thereto.

New Sec. 7. (a) No business of the board shall be transacted except at a regular or special meeting at which a quorum consisting of at least a majority of the total voting membership of the board is present. Any action of the board shall require the affirmative vote of a majority of those at any meeting of the board at which a quorum is present.

(b) Notwithstanding any provision of K.S.A. 75-4317 *et seq.* and amendments thereto, in the case of the authority, discussion and consideration on any of the following may occur in executive session, when in the opinion of the board, disclosure of the items would be harmful to the competitive position of the authority:

(1) Plans that could affect the value of property, real or personal, owned or desirable for ownership by the authority;

(2) the condition, acquisition, use or disposition of real or personal property; or

(3) contracts for bioscience research, bioscience product manufacturing or commercialization, construction and renovation of bioscience facilities and marketing or operational strategies.

(c) Notwithstanding any provision of this section to the contrary, the authority may claim the benefit of any other exemption to the Kansas

open meetings act listed in K.S.A. 75-4317 et seq. and amendments thereto.

New Sec. 8. (a) Any member of the board and any employee, other agent or advisor of the authority, who has a direct or indirect interest in any contract or transaction with the authority, shall disclose this interest to the authority in writing. This interest shall be set forth in the minutes of the authority, and no director, officer, employee, other agent or advisor having such interest shall participate on behalf of the authority in the authorization of any such contract or transaction; except that, the provisions of this section shall not be construed to prohibit any employee of bioscience research institutions, or any public institute or private enterprise engaged in the business of bioscience who is a member of the board, who has no personal interest, from voting on the authorization of any such contract or transaction between the authority and such employee's employer.

(b) All members of the board and all officers of the authority shall file a written statement pursuant to K.S.A. 46-247 et seq. and amendments thereto, regarding any substantial interests, within the meaning of K.S.A. 46-229 and amendments thereto, that each director may hold. Any employee, other agent or advisor of the authority who has a substantial interest in any contract or transaction with the authority within the meaning of K.S.A. 46-229 and amendments thereto, shall file a written statement of substantial interest pursuant to K.S.A. 46-247 et seq. and amendments thereto.

New Sec. 9. (a) The authority shall have all of the powers necessary to carry out the purposes and provisions of this act, including, without limitation, the following powers to:

(1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;

(2) have the duties, privileges, immunities, rights, liabilities and disabilities of a body politic and corporate and independent instrumentality of the state;

(3) have perpetual existence and succession;

(4) adopt, have and use a seal and to alter the same at its pleasure;

(5) sue and be sued in its own name;

(6) work with bioscience research institutions to identify and recruit eminent scholars and rising star scholars who shall become employed by bioscience research institutions or the authority, or both, to perform bioscience research, development and commercialization at bioscience research institutions or at authority facilities, or both;

(7) transfer funds to bioscience research institutions in amounts to be determined by the board for the purpose of attracting and then supplementing the compensation of eminent scholars and rising star scholars;

(8) work with and collaborate with bioscience research institutions to determine the types of bioscience research that will be conducted by eminent scholars and rising star scholars;

(9) work with bioscience research institutions to determine the types of facilities that may be constructed at bioscience research institutions or at authority premises, or elsewhere, for eminent scholars and rising star scholars to perform bioscience research and development;

(10) employ personnel to assist or complement the research of eminent scholars and rising star scholars;

(11) establish policies and procedures to facilitate integrated bioscience research activities by the authority and bioscience research institutions;

(12) make and execute contracts, guarantees or any other instruments and agreements necessary or convenient for the exercise of its powers and functions including, without limitation, to make and execute contracts with bioscience enterprises, including start-up companies, other public and private persons and entities, health care businesses, state universities and colleges, and to incur liabilities and secure the obligations of any entity or individual;

(13) partner with the bioscience research institutions to provide matching funds for federal grants;

(14) borrow money and to pledge all or any part of the authority's assets therefore;

(15) purchase, lease, trade, exchange or otherwise acquire, maintain, hold, improve, mortgage, sell and dispose of personal property, whether tangible or intangible, and any interest therein; and to purchase, lease,

trade, exchange or otherwise acquire real property or any interest therein, and to maintain, hold, improve, mortgage, sell, lease and otherwise transfer such real property to the universities, colleges, public institutions and private enterprises in the state, so long as such transactions do not conflict with the mission of the authority as specified in this act;

(16) own, acquire, construct, renovate, equip, improve, operate, maintain, sell or lease any land, buildings or facilities in the state that can be used in researching, developing, sponsoring or commercializing bioscience in the state including, without limitation, a state-of-the-art facility, laboratory or commercial wet lab space incubator to be used by the authority, and also to be made available for use by bioscience research institutions or Kansas companies conducting bioscience research and development for bioscience research, commercialization and technology transfer of bioscience products, processes and other intellectual property in accordance with the provisions of this act;

(17) incur or assume indebtedness to, and enter into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for the authority;

(18) develop policies and procedures generally applicable to the procurement of goods, services and construction, based upon sound business practices;

(19) solicit, study and assist in the preparation of business plans and proposals of new or established businesses to advance the biosciences in the state;

(20) own and possess patents, copyrights, trademarks and proprietary technology and to enter into contracts for the purposes of commercializing and establishing charges for the use of such patents, copyrights, trademarks and proprietary technology involving bioscience;

(21) contract for and to accept any gifts, grants and loans of funds, property or any other aid in any form from the federal government, the state, any state agency or any other source, or any combination thereof, and to comply with the provisions of the terms and conditions thereof;

(22) acquire space, equipment, services, supplies and insurance necessary to carry out the purposes of this act;

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

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

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

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

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

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

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

(d) (1) The authority may create a nonprofit entity or entities for the purpose of soliciting, accepting and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust, which entity or entities shall not engage in trust business. The nonprofit entity created in this subsection may expend such funds through grants or loans to further the purpose of bioscience authority activities

including, but not limited to, issuing grants to high schools for the purpose of creating bioscience academies and to Kansas universities and colleges for the purpose of increasing the number of students majoring in bioscience, science education and math education. The authority may set requirements for curricula, teaching credentials and any other items and procedures incidental to establishing the grant programs.

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

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

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

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

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

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

(i) During the first five years after the effective date of this act, the authority may contract with KTEC, which will be able to subcontract with appropriate third parties as it deems necessary and appropriate, including, without limitation, NISTAC, for the initial commercialization efforts for bioscience intellectual property, including, without limitation, corporate patent donations. The contract between the authority and KTEC must be negotiated between the authority and KTEC and will set forth the rights and responsibilities of each party, including the financial terms, payment of funds for personnel, assumptions of risks, technology transfer and terms of ownership and licensure of such bioscience intellectual property. The contract between the authority and KTEC must also set forth the authority's right, if any, to sell, license, contribute or provide its contractual share of bioscience intellectual property to any third party, or provide services, facilities or assistance to any third party, for a fee, for an ownership interest in the third party, or other consideration, so as to commercialize bioscience technology. After the five-year period from the effective date of this act, the authority may independently commercialize



or enter into contracts with third parties for the commercialization of bioscience intellectual property and for technology transfer. The authority will take steps to reasonably ensure that it does not duplicate existing commercialization efforts already located in the state and recognizes the important role KTEC plays in the state. After the five-year period from the effective date of this act, the authority may sell, license, contribute or provide bioscience intellectual property to any third party, or provide services, facilities or assistance to any third party, for a fee, for an ownership interest in the third party, or other consideration, so as to commercialize bioscience technology. The authority may take all such actions necessary to commercialize any technology in which the authority has an interest.

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

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

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

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

New Sec. 10. (a) The Kansas development finance authority is hereby authorized to issue bonds pursuant to the Kansas development finance authority act, K.S.A. 74-8901 et seq., and amendments thereto, to finance: (1) Facilities, as defined in the Kansas development finance authority act; for the conduct of bioscience programs, activities and research of the authority, a bioscience company or a bioscience research institute; (2) bioscience programs, activities and research of the authority, a bioscience company or a bioscience research institute; and (3) to provide sufficient funds to the authority necessary or convenient to carry out the authority's purposes and powers under this act. No bonds may be issued pursuant to this section unless the Kansas development finance authority has received a resolution of the board of the authority requesting the issuance of such bonds. Bonds issued pursuant to this section shall not be subject to the notice requirements of K.S.A. 74-8905(c), and amendments thereto.

(b) Any resolution by the board of the authority requesting bonds to be issued by the Kansas development finance authority may (1) contain such requirements, parameters and provisions as deemed appropriate by the board for the purpose of carrying out the authority's purposes under this act and (2) authorize such contracts or obligations of the authority deemed appropriate by the board to secure the payment of such bonds, including a pledge of all or any part of the revenues and assets of the authority, including without limitation moneys in the bioscience development and investment fund.

(c) The state does hereby pledge to, and agree with, the holders of

any bonds issued under this act that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the Kansas development finance authority or in any way impair the rights and remedies of the Kansas development finance authority with respect to such bonds, or any holders of such bonds until the payment of principal and interest on such bonds and all costs and expenses in connection with any action or proceeding by or on behalf of such holders is fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the Kansas development finance authority and the Kansas development finance authority is authorized to include this pledge and agreement in an agreement for the benefit of the holders of such bonds. Nothing in this section shall be construed to limit the constitutional powers of the legislature.

New Sec. 11. (a) The authority may employ such employees as it may require and upon such terms and conditions as it may establish. The authority shall establish personnel, payroll, benefit and other such systems as authorized by the board, such systems to be initially established or contracted as designated by the board. The authority shall determine the qualifications and duties of its employees. The board shall develop and adopt policies and procedures that will afford its employees grievance rights, ensure that employment decisions shall be based upon merit and fitness of applicants and shall prohibit discrimination because of race, religion, color, sex or national origin.

(b) Nothing in this act or any act of which it is amendatory shall be construed as placing any officer or employee of the authority or member of the board in the classified or the unclassified service under the Kansas civil service act.

(c) The authority is authorized to establish a health insurance plan for the benefit of its employees.

New Sec. 12. The authority shall be exempt from any real and personal property taxes upon any property of the authority acquired and used for its public purposes, and from any taxes or assessments upon any projects or upon any operations of the authority or the income therefrom, and from any taxes or assessments upon any project or any property or local obligation acquired or used by the authority under the provisions of this act or upon the income therefrom. Purchases by the authority to be used for its public purposes shall not be subject to sales or use tax under K.S.A. 79-3601 et seq., K.S.A. 79-3701 et seq. and subsection (b) of K.S.A. 79-3606 et seq. and amendments thereto. The exemptions hereby granted shall not extend to persons or entities conducting business on the authority's property for which payment of state and local taxes would otherwise be required.

New Sec. 13. Notwithstanding any other provision of law to the contrary, the authority, its officers, directors, employees and agents shall be subject to and covered by the Kansas tort claims act K.S.A. 75-6101 et seq. and amendments thereto.

New Sec. 14. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, specific or local, the provisions of this act shall be controlling.

New Sec. 15. Nothing in this act should be construed as allowing the board to sell the authority or substantially all of the assets of the authority, or to merge the authority with another institution, without prior legislative authorization by statute.

New Sec. 16. (a) As used in this section, unless the context expressly provides otherwise:

(1) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing of air conditioning, ventilating, heating and other mechanical building systems, testing and consultant services that are determined by the bioscience authority to be required for a project;

(2) "architectural services" means those services described by subsection (e) of K.S.A. 74-7003, and amendments thereto;

(3) "construction services" means the work performed by a construction contractor to commence and complete a project;

(4) "construction management at-risk services" means the services provided by a firm which has entered into a contract with the bioscience authority to be the construction manager at risk for the value and schedule

of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor and which is required to solicit competitive bids for the trade packages developed for a project and to enter into the trade contracts for a project with the lowest responsible bidder therefor, and may include, but are not limited to, such services as scheduling, value analysis, systems analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees, and construction coordination;

(5) “division of facilities management” means the division of facilities management of the department of administration;

(6) “engineering services” means those services described by subsection (i) of K.S.A. 74-7003, and amendments thereto;

(7) “firm” means (A) with respect to architectural services, an individual, firm, partnership, corporation, association or other legal entity which is: (i) permitted by law to practice the profession of architecture; and (ii) maintaining an office in Kansas staffed by one or more architects who are licensed by the board of technical professions; or (iii) not maintaining an office in Kansas, but which is qualified to perform special architectural services that are required in special cases where in the judgment of the bioscience authority it is necessary to go outside the state to obtain such services; (B) with respect to engineering services or land surveying, an individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of engineering and provide engineering services or practice the profession of land surveying and provide land surveying services, respectively; (C) with respect to construction management at-risk services, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to perform construction management at-risk services; (D) with respect to ancillary technical services or other services that are determined by the bioscience authority to be required for a project, a qualified individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the required profession or perform the other required services, as determined by the bioscience authority; and (E) with respect to construction services, a qualified individual, firm, partnership, corporation, association, or other legal entity permitted by law to perform construction services for a project;

(8) “land surveying” means those services described in subsection (j) of K.S.A. 74-7003, and amendments thereto;

(9) “negotiating committee” means the board of directors of the subsidiary corporation formed under K.S.A. 2003 Supp. 76-781, and amendments thereto;

(10) “project” means a project undertaken by the Kansas bioscience authority;

(11) “project services” means architectural services, engineering services, land surveying, construction management at-risk services, construction services, ancillary technical services or other construction-related services determined by the bioscience authority to be required for a project; and

(12) “state building advisory commission” means the state building advisory commission created by K.S.A. 75-3780, and amendments thereto.

(b) The bioscience authority, when acting under authority of this act, and each project authorized by the bioscience authority under this act are exempt from the provisions of K.S.A. 75-1269, 75-3738 through 75-3741b, 75-3742 through 75-3744, and 75-3783, and amendments thereto, except as otherwise specifically provided by this act.

(c) Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, or the provisions of any other statute to the contrary, all contracts for any supplies, materials or equipment for a project authorized by the bioscience authority under this act, shall be entered into in accordance with procurement procedures determined by the bioscience authority, subject to the provisions of this section, except that, in the discretion of the bioscience authority, any such contract may be entered into in the manner provided in and subject to the provisions of any such statute otherwise applicable thereto. Notwithstanding the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, if the bioscience authority does not obtain construction management at-risk services for a project, the construction services for such project shall

be obtained pursuant to competitive bids and all contracts for construction services for such project shall be awarded to the lowest responsible bidder in accordance with procurement procedures determined and administered by the bioscience authority which shall be consistent with the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto.

(d) When it is necessary in the judgment of the bioscience authority to obtain project services for a particular project by conducting negotiations therefor, the bioscience authority shall publish a notice of the commencement of negotiations for the required project services at least 15 days prior to the commencement of such negotiations in the Kansas register in accordance with K.S.A. 75-430a, and amendments thereto, and in such other appropriate manner as may be determined by the bioscience authority.

(e) (1) Notwithstanding the provisions of subsection (b) of K.S.A. 75-1251, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-1250 through 75-1270, and amendments thereto, with respect to the procurement of architectural services for a project authorized by the bioscience authority under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2003 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required architectural services for the project in accordance with the provisions of K.S.A. 75-1250 through 75-1270, and amendments thereto, except that no limitation on the fees for architectural services for the project shall apply to the fees negotiated by the board of directors for such architectural services.

(2) Notwithstanding the provisions of subsection (e) of K.S.A. 75-5802, and amendments thereto, or the provisions of any other statute to the contrary, as used in K.S.A. 75-5801 through 75-5807, and amendments thereto, with respect to the procurement of engineering services or land surveying services for a project authorized by the bioscience authority under this act, "negotiating committee" shall mean the board of directors of the subsidiary corporation formed under K.S.A. 2003 Supp. 76-781, and amendments thereto, and such board of directors shall negotiate a contract with a firm to provide any required engineering services or land surveying services for the project in accordance with the provisions of K.S.A. 75-5801 through 75-5807, and amendments thereto.

(3) In any case of a conflict between the provisions of this section and the provisions of K.S.A. 75-1250 through 75-1270, or 75-5801 through 75-5807, and amendments thereto, with respect to a project authorized by the bioscience authority under this act, the provisions of this section shall govern.

(f) (1) For the procurement of construction management at-risk services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction management at-risk services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, and (C) performance data of all consultants the firm proposes to use.

(2) Whenever the bioscience authority determines that a construction manager at risk is required for a project under this act, the bioscience authority shall notify the state building advisory commission and the state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as construction manager at risk for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation. The negotiating committee shall have access to statements of qualifications of and performance data on the firms listed by the state building advisory commission and all information and evaluations regarding such firms gathered and developed by the secretary of administration under K.S.A. 75-3783, and amendments thereto.

(3) The negotiating committee shall conduct discussions with each of the firms so listed regarding the project. The negotiating committee shall determine which construction management at-risk services are desired and then shall proceed to negotiate with and attempt to enter into a

contract with the firm considered to be most qualified to serve as construction manager at risk for the project. The negotiating committee shall proceed in accordance with the same process with which negotiations are undertaken to contract with a firm to be a project architect under K.S.A. 75-1257, and amendments thereto, to the extent that such provisions can be made to apply. Should the negotiating committee be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be terminated and shall undertake negotiations with the second most qualified firm, and so forth, in accordance with that statute.

(4) The contract to perform construction management at-risk services for a project shall be prepared by the division of facilities management and entered into by the bioscience authority with the firm contracting to perform such construction management at-risk services.

(g) (1) To assist in the procurement of construction services for projects under this act, the secretary of administration shall encourage firms engaged in the performance of construction services to submit annually to the secretary of administration and to the state building advisory commission a statement of qualifications and performance data. Each statement shall include data relating to (A) the firm's capacity and experience, including experience on similar or related projects, (B) the capabilities and other qualifications of the firm's personnel, (C) performance data of all subcontractors the firm proposes to use, and (D) such other information related to the qualifications and capability of the firm to perform construction services for projects as may be prescribed by the secretary of administration.

(2) The construction manager at risk shall publish a construction services bid notice in the Kansas register and in such other appropriate manner as may be determined by the bioscience authority. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager at risk and the state bioscience authority with the assistance of the division of facilities management. The current statements of qualifications of and performance data on the firms submitting bid proposals shall be made available to the construction manager at risk and the bioscience authority by the state building advisory commission along with all information and evaluations developed regarding such firms by the secretary of administration under K.S.A. 75-3783, and amendments thereto. Each firm submitting a bid proposal shall be bonded in accordance with K.S.A. 60-1111, and amendments thereto, and shall present evidence of such bond to the construction manager at risk prior to submitting a bid proposal. If a firm submitting a bid proposal fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection. At the time for opening the bids, the construction manager at risk shall evaluate the bids and shall determine the lowest responsible bidder. The construction manager at risk shall enter into contracts with each firm performing the construction services for the project and make a public announcement of each firm selected in accordance with this subsection.

(h) The division of facilities management shall provide such information and assistance as may be requested by the bioscience authority or the negotiating committee for a project, including all or part of any project services as requested by the bioscience authority, and (1) shall prepare the request for proposals and publication information for each publication of notice under this section, subject to the provisions of this section, (2) shall prepare each contract for project services for a project, including each contract for construction services for a project, (3) shall conduct design development reviews for each project, (4) shall review and approve all construction documents for a project prior to soliciting bids or otherwise soliciting proposals from construction contractors or construction service providers for a project, (5) shall obtain and maintain copies of construction documents for each project, and (6) shall conduct periodic inspections of each project, including jointly conducting the final inspection of each project.

(i) Notwithstanding the provisions of any other statute, the bioscience authority shall enter into one or more contracts with the division of facilities management for each project for the services performed by the division of facilities management for the project as required by this section or at the request of the bioscience authority. The division of facilities management shall receive fees from the bioscience authority to recover

the costs incurred to provide such services pursuant to such contracts.

(j) Design development reviews and construction document reviews conducted by the division of facilities management shall be limited to ensuring only that the construction documents do not change the project description and that the construction documents comply with the standards established under K.S.A. 75-3783, and amendments thereto, by the secretary of administration for the planning, design and construction of buildings and major repairs and improvements to buildings for state agencies, including applicable building and life safety codes and appropriate and practical energy conservation and efficiency standards.

(k) Each project for a bioscience research institution shall receive a final joint inspection by the division of facilities management and the bioscience authority. Each such project shall be officially accepted by the bioscience authority before such project is occupied or utilized by the bioscience research institution, unless otherwise agreed to in writing by the contractor and the bioscience authority as to the satisfactory completion of the work on part of the project that is to be occupied and utilized, including any corrections of the work thereon.

(l) (1) The bioscience authority shall issue monthly reports of progress on each project and shall advise and consult with the joint committee on state building construction regarding each project. Change orders and changes of plans for a project shall be authorized or approved by the bioscience authority.

(2) No change order or change of plans for a project involving either cost increases of \$75,000 or more or involving a change in the proposed use of a project shall be authorized or approved by the bioscience authority without having first advised and consulted with the joint committee on state building construction.

(3) Change orders or changes in plans for a project involving a cost increase of less than \$75,000 and any change order involving a cost reduction, other than a change in the proposed use of the project, may be authorized or approved by the bioscience authority without prior consultation with the joint committee on state building construction. The bioscience authority shall report to the joint committee on state building construction all action relating to such change orders or changes in plans.

(4) If the bioscience authority determines that it is in the best interest of the state to authorize or approve a change order, a change in plans or a change in the proposed use of any project that the bioscience authority is required to first advise and consult with the joint committee on state building construction prior to issuing such approval and if no meeting of the joint committee is scheduled to take place within the next 10 business days, then the bioscience authority may use the procedure authorized by subsection (d) of K.S.A. 75-1264, and amendments thereto, in lieu of advising and consulting with the joint committee at a meeting. In any such case, the bioscience authority shall mail a summary description of the proposed change order, change in plans or change in the proposed use of any project to each member of the joint committee on state building construction and to the director of the legislative research department. If the bioscience authority provides notice and information to the members of the joint committee and to such director in the manner required and subject to the same provisions and conditions that apply to the secretary of administration under such statute, and if less than two members of the joint committee contact the director of the legislative research department within seven business days of the date the summary description was mailed and request a presentation and review of any such proposed change order, change in plans or change in use at a meeting of the joint committee, then the bioscience authority shall be deemed to have advised and consulted with the joint committee about such proposed change order, change in plans or change in proposed use and may authorize or approve such proposed change order, change in plans or change in proposed use.

(m) The provisions of this section shall apply to each project authorized by the bioscience authority under this act and shall not apply to any other capital improvement project of the bioscience authority or bioscience research institution that is specifically authorized by any other statute.

New Sec. 17. The authority may, at the election of the board, affiliate with the Kansas public employees retirement system with respect to any or all employees employed by the authority on or after the effective date

of this act, in accordance with the provisions of K.S.A. 74-4910 and amendments thereto. The authority may, at the election of the board, adopt, in accordance with requirements of the federal internal revenue code, a retirement plan or plans sponsored by the authority with respect to employees employed by the authority on or after the effective date of this act. The authority may, at the discretion of the board, provide death and disability benefits as provided in K.S.A. 74-4927a and 74-4927g and amendments thereto.

New Sec. 18. Sections 18 to 22, inclusive, and amendments thereto, shall be known and may be cited as the emerging industry investment act.

New Sec. 19. The purpose of the emerging industry investment act is to foster the growth of the bioscience in Kansas, to make Kansas a national leader in bioscience, and to make Kansas a desirable location for bioscience entities to locate and grow. In so doing, the emerging industry investment act will foster employment, encourage research and development, investment in real property and improvements, investment in equipment and supplies, the employment of eminent scholars and rising star scholars by the state universities and the Kansas bioscience authority, or both, and will lead to bioscience discoveries and products.

New Sec. 20. As used in the emerging industry investment act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Authority" means the Kansas bioscience authority as created by section 4, and amendments thereto.

(b) "Base year taxation" means the 2003 state taxes payable by all bioscience companies, state universities and 95% of withholding of bioscience employees currently located in or operating in the state.

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

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

(e) "Bioscience development and investment fund" means the fund created by section 21, and amendments thereto.

(f) "Bioscience employee" means any employee, officer or director of a bioscience company who is employed in the 2003 tax year or after December 31, 2003 and who is also a state taxpayer and any employee of state universities who is associated with bioscience research in the 2003 tax year or after December 31, 2003 and who is also a state taxpayer.

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

(h) "Biotechnology" means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing and bioinformatics and future developments associated with biotechnology.

(i) "Board" means the board of directors of the authority.

(j) "Eminent scholar" means world-class, distinguished and established investigators recognized nationally for their research, achievements and ability to garner significant federal funding on an annual basis. Em-

inent scholars are recognized for their scientific knowledge and entrepreneurial spirit to enhance the innovative research that leads to economic gains. Eminent scholars are either members of or likely candidates for the national academy of sciences or other prominent national academic science organizations.

(k) "Life sciences" means, without limitation, the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry and physiology and any future advances associated with the life sciences.

(l) "NAICS" means the north American industry classification system.

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

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

(o) "State income taxes" means all of the taxes levied pursuant to K.S.A. 79-3201 et seq., and amendments thereto.

(p) "State taxes" means all taxes on property, sales and use, license, individual income tax and corporate net income tax pursuant to law except for property taxes levied for schools.

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

(r) "Subsequent year taxation" means all state taxes payable by bioscience companies that commence operating in the state after December 31, 2003, and 95% of withholding associated with new bioscience employees added to bioscience companies and state universities and associated with growth of the existing bioscience employee withholding base after December 31, 2003.

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

(t) "This act" means the emerging industry investment act.

New Sec. 21. (a) The bioscience development and investment fund is hereby created. The bioscience development and investment fund shall not be a part of the state treasury and the funds in the bioscience development and investment fund shall belong exclusively to the authority.

(b) Distributions from the bioscience development and investment fund shall be for the exclusive benefit of the authority, under the control of the board and used to fulfill the purpose, powers and duties of the authority pursuant to the provisions of section 1 et seq., and amendments thereto.

(c) The secretary of revenue and the authority shall establish the base year taxation for all bioscience companies and state universities. The secretary of revenue, the authority and the board of regents shall establish the number of bioscience employees associated with state universities and report annually and determine the increase from the taxation base annually.

(d) For a period of 15 years from the effective date of this act, the state treasurer shall pay to the bioscience development and investment fund the state taxes in excess of the base year taxation from all bioscience companies as certified by the secretary of revenue.

(e) In addition, the state treasurer shall pay annually, 95% of withholding above the base, as certified by the secretary of revenue upon Kansas wages paid by bioscience employees to the bioscience development and investment fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience development and investment fund interest earnings based on:

(1) The average daily balance of moneys in the bioscience development and investment fund for the preceding month; and

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

(f) The division of post audit is hereby authorized to conduct a post



audit in accordance with the provisions of the state post audit act to K.S.A. 46-1106 *et seq.* and amendments thereto.

(g) At the direction of the authority, the fund may be held in the custody of and invested by the state treasurer, provided that the bioscience development and investment fund shall at all times be accounted for in a separate report from all other funds of the authority and the state.

New Sec. 22. On and after January 1, 2006, it shall be the duty of the department of revenue to prepare an annual report evaluating the cost effectiveness of the various income tax credits and sales tax exemptions enacted to encourage economic development within this state and submit the same to the standing committees on taxation and economic development of the house and assessment and taxation and commerce of the senate at the beginning of each regular session of the legislature.

New Sec. 23. Sections 23 to 30, inclusive, and amendments thereto, shall be known and may be cited as the bioscience development financing act.

New Sec. 24. The purpose of the bioscience development financing act is to foster the growth of bioscience in Kansas, to make Kansas a national leader in bioscience, and to make Kansas a desirable location for bioscience entities to locate and grow. In so doing, the Kansas bioscience development financing act will foster employment, encourage research and development, investment in real property and improvements, investment in equipment and supplies and lead to bioscience discoveries and products.

Sec. 25. K.S.A. 2003 Supp. 12-1770a is hereby amended to read as follows: 12-1770a. As used in the bioscience development act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

(a) "Auto race track facility" means: (1) An auto race track facility and facilities directly related and necessary to the operation of an auto race track facility, including, but not limited to, grandstands, suites and viewing areas, concessions, souvenir facilities, catering facilities, visitor and retail centers, signage and temporary hospitality facilities, but excluding (2) hotels, motels, restaurants and retail facilities, not directly related to or necessary to the operation of such facility.

(b) "Base year assessed valuation" means the assessed valuation of all real property within the boundaries of a redevelopment district on the date the redevelopment district was established.

(c) "Blighted area" means an area which:

(1) Because of the presence of a majority of the following factors, substantially impairs or arrests the development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use:

(A) A substantial number of deteriorated or deteriorating structures;  
(B) predominance of defective or inadequate street layout;  
(C) unsanitary or unsafe conditions;  
(D) deterioration of site improvements;  
(E) tax or special assessment delinquency exceeding the fair market value of the real property;

(F) defective or unusual conditions of title including but not limited to cloudy or defective titles, multiple or unknown ownership interests to the property;

(G) improper subdivision or obsolete platting or land uses;

(H) the existence of conditions which endanger life or property by fire or other causes; or

(I) conditions which create economic obsolescence; or

(2) has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation; feasibility study and remediation or other similar state or federal action; or

(3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.

(d) "Conservation area" means any improved area comprising 15% or less of the land area within the corporate limits of a city in which 50% or more of the structures in the area have an age of 35 years or more, which area is not yet blighted, but may become a blighted area due to the existence of a combination of two or more of the following factors:

- (1) Dilapidation, obsolescence or deterioration of the structures;
  - (2) illegal use of individual structures;
  - (3) the presence of structures below minimum code standards;
  - (4) building abandonment;
  - (5) excessive vacancies;
  - (6) overcrowding of structures and community facilities; or
  - (7) inadequate utilities and infrastructure.
- (e) “De minimus” means an amount less than 15% of the land area within a redevelopment district.

(f) “Developer” means any person, firm, corporation, partnership or limited liability company, other than a city *and other than an agency, political subdivision or instrumentality of the state or a county when relating to a bioscience development district.*

(g) “Eligible area” means a blighted area, conservation area, enterprise zone, historic theater, major tourism area or a major commercial entertainment and tourism area *or bioscience development area* as determined by the secretary.

(h) “Enterprise zone” means an area within a city that was designated as an enterprise zone prior to July 1, 1992, pursuant to K.S.A. 12-17,107 through 12-17,113, and amendments thereto, prior to its repeal and the conservation, development or redevelopment of the area is necessary to promote the general and economic welfare of such city.

(i) “Environmental increment” means the increment determined pursuant to subsection (b) of K.S.A. 12-1771a, and amendments thereto.

(j) “Environmentally contaminated area” means an area of land having contaminated groundwater or soil which is deemed environmentally contaminated by the department of health and environment or the United States environmental protection agency.

(k) “Feasibility study” means a study which shows whether a redevelopment ~~or project’s~~, special bond project’s *or bioscience development project’s* benefits and tax increment revenue and other available revenues under K.S.A. 12-1774 (a)(1), and amendments thereto, are expected to exceed or be sufficient to pay for the redevelopment or special bond *or bioscience development* project costs and the effect, if any, the redevelopment *project costs* or special bond project will have on any outstanding special obligation bonds as authorized pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto.

(l) “Historic theater” means a building constructed prior to 1940 which was constructed for the purpose of staging entertainment, including motion pictures, vaudeville shows or operas, that is operated by a nonprofit corporation and is designated by the state historic preservation officer as eligible to be on the Kansas register of historic places or is a member of the Kansas historic theatre association.

(m) “Historic theater sales tax increment” means the amount of state and local sales tax revenue imposed pursuant to K.S.A. 12-187 *et seq.*, 79-3601 *et seq.* and 79-3701 *et seq.*, and amendments thereto, collected from taxpayers doing business within the historic theater that is in excess of the amount of such taxes collected prior to the designation of the building as a historic theater for purposes of this act.

(n) “Major tourism area” means an area for which the secretary has made a finding the capital improvements costing not less than \$100,000,000 will be built in the state to construct an auto race track facility.

(o) “Real property taxes” means all taxes levied on an ad valorem basis upon land and improvements thereon, *except that when relating to a bioscience development district, as defined in this section, “real property taxes” does not include property taxes levied for schools, pursuant to K.S.A. 72-6431, and amendments thereto.*

(p) “Redevelopment project area” or “project area” means an area designated by a city within a redevelopment district.

(q) “Redevelopment project costs” means those costs necessary to implement a redevelopment plan *or a bioscience development project plan*, including, but not limited to costs incurred for:

- (1) Acquisition of property within the redevelopment project area;
- (2) payment of relocation assistance;
- (3) site preparation including utility relocations;
- (4) sanitary and storm sewers and lift stations;
- (5) drainage conduits, channels, levees and river walk canal facilities;
- (6) street grading, paving, graveling, macadamizing, curbing, gutter-

ing and surfacing;

- (7) street light fixtures, connection and facilities;
- (8) underground gas, water, heating and electrical services and connections located within the public right-of-way;
- (9) sidewalks and pedestrian underpasses or overpasses;
- (10) drives and driveway approaches located within the public right-of-way;
- (11) water mains and extensions;
- (12) plazas and arcades;
- (13) parking facilities;
- (14) landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities; and
- (15) all related expenses to redevelop and finance the redevelopment project.

Redevelopment project costs shall not include costs incurred in connection with the construction of buildings or other structures to be owned by or leased to a developer, however, the "redevelopment project costs" shall include costs incurred in connection with the construction of buildings or other structures to be owned or leased to a developer which includes an auto race track facility or is in a redevelopment district including some or all of the land and buildings comprising a state mental institution closed pursuant to section 2 of chapter 219 of the 1995 Session Laws of Kansas.

(r) "Redevelopment district" means the specific area declared to be an eligible area in which the city may develop one or more redevelopment projects.

(s) "Redevelopment district plan" or "district plan" means the preliminary plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings, facilities and improvements in each that are proposed to be constructed or improved in each redevelopment project area.

(t) "Redevelopment project" means the approved project to implement a project plan for the development of the established redevelopment district.

(u) "Redevelopment project plan" or "project plan" means the plan adopted by a municipality for the development of a redevelopment project or projects which conforms with K.S.A. 12-1772, and amendments thereto, in a redevelopment district.

(v) "Secretary" means the secretary of commerce.

(w) "Substantial change" means, as applicable, a change wherein the proposed plan or plans differ substantially from the intended purpose for which the district plan or project plan was approved.

(x) "Tax increment" means that amount of real property taxes collected from real property located within the redevelopment district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

(y) "Taxing subdivision" means the county, city, unified school district and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created redevelopment district *including a bioscience development district*.

(z) "Special bond project" means a redevelopment project with at least a \$50,000,000 capital investment and \$50,000,000 in projected gross annual sales revenues or for areas outside of metropolitan statistical areas, as defined by the federal office of management and budget the secretary finds the project meets the requirements of subsection (g) and would be of regional or statewide importance, but a "special bond project" shall not include a project for a gambling casino.

(aa) "Marketing study" means a study conducted to examine the impact of the redevelopment *project* or special bond project upon similar businesses in the projected market area.

(bb) "Projected market area" means any area within the state in which the redevelopment *project* or special bond project is projected to have a substantial fiscal or market impact upon businesses in such area.

(cc) "River walk canal facilities" means a canal and related water features located adjacent to a river which flows through a major commercial entertainment and tourism area and facilities related or contiguous thereto, including, but not limited to pedestrian walkways and promenades, landscaping and parking facilities.

(dd) “Commence work” means the manifest commencement of actual operations on the development site, such as, erecting a building, excavating the ground to lay a foundation or a basement or work of like description which a person with reasonable diligence can see and recognize as being done with the intention and purpose to continue work until the project is completed.

(ee) “Major commercial entertainment and tourism area” may include, but not be limited to, a major multi-sport athletic complex.

(ff) “Major multi-sport athletic complex” means an athletic complex that is utilized for the training of athletes, the practice of athletic teams, the playing of athletic games or the hosting of events. Such project may include playing fields, parking lots and other developments.

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

(hh) “Bioscience development area” means an area that:

(1) Is or shall be owned, operated, or leased by, or otherwise under the control of the Kansas bioscience authority;

(2) is or shall be used and maintained by a bioscience company; or

(3) includes a bioscience facility.

(ii) “Bioscience development district” means the specific area, created under K.S.A. 12-1771, and amendments thereto, where one or more bioscience development projects may be undertaken.

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

(kk) “Bioscience development project plan” or “project plan” means the plan adopted by the authority for a bioscience development project pursuant to K.S.A. 12-1772, and amendments thereto, in a bioscience development district.

(ll) “Bioscience facility” means real property and all improvements thereof used to conduct bioscience research, including, without limitation, laboratory space, incubator space, office space and any and all facilities directly related and necessary to the operation of a bioscience facility.

(mm) “Bioscience project area” or “project area” means an area designated by the authority within a bioscience development district.

(nn) “Biotechnology” means those fields focusing on technological developments in such area as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

(oo) “Board” means the board of directors of the Kansas bioscience authority.

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

(qq) “Revenue increase” means that amount of real property taxes collected from real property located within the bioscience development district that is in excess of the amount of real property taxes which is collected from the base year assessed valuation.

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

Sec. 26. K.S.A. 12-1771 is hereby amended to read as follows: 12-1771. (a) *Resolution procedure for a redevelopment district.* Any city proposing to establish a redevelopment district within an eligible area shall adopt a resolution stating that the city is considering the establishment of a redevelopment district *or when the Kansas bioscience authority proposes to establish a bioscience development district.* Such resolution shall:

(1) Give notice that a public hearing will be held to consider the establishment of a redevelopment *district or bioscience development dis-*

trict and fix the date, hour and place of such public hearing;

(2) describe the proposed boundaries of the redevelopment *district or bioscience development* district;

(3) describe the district plan;

(4) state that a description and map of the proposed redevelopment *district or bioscience development* district are available for inspection at a time and place designated;

(5) state that the governing body will consider findings necessary for the establishment of a redevelopment *district or bioscience development* district.

Notice shall be given as provided in subsection (b) of K.S.A. 12-1772, and amendments thereto.

(b) *Posthearing procedure.* Upon the conclusion of the public hearing, the governing body may pass an ordinance. ~~Such~~ (1) An ordinance for a redevelopment district shall: ~~(1)~~ (A) Make a finding findings that: ~~(A)~~ the redevelopment district proposed to be developed is an eligible area; and ~~(B)~~ the conservation, development or redevelopment of such area is necessary to promote the general and economic welfare of the city; ~~(2)~~ (B) contain the district plan as approved; and ~~(3)~~ (C) contain the legal description of the redevelopment district and may establish the redevelopment district. Such ordinance shall contain a district plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area. The boundaries of such district shall not include any area not designated in the notice required by subsection (a).

(2) An ordinance for a bioscience development district shall make findings that the area satisfies the definition of a bioscience area and the creation of a bioscience district will contribute to the development of bioscience in the state and promote the general and economic welfare of the city. Such ordinance shall also contain the district plan as approved and contain the legal description of the bioscience development district. Such ordinance shall contain a development district plan that identifies all of the proposed bioscience development project areas and identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each bioscience development project area. The boundaries of such district shall not include any area not designated in the notice required by subsection (a). No bioscience development district shall be established without the approval of the bioscience authority. In creating a bioscience development district, eminent domain shall not be used to acquire agricultural land.

(c) The governing body of a city may establish a redevelopment district within that city, and, with the bioscience authority's approval, may establish a bioscience development district within that city. Such city may establish a district inclusive of land outside the boundaries of the city upon written consent of the board of county commissioners. Prior to providing written consent, the board of county commissioners shall be subject to the same procedure for public notice and hearing as is required of a city pursuant to subsection (a) for the establishment of a redevelopment *district or bioscience development* district. One or more redevelopment projects or bioscience development projects may be undertaken by a city within a redevelopment *district or bioscience development* district after such redevelopment *district or bioscience development* district has been established in the manner provided by this section.

(d) No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of K.S.A. 12-1770 *et seq.*, and amendments thereto, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the hearing for the establishment of the redevelopment *district or bioscience development* district required by subsection (b) that the proposed redevelopment *district or bioscience development* district will have an adverse effect on such county or school district. The board of county commissioners or board of education shall deliver a copy of such resolution to the city. The city shall within 30 days of receipt of such resolution pass an ordinance terminating the redevelopment *district or bioscience development* district.

(e) *Addition to area; substantial change.* Any addition of area to the redevelopment *district or bioscience development* district or any substantial change as defined in K.S.A. 12-1770a, and amendments thereto, to

the district plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the district.

(f) Any addition of any area to the redevelopment *district or bioscience development* district shall be subject to the same procedure for public notice and hearing as is required for the establishment of the redevelopment *district or bioscience development* district. The base year assessed valuation of the redevelopment *district or bioscience development* district following the addition of area shall be revised to reflect the base year assessed valuation of the original area and the added area as of the date of the original establishment of the redevelopment *district or bioscience development* district.

(g) A city may remove real property from a redevelopment *district or bioscience development* district by an ordinance of the governing body. If more than a de minimus amount of real property is removed from a redevelopment *district or bioscience development* district, the base year assessed valuation of the redevelopment *district or bioscience development* district shall be revised to reflect the base year assessed valuation of the remaining real property as of the date of the original establishment of the redevelopment *district or bioscience development* district.

(h) A city may divide the real property in a redevelopment *district or bioscience development* district, including real property in different redevelopment *district or bioscience development* project areas within a redevelopment *district or bioscience development* district, into separate redevelopment *districts or bioscience development* districts. The base year assessed valuation of each resulting redevelopment *district or bioscience development* district following such division of real property shall be revised to reflect the base year assessed valuation of the area of each resulting redevelopment *district or bioscience development* district as of the date of the original establishment of the redevelopment *district or bioscience development* district. Any division of real property within a redevelopment *district or bioscience development* district into more than one redevelopment *district or bioscience development* district shall be subject to the same procedure ~~or~~ of public notice and hearing as is required for the establishment of the redevelopment *district or bioscience development* district.

(i) If a city has undertaken a redevelopment *project or bioscience development* project within a redevelopment *district or bioscience development* district, and either the city wishes to subsequently remove more than a de minimus amount of real property from the redevelopment *district or bioscience development* district or the city wishes to subsequently divide the real property in the redevelopment *district or bioscience development* district into more than one redevelopment *district or bioscience development* district, then prior to any such removal or division the city must provide a feasibility study which shows that the tax increment revenue from the resulting redevelopment *district or bioscience development* district within which the redevelopment *district or bioscience development* project is located is expected to be sufficient to pay the redevelopment *project costs or bioscience development* project costs.

(j) Removal of real property from one redevelopment *district or bioscience development* district and addition of all or a portion of that real property to another redevelopment *district or bioscience development* district may be accomplished by the adoption of an ordinance and in such event the determination of the existence or nonexistence of an adverse effect on the county or school district under subsection (d) shall apply to both such removal and such addition of real property to a redevelopment *district or bioscience development* district.

(k) *Any addition to, removal from or division of real property or a substantial change as defined in K.S.A. 12-1770a, and amendments thereto, to a bioscience development district may be made only with the approval of the bioscience authority.*

(l) *A bioscience development district may be established in the unincorporated area of a county by resolution of the board of county commissioners governing the area if:*

(1) *The Kansas bioscience authority has proposed to establish a bioscience development district there; and*

(2) *the board of county commissioners follows the notice, hearing and approval procedures required of a city to establish a bioscience development district.*

(m) *When establishing a bioscience development district as described*

in subsection (1), any references to “city” contained in this section shall mean “county”.

Sec. 27. K.S.A. 12-1772 is hereby amended to read as follows: 12-1772. (a) *Redevelopment projects*. One or more redevelopment *projects or bioscience development* projects may be undertaken by a city within an established redevelopment *district or bioscience development* district. Any such project plan may be implemented in separate development stages. Any city proposing to undertake a redevelopment *project or bioscience development* project within a redevelopment *district or bioscience development* district established pursuant to K.S.A. 12-1771, and amendments thereto, shall prepare a project plan in consultation with the planning commission of the city *and, in the case of a bioscience development district, with the approval of the bioscience authority*. The project plan shall include:

(1) A summary of the feasibility study done as defined in K.S.A. 12-1770a, and amendments thereto, which will be an open record;

(2) a reference to the district plan established under K.S.A. 12-1771, and amendments thereto, that identifies the redevelopment *or bioscience development* project area that is set forth in the project plan that is being considered;

(3) a description and map of the redevelopment *or bioscience development* project area to be redeveloped;

(4) the relocation assistance plan required by K.S.A. 12-1777, and amendments thereto;

(5) a detailed description of the buildings and facilities proposed to be constructed or improved in such area; and

(6) any other information the governing body deems necessary to advise the public of the intent of the project plan.

(b) *Resolution requirements*. A copy of the redevelopment *project plan or bioscience development* project plan shall be delivered to the board of county commissioners of the county and the board of education of any school district levying taxes on property within the proposed redevelopment *project area or bioscience development* project area. Upon a finding by the planning commission that the project plan is consistent with the intent of the comprehensive plan for the development of the city, the governing body of the city shall adopt a resolution stating that the city is considering the adoption of the project plan. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the adoption of the redevelopment *project plan or bioscience development* project plan and fix the date, hour and place of such public hearing;

(2) describe the boundaries of the redevelopment *district or bioscience development* district within which the redevelopment *or bioscience development* project will be located and the date of establishment of such district;

(3) describe the boundaries of the area proposed to be included within the redevelopment *project area or bioscience development* project area; and

(4) state that the project plan, including a summary of the feasibility study, relocation assistance plan and financial guarantees of the prospective developer and a description and map of the area to be redeveloped *or developed* are available for inspection during regular office hours in the office of the city clerk.

Except as provided in paragraph (3) of subsection (b) of K.S.A. 12-1774, and amendments thereto, if the governing body determines that it may issue full faith and credit tax increment bonds to finance the redevelopment *project or bioscience development* project, in whole or in part, the resolution also shall include notice thereof.

(c) (1) *Hearing*. The date fixed for the public hearing shall be not less than 30 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(2) A copy of the resolution providing for the public hearing shall be by certified mail, return receipt requested sent to the board of county commissioners of the county, *the Kansas development finance authority* and the board of education of any school district levying taxes on property within the proposed redevelopment *project area or bioscience development district* project area. Copies also shall be sent by certified mail, return receipt requested to each owner and occupant of land within the proposed redevelopment *project area or bioscience development* project

area not more than 10 days following the date of the adoption of the resolution. The resolution shall be published once in the official city newspaper not less than one week nor more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area shall be published with the resolution.

(3) At the public hearing, a representative of the city shall present the city's proposed project plan. *If the hearing is for a proposed bioscience development project, a representative of the Kansas bioscience authority shall assist in presenting the proposed bioscience project plan.* Following the presentation of the project plan, all interested persons shall be given an opportunity to be heard. The governing body for good cause shown may recess such hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

(d) The public hearing records and feasibility study shall be subject to the open records act, K.S.A. 45-215, and amendments thereto.

(e) *Posthearing procedure.* Following the public hearing, the governing body may adopt the project plan by ordinance passed upon a  $\frac{2}{3}$  vote and, in the case of a bioscience project plan, with the approval of the bioscience authority.

(f) Any substantial changes as defined in K.S.A. 12-1770a, and amendments thereto, to the project plan as adopted shall be subject to a public hearing following publication of notice thereof at least twice in the official city newspaper.

(g) Any project shall be completed within 20 years from the date of the approval of the project plan.

(h) *A bioscience development project may be undertaken in a bioscience development district in the unincorporated area of a county by resolution of the board of county commissioners governing the area if:*

(1) *The bioscience development project is approved by the Kansas bioscience authority; and*

(2) *the board of county commissioners follows the notice, hearing and approval procedures required of a city to establish a bioscience development project.*

(i) *When establishing a bioscience development project as described in subsection (h), any references to "city" contained in this section shall mean "county".*

New Sec. 28. (a) The Kansas development finance authority is hereby authorized to issue special obligation bonds pursuant to K.S.A. 74-8901 et seq., and amendments thereto, in one or more series to finance the undertaking of any bioscience development project in accordance with the provisions of this act. No special obligation bonds may be issued pursuant to this section unless the Kansas development finance authority has received a resolution of the board of the authority requesting the issuance of such bonds. Such special obligation bonds shall be made payable, both as to principal and interest from one or more of the following, as directed by the authority:

(1) From ad valorem tax increments allocated to, and paid into the bioscience development bond fund for the payment of the project costs of a bioscience development project under the provisions of this section;

(2) from any private sources, contributions or other financial assistance from the state or federal government;

(3) from a pledge of a portion or all of the revenue received from transient guest, sales and use taxes collected pursuant to K.S.A. 12-1696 et seq., 79-3601 et seq., 79-3701 et seq. and 12-187 et seq., and amendments thereto, and which are collected from taxpayers doing business within that portion of the bioscience development district and paid into the bioscience development bond fund;

(4) from a pledge of a portion or all increased revenue received by any city from franchise fees collected from utilities and other businesses using public right-of-way within the bioscience development district; or

(5) by any combination of these methods.

(b) All tangible taxable property located within a bioscience development district shall be assessed and taxed for ad valorem tax purposes pursuant to law in the same manner that such property would be assessed and taxed if located outside such district, and all ad valorem taxes levied on such property shall be paid to and collected by the county treasurer in the same manner as other taxes are paid and collected. Except as otherwise provided in this section, the county treasurer shall distribute



such taxes as may be collected in the same manner as if such property were located outside a bioscience development district. Each bioscience development district established under the provisions of this act shall constitute a separate taxing unit for the purpose of the computation and levy of taxes.

(c) Beginning with the first payment of taxes which are levied following the date of the establishment of the bioscience development district real property taxes received by the county treasurer resulting from taxes which are levied subject to the provisions of this act by and for the benefit of a taxing subdivision, as defined in section 25, and amendments thereto, on property located within such bioscience development district constituting a separate taxing unit under the provisions of this section, shall be divided as follows:

(1) From the taxes levied each year subject to the provisions of this act by or for each of the taxing subdivisions upon property located within a bioscience development district constituting a separate taxing unit under the provisions of this act, the county treasurer first shall allocate and pay to each such taxing subdivision all of the real property taxes collected which are produced from the base year assessed valuation.

(2) Any real property taxes, except for property taxes levied for schools pursuant to K.S.A. 72-6431, and amendments thereto, produced from that portion of the current assessed valuation of real property within the bioscience development district constituting a separate taxing unit under the provisions of this section in excess of the base year assessed valuation shall be allocated and paid by the county treasurer to the bioscience development bond fund to pay the bioscience development project costs including the payment of principal and interest on any special obligation bonds to finance, in whole or in part, such bioscience development projects.

(d) The authority may pledge the bioscience development bond fund or other available revenue to the repayment of such special obligation bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(e) Any bonds issued under the provisions of this act and the interest paid thereon, unless specifically declared to be taxable in the authorizing resolution of the Kansas development finance authority, shall be exempt from all state, county and municipal taxes, and the exemption shall include income, estate and property taxes.

New Sec. 29. (a) The bioscience development bond fund is hereby created. The bioscience development bond fund shall not be a part of the state treasury and the funds in the bioscience development bond fund shall belong exclusively to the authority. A separate account within the bioscience development bond fund will be created for each bioscience development district created pursuant to this act and subaccounts may be created for each bioscience development project or portion thereof.

(b) Distributions from a bioscience development bond fund shall be used to pay the bioscience development project costs undertaken in a bioscience development district, including principal and interest on special obligation bonds or other obligations issued by the Kansas development finance authority to finance, in whole or in part, a bioscience development.

(c) The state treasurer shall credit all revenue collected or received from a bioscience development district as certified by the secretary of revenue to that bioscience development district's account in the bioscience development bond fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience development bond fund interest earnings based on:

(1) The average daily balance of moneys in the bioscience development bond fund for the preceding month; and

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

(d) At the direction of the authority, the fund may be held in the custody of and invested by the department of administration or the state treasurer provided that the bioscience development bond fund shall at all times be accounted for separate and apart from all other funds of the authority and the state.

New Sec. 30. Notwithstanding any other provision of law, it is hereby stated that it is an object of all ad valorem taxes levied by or for the benefit

of any city or county on taxable tangible real property located within any bioscience development district created pursuant to this act, that such taxes may be applied and allocated to and when collected paid into the bioscience development bond fund pursuant to the procedures and limitations of this act to pay the cost of a bioscience development project, including principal and interest on special obligation bonds issued to finance, in whole or in part, such bioscience development project.

New Sec. 31. Sections 31 to 33, inclusive, and amendments thereto, shall be known and may be cited as the bioscience tax investment incentive act.

New Sec. 32. The purpose of the bioscience tax investment incentive act is to make Kansas the most desirable state in which to conduct the business of bioscience. The bioscience tax investment incentive act will incentivize individuals and organizations engaged in the business of bioscience to locate and grow in the state in order to make Kansas a national leader in bioscience, create new jobs, foster economic growth, advance scientific knowledge and improve the quality of life for the citizens of the state. The bioscience tax investment incentive act promotes private research and development, investment in real property and improvements, and investment in equipment and supplies to enhance bioscience research and commercialization of bioscience products and technologies in the state.

New Sec. 33. (a) For taxable years commencing after December 31, 2004, any bioscience company as defined in section 20, and amendments thereto, may be allowed a payment from the bioscience authority not to exceed 50% of such bioscience company's Kansas net operating loss incurred during the claimed taxable year.

(b) In no event shall the total amount of payments authorized and made by the bioscience authority pursuant to subsection (a) exceed \$1,000,000 for any one fiscal year.

(c) The department of revenue shall annually certify to the bioscience authority any bioscience company claiming the payment, the amount of Kansas net operating loss claimed and the payment due to the bioscience company. The bioscience authority may thereafter make the payment to the bioscience company.

(d) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

New Sec. 34. Sections 34 to 40, inclusive, and section 51, and amendments thereto, shall be known and may be cited as the bioscience research and development voucher program act.

New Sec. 35. The bioscience research and development voucher program act will incentivize individuals and organizations engaged in the business of bioscience to locate and grow in the state in order to make Kansas a national leader in bioscience, advance scientific knowledge, promote research and development, and improve the quality of life for the citizens of the state.

New Sec. 36. As used in the bioscience research and development voucher program act, and amendments thereto, the following words and phrases have the following meanings unless a different meaning clearly appears from the content:

(a) "Authority" means the Kansas bioscience authority as created by section 4 and amendments thereto.

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

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

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

(e) "Biotechnology" means, without limitation, those fields focusing

on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing, bioinformatics and future developments associated with biotechnology.

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

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

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

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

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

New Sec. 37. (a) There is established and created in the state treasury a fund entitled the bioscience research and development voucher fund for the purpose of enabling Kansas companies conducting bioscience research and development to undertake bioscience research and development work in the state in partnership with bioscience research institutions.

(b) The bioscience research and development voucher fund may receive state appropriations, gifts, grants, federal funds, revolving funds and any other public or private funds.

(c) Moneys deposited in the bioscience research and development voucher fund shall be disbursed by the state treasurer with the consent of the chairperson of the authority.

(d) Any unallocated or unencumbered balances in the bioscience research and development voucher fund shall not be subject to appropriation and shall be invested in the bioscience authority, and any income earned from the investments along with the unallotted or unencumbered balances in the bioscience research and development voucher fund shall not lapse, and shall be made available solely for the purposes and benefits of the bioscience research and development voucher program act.

New Sec. 38. (a) There is created and established under the authority a bioscience research and development voucher program to provide vouchers to Kansas companies conducting bioscience research and development to undertake bioscience research and development work in partnership with bioscience research institutions.

(b) The purpose of the bioscience research and development voucher program is to:

(1) Accelerate the transfer of bioscience knowledge and technological innovation, improve economic competitiveness and stimulate economic growth in Kansas companies conducting bioscience research and development;

(2) support bioscience research and development activities in order to develop commercial products, processes or services;

(3) stimulate bioscience enterprises within the state; and

(4) encourage partnerships and collaborative bioscience projects between private enterprises, Kansas companies conducting bioscience research and development and bioscience research institutions.

New Sec. 39. (a) On terms mutually acceptable to the authority and KTEC the authority may contract with KTEC, to review applications and to certify whether an applicant is a qualified company.

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

(1) Produce a measurable result and be technically sound;

(2) lead to innovative technology or new knowledge;

(3) lead to commercially successful products, processes or services;

(4) stimulate economic growth; or

(5) enhance employment opportunities within the state.

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

(1) Verification that the applicant is a Kansas company conducting bioscience research and development;

(2) a technical research plan that is sufficient for outside expert re-

view;

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

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

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

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

New Sec. 40. (a) Project funding in the bioscience research and development voucher program shall have the following limitations:

(1) At least 51% of any voucher award funds from the bioscience research and development fund shall be expended with the bioscience research institution under contract and shall not exceed 50% of the cost of the research;

(2) the maximum amount of voucher funds awarded to a qualified company shall not exceed \$1,000,000, each year for two years, equal to a maximum of \$2,000,000 and shall be up to and not exceed 50% cost of the research; and

(3) at a minimum, the qualified company shall match the project award by a one-to-one dollar ratio for each year of the project. The authority has sole discretion to authorize an in-kind contribution in lieu of part of the industry match if the authority determines that the financial limitations of the qualified company warrant this authorization.

New Sec. 41. Sections 41 to 49, inclusive, and amendments thereto, shall be known and may be cited as the bioscience research matching funds act.

New Sec. 42. In order to be competitive in our economic and educational endeavors, it is critical that Kansas make bioscience research and development a priority that is specifically targeted to improving our national ranking in bioscience research and development at bioscience research institutions. The commitment necessary to improve Kansas' performance requires significant investment in bioscience research and development. Matching funds will be available to match research dollars from federal, private and other sources of funding.

New Sec. 43. As used in the bioscience research matching funds acts, and amendments thereto, the following words and phrases have the following meanings unless a different meaning clearly appears from the content:

(a) "Authority" means the Kansas bioscience authority as created by section 4 and amendments thereto.

(b) "Board" means the board of directors of the authority.

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

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

(e) "Bioscience research institutions" means all universities and colleges located in the state of Kansas conducting bioscience research.

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

(g) "Life sciences" means, without limitation, the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry, physiology and any future advances associated with life sciences.

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

(i) "This act" means the bioscience research matching funds act.

New Sec. 44. (a) There is hereby created the bioscience research matching fund.

(b) The bioscience research matching fund shall be administered by the authority and shall be for the benefit of bioscience research institutions.

(c) In order to qualify for the bioscience research and development moneys to be made available through the bioscience research matching fund, recipients must be a bioscience research institution. Bioscience research institutions are eligible and encouraged to jointly apply for funds from the bioscience research matching fund. The bioscience research matching fund shall be used to promote bioscience research and to recruit, employ, fund and endow bioscience faculty, research positions and scientists at universities in the state.

New Sec. 45. (a) In order to obtain moneys from the bioscience research matching fund:

(1) A bioscience research institution must provide the authority with the research grant proposal for federal, state or private funds submitted with a letter of intent to apply for a match to one of the funding agencies identified in section 47, and amendments thereto; and

(2) a bioscience research institution shall apply to the authority for a match from the bioscience research matching fund in writing within two weeks of the notice of a grant award of federal, state or private funds, and include an approved budget and an official notice of the grant award from the funding agency.

(b) Upon receipt of an application to receive funds to match federal funds from one of the funding agencies identified in section 47, and amendments thereto, the authority shall determine the eligibility for matching funds based on a finding that the bioscience research will have economic or commercial value to the state.

(c) The authority shall promptly review applications for matching funds for consistency with this act.

(d) The board shall ensure that no commitments for matching funds shall be made in excess of funds available for any given year.

New Sec. 46. (a) The matching funds authorized by this act are to be used to attract federal funds to the state for bioscience research and to create endowment-funded positions for bioscience faculty, research positions and scientists at bioscience research institutions.

(b) The board may approve multi-year bioscience research grants.

New Sec. 47. Funds used under the provisions of this act shall adhere to the following criteria:

(a) Be used for the purposes of matching an approved grant from a federal agency, including, without limitation, any of the following:

- (1) The national science foundation;
- (2) the national institutes of health;
- (3) the department of agriculture;
- (4) the environmental protection agency;
- (5) the department of education;
- (6) the national aeronautics and space administration;
- (7) the department of energy;
- (8) the department of defense;
- (9) the department of homeland security;
- (10) the department of transportation; and
- (11) the department of commerce.

(b) Proposals for federal funds that contain a specific state or federal match requirement, for the purposes of this act, shall not be matched at a rate of more than 50%, except that any portion of the match over 50% may be borne by the bioscience research institution;

(c) proposals for federal funds that do not contain a specific state or federal match requirement, for the purposes of this article, shall not be matched at a rate of more than 10%, provided that the state share is matched dollar for dollar by the college or bioscience research institution for a combined match of not more than 20%, except that any portion of the match over 20% may be borne by the bioscience research institution;

and

(d) a state financial match requirement of at least \$20,000 for equipment matching and at least \$50,000 for research project matching.

New Sec. 48. The authority shall present a report on the use of funds from the bioscience research matching fund by April 1 of each even-numbered year to the governor's office and the Kansas legislature.

New Sec. 49. The authority has the authority to establish guidelines by which eligible bioscience research institutions may receive funds from the bioscience research matching fund.

New Sec. 50. If any provision of this act, or the acts contained in this act, or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the act, or the acts contained in this act, which can be given effect without the invalid provision or application, and to this end the provisions of this act, and the acts contained in this act, are severable.

New Sec. 51. (a) There is hereby established in the state treasury the bioscience research and development voucher—federal fund for the purpose of providing matching federal moneys to enable qualified companies to undertake authority approved bioscience research and development projects in partnership with bioscience research institutions.

(b) The bioscience research and development voucher—federal fund shall receive all federal moneys obtained from federal sources for bioscience research and development.

(c) Federal moneys deposited in the bioscience research and development voucher—federal fund shall be disbursed by the state treasurer with the consent of the chairperson of the authority.

(d) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the bioscience research and development voucher—federal fund interest earnings based on the average daily balance of moneys in the bioscience research and development voucher—federal fund for the preceding month.

New Sec. 52. Each bioscience company or qualified company receiving grants, awards, tax credits or any other financial assistance, including financing for any bioscience development project, under the provisions of the bioscience authority act, the emerging industry investment act, the bioscience development financing act, the tax investment incentive act, the bioscience research and development voucher program act, or the bioscience research matching funds act, shall repay such financial assistance to the authority, in the amount determined by the authority, if such bioscience company or qualified company relocates operations, in which the authority invested, outside Kansas within 10 years after receiving such financial assistance. Each such bioscience company or qualified company shall enter into a repayment agreement with the authority specifying the terms of such repayment obligation.

Sec. 53. K.S.A. 2003 Supp. 74-8004 is hereby amended to read as follows: 74-8004. (a) In order to achieve its purpose as provided in this act, Kansas, Inc. shall:

(1) Serve in an advisory capacity to the governor, the Kansas department of commerce and the standing committee on commerce of the senate, the standing committee on ~~new economy~~ *economic development* of the house of representatives and the joint committee on economic development.

(2) Assume central responsibility to develop, with the guidance of both the private and public sectors, all facets of a comprehensive long term economic development strategy.

(3) Coordinate the strategy development with all other state and local agencies and offices and state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with Kansas, Inc. in the planning and accomplishment of the strategy.

(4) Evaluate and analyze the state's economy to guide the direction of future public and private actions, and report and make recommendations to the governor, the department of commerce, and the standing committee on commerce of the senate, the standing committee on ~~new economy~~ *economic development* of the house of representatives and the joint committee on economic development with respect to the state's

economy. The report to the committee on commerce of the senate, the committee on ~~new economy~~ *economic development* of the house of representatives and the joint committee on economic development under this subsection shall be made by Kansas, Inc., either (A) by publishing such report on the internet and by notifying each member of the committees that the report is available and providing, as part of such notice, the uniform resource locator (URL) at which such report is available, or (B) by submitting copies of such report on CD-ROM or other electronically readable media to such committees.

(5) Oversee and evaluate the state's economic development activities on an ongoing basis through the establishment of goals, priorities performance standards and the periodic program audit of those goals, priorities and performance standards.

(6) Oversee the implementation of the state's economic development plan and monitor updates of that plan.

(7) Provide appropriate oversight to ensure the successful implementation of Kansas Venture Capital, Inc.

(8) Oversee the targeting of scarce state resources by size and sector of economic activity and by geographic location within the state in order to enhance the state's potential comparative economic advantages.

(9) Review and evaluate the annual reports of the department of commerce, Kansas technology enterprise corporation and Kansas Venture Capital, Inc. Kansas, Inc., shall transmit recommendations concerning the agencies' activities to the governor and the legislature no later than September 1 of each year.

(10) *Evaluate and report on the effectiveness of the activities of the Kansas bioscience authority as provided in section 9.*

(b) Kansas, Inc., shall seek advice from the general public and from professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of economic development and planning.

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

New Sec. 54. The authority is exempt from the provisions of K.S.A. 12-1675 through 12-1677, 45-401 through 45-413, 75-2925 through 75-2975, 75-3701 through 75-37,119, 75-4363, 75-4701 through 75-4744, and 77-501 through 77-550 and 75-4362, and amendments thereto.

New Sec. 55. Sections 55 through 65, and amendments thereto, shall be known and may be cited as the center for entrepreneurship act.

New Sec. 56. As used in this act, unless the context clearly requires otherwise:

(a) "Banking industry" means banks, savings and loan associations and credit unions;

(b) "cash donation" means money or its equivalent contributed to the Kansas community entrepreneurship fund;

(c) "center" means the Kansas center for entrepreneurship;

(d) "department" means the department of commerce;

(e) "distressed community" means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below poverty level as reported in the most recently completed decennial census published by the United States bureau of the census;

(f) "fund" means the Kansas community entrepreneurship fund;

(g) "investor" means a person making a cash donation in the Kansas community entrepreneurship fund in an amount of \$250 or more;

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

(i) "member" means a member of the board of directors;

(j) "qualified entrepreneur" means an entrepreneur who has exhibited a financial commitment to the business and who has proven business experience or who possesses either a bachelor or master of business administration degree or who has completed course work as directed by the Kansas center for entrepreneurship that certifies the individual as a qualified entrepreneur;

(k) “regional and community organization” means a not-for-profit organization properly organized under Kansas statutes to provide funds to start-up entrepreneurs through loans, grants or agreements with financial institutions;

(l) “rural community” means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible;

(m) “secretary” means the secretary of the department of commerce; and

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

New Sec. 57. (a) There is hereby created a body politic and corporate to be known as the Kansas center for entrepreneurship. The secretary of commerce, after consulting with the board of directors, shall enter into a contractual agreement for the operation of the center. The center’s exercise of all the rights, powers and privileges conferred by this act and shall be deemed and held to be the performance of an essential government function.

(b) The center shall be governed by a board of 11 directors. The board of directors shall be appointed by the secretary of commerce and shall be comprised of individuals who have demonstrated entrepreneurial success, including one member from each of the following organizations:

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

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

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

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

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

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

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

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

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

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

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

(l) Before assuming office, each person appointed as a member of the board of directors shall complete and file with the office of the secretary of state a statement containing the information required in a statement of substantial interest pursuant to K.S.A. 46-247, and amendments thereto;



(m) The board of directors shall:

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

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

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

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

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

New Sec. 58. (a) The purpose of the Kansas center for entrepreneurship is to enhance the quality of life for citizens of this state by providing increased availability of an accessibility to capital, particularly at the seed capital investment stage, encouraging wealth creation through new jobs that increase the wage base promoting new business development and encouraging individuals to invest in the Kansas community entrepreneurship fund and to assist regional and community organizations in providing seed funding for entrepreneurs. The Kansas center for entrepreneurship shall:

(1) Create and review policies that support and grow traditional corporate, government, nonprofit and university entrepreneurs in Kansas;

(2) serve as the central portal for entrepreneurs seeking business assistance and financing options in Kansas by providing a seamless resource center clearinghouse and referral source, to include establishment of a website and a toll free telephone number;

(3) lead collaborative efforts between education, research and outreach services to serve potential entrepreneurs across the state;

(4) manage the Kansas community entrepreneurship fund and develop policies and procedures to assure that funds are distributed to qualified entrepreneurs;

(5) organize a summit to recommend policy to foster an economic climate conducive to the development of an agricultural bioscience industry;

(6) work with the board of regents and Kansas board of education to create training and coursework in entrepreneurship for dissemination to elementary, secondary and vocational-technical schools, community colleges and universities; and

(7) prepare an annual report to the governor and the legislature detailing the operational and fund activity of the center and recommending a legislative agenda that will encourage growth in entrepreneurship.

(b) The Kansas center for entrepreneurship shall have all the powers necessary to achieve its purposes including the power to make contracts and execute all instruments necessary or convenient for carrying out its business.

New Sec. 59. (a) The state shall provide an annual appropriation to fund the salaries and operating expenses of the center, as well as research and evaluation activities conducted at the request of the executive or legislative branches. Private funds shall be raised to support the economic development research and education programs and related activities.

(b) The center may use the Kansas community entrepreneurship fund, created in section 63, and amendments thereto, to carry out the purposes of this act by awarding funds to regional and community organizations that provide seed capital to qualified entrepreneurs with an emphasis on those located in distressed and rural communities, as defined in section 56, and amendments thereto. Up to 10% of the fund balance on July 1 of the year may be used for operations of the center. Awards of the remainder of the funds shall be made on a competitive basis.

(c) The Kansas center for entrepreneurship is authorized to enter into contracts with, and to receive donations, contributions and grants from individuals, corporations, private foundations and other governmental and non-governmental entities for the purpose of fulfilling its mission and duties. It may also receive in-kind contributions in the form of personnel, services, equipment or other items of value.

(d) An annual financial report shall be made to the board of directors which itemizes and accounts for the receipt and expenditure of all state

and non-state funds and contributions received.

New Sec. 60. (a) All state appropriations to or grants of state appropriations to the Kansas center for entrepreneurship shall remain in the state treasury until expended or transferred to other state agencies pursuant to the Kansas center for entrepreneurship act.

(b) Except as provided in subsection (a), all moneys received by the Kansas center for entrepreneurship from gifts, donations, grants or any other source outside the state treasury shall be remitted to the state treasurer and deposited in the state treasury and credited to the Kansas community entrepreneurship fund until expended or otherwise disposed of pursuant to the Kansas center for entrepreneurship act.

New Sec. 61. (a) The Kansas center for entrepreneurship shall transmit annually to the governor, the secretary, the standing committee on commerce in the senate, the standing committee on economic development in the house of representatives, the joint committee on economic development and Kansas Inc. a report stating what tax credits have been issued during the preceding year and based on information provided by the regional or local community seed capital fund or economic development agency, describing the following: (1) the manner in which the purpose, as described in this act, has been carried out, (2) the total grants given to community seed capital funds or economic development agencies during the preceding year and cumulatively since the inception of this act, (3) the number of companies and jobs created or preserved by the grants given under this act and their location, and (4) an estimate of the multiplier effect on the Kansas economy of the grants made pursuant to this act.

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

New Sec. 62. (a) Officers and employees of the Kansas center for entrepreneurship shall not be considered state employees, as such term is defined in any other statute or regulation, and shall be paid from appropriations to the center and moneys allocated in sections 59 and 60, and amendments thereto, for salaries and operating expenses. Subject to policies established by the Kansas center for entrepreneurship, the president of the Kansas center for entrepreneurship or the president's designee shall be authorized to approve all travel and travel expenses of such officers and employees.

(b) Nothing in this act or the act of which it is amendatory shall be construed as placing any officer of the Kansas center for entrepreneurship in the classified service under the Kansas civil service act.

New Sec. 63. (a) The Kansas community entrepreneurship fund is hereby created in the state treasury to which shall be credited any state or other funds specifically so designated. The secretary may budget moneys to the Kansas community entrepreneurship fund from the economic development initiatives fund subject to appropriations. The secretary also shall credit the fund with gifts, donations, investments or grants received from any source for the center, some of which shall qualify for the income tax credit allowed pursuant to this section and amendments thereto. All expenditures from such fund shall be made upon warrants of the director of accounts and reports pursuant to vouchers approved by the president of the center or by a person or persons designated by the president of the center.

(b) The state treasurer shall credit all revenue collected or received by the center to the fund. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas community entrepreneurship fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas community entrepreneurship fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month. Expenditures from the fund shall be made only for the purposes of this act. Moneys in the fund shall not be subject to further legislative appropriation acts.

(c) Oversight and management of the fund shall be provided by the Kansas center for entrepreneurship under guidelines developed and implemented with the approval of the secretary.

(d) A credit against the tax imposed by the Article 32, Chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an investor and against the tax imposed by K.S.A. 40-252, and amendments

thereto, shall be allowed for a cash donation in the Kansas community entrepreneurship fund. The credit shall be a total maximum amount equal to 50% of an investor's cash donation in the Kansas community entrepreneurship fund, subject to the limitation set forth. This tax credit may be used in its entirety in the taxable year in which the cash donation is made, except that, no tax credit shall be allowed in a year prior to 2006. If the amount by which that portion of the credit allowed by this section exceeds the investor's liability in any one taxable year, beginning in the year 2006, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a corporation having an election in effect under subchapter S of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of these corporations or the partners of a partnership in the same manner as these shareholders or partners account for their proportionate shares of the income or loss of these corporations or partnerships.

(e) The secretary of revenue shall not allow tax credits of more than \$50,000 that are attributable to an individual investor of cash donations in the Kansas community entrepreneurship fund each year. In no event shall the total amount of tax credits allowed under this section exceed \$2,000,000 for any one fiscal year.

(f) The Kansas center for entrepreneurship shall be reimbursed for the reasonable costs of the administration of this act and for the processing, issuance and costs incurred in authorizing tax credits from the Kansas community entrepreneurship fund.

(g) The Kansas center for entrepreneurship, along with the department, shall develop a system for application for registration of an authorization of tax credits authorized pursuant to this act and shall control distribution of all tax credits to investors pursuant to this act. The Kansas center for entrepreneurship, along with the department, shall also develop rules for the administration of and disbursements from the Kansas community entrepreneurship fund.

(h) The Kansas community entrepreneurship fund shall be distributed to regional or local community seed capital funds or economic development agencies based on the following criteria: (1) The organization can provide a 40% match; (2) the organization provides a plan that assures grant funds will be used as seed capital for qualified entrepreneurs; (3) the grant will be used in a distressed or rural community and (4) other criteria as deemed necessary by the Kansas center for entrepreneurship.

New Sec. 64. Three years from the effective date of this act, Kansas, Inc. shall conduct a review of the center for entrepreneurship and the community entrepreneurship fund to determine program and cost effectiveness. A report, including findings and recommendations, shall be submitted to the legislature by January 1, 2008.

New Sec. 65. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 66. K.S.A. 2003 Supp. 74-50,103 is hereby amended to read as follows: 74-50,103. As used in the IMPACT act unless the context clearly requires otherwise:

(a) "Act" means the Kansas investments in major projects and comprehensive training act.

(b) "Agreement" means the agreement among an employer, an educational institution and the secretary of commerce concerning a SKILL project or a combined SKILL project and major project investment and the agreement between an employer and the secretary of commerce concerning a major project investment.

(c) "Bond" means a public purpose bond issued for IMPACT projects by the Kansas development finance authority.

(d) “Date of commencement of the project” means the date of the agreement.

(e) “Educational institution” means a community college, as defined by K.S.A. 71-701, and amendments thereto, an area vocational school or area vocational-technical school, as defined by K.S.A. 72-4412, and amendments thereto, a university, as defined by K.S.A. 72-6501, and amendments thereto, ~~or~~ a state educational institution, as defined by K.S.A. 76-711, and amendments thereto, *or a technical college as established by K.S.A. 72-4468, and amendments thereto.*

(f) “Employee” means a person employed in a new or retained job.

(g) “Employer” means a Kansas basic enterprise providing new jobs or retaining existing jobs in conjunction with a project.

(h) “IMPACT program” or “program” means the major project investments and SKILL projects undertaken by the department of commerce in accordance with the provisions of this act for a new or expanding Kansas basic enterprise.

(i) “IMPACT project” or “project” means a SKILL project, major project investment or a combination of the two.

(j) “Kansas basic enterprise” means any enterprise:

(1) Which is located or principally based in Kansas; and

(2) which can provide demonstrable evidence that:

(A) It is primarily engaged in any one or more of the Kansas basic industries; or

(B) it is primarily engaged in the development or production of goods or the provision of services for out-of-state sale; or

(C) it is primarily engaged in the production of goods or the provision of services which will attract out-of-state buyers or consumers into the state; or

(D) it is primarily engaged in the production of raw materials, ingredients, or components for other enterprises which export the majority of their products from the state; or

(E) it is a national or regional enterprise which is primarily engaged in interstate commerce or an affiliated management company of such an enterprise; or

(F) it is primarily engaged in the production of goods or the provision of services which will supplant goods or services which would be imported into the state; or

(G) it is the corporate or regional headquarters of a multistate enterprise which is primarily engaged in out-of-state industrial activities.

(k) “Kansas basic industry” means:

(1) Agriculture;

(2) mining;

(3) manufacturing;

(4) interstate transportation;

(5) wholesale trade which is primarily multistate in activity or which has a major import supplanting effect within the state;

(6) financial services which are provided primarily for interstate or international transactions;

(7) business services which are provided primarily in out-of-state markets;

(8) research and development of new products, processes, or technologies; or

(9) tourism activities which are primarily engaged in for the purpose of attracting out-of-state tourists.

(l) “Major project investment” or “investment” means financial assistance to an employer to defray business costs including, but not limited to, relocation expenses, building and equipment purchases, labor recruitment and job retention.

(m) “New job” means a job in a new or expanding Kansas basic enterprise not including jobs of recalled workers, or existing jobs that are vacant or other jobs that formerly existed in the Kansas basic enterprise in Kansas.

(n) “Primarily engaged” means engagement in an activity by an enterprise to the extent that not less than 51% of the gross income of the enterprise is derived from such engagement.

(o) “Program costs” means all necessary and incidental costs of providing program services, except that program costs shall not include: (1) Any wages paid to persons receiving education or training under a project, (2) any costs for purchase or lease of training equipment that exceed 50% of total program costs for the project, ~~and~~ (3) any costs for administrative

expenses of educational institutions that exceed 10% of total program costs for the project, and (4) any costs for direct investments in education and related workforce development institutions, for improvements to workforce development, human capital, training expertise and infrastructure that exceed 10% of total program costs.

(p) "Program services" means:

(1) New jobs training, including training development costs, except that the actual training period for any new job shall not exceed 36 months from the date the job is first filled by an employee;

(2) adult basic education and job-related instruction;

(3) vocational and skill-assessment services and testing;

(4) training equipment for education institutions;

(5) material and supplies;

(6) administrative expenses of educational institutions for new jobs training programs;

(7) subcontracted services with other educational institutions, private colleges or universities or other federal, state or local agencies; and

(8) contracted or professional service;

(9) major project investments; and

(10) direct investments in educational and related workforce development institutions, for improvements to workforce development, human capital, training expertise and infrastructure.

(q) "Retained job" means an existing job which will be lost without participation by the employer under the provisions of the IMPACT program.

(r) "Secretary" means the secretary of commerce.

(s) "SKILL project" means a training arrangement which is the subject of an agreement entered into between the educational institution and an employer to provide program services.

Sec. 67. K.S.A. 2003 Supp. 74-50,104 is hereby amended to read as follows: 74-50,104. (a) The secretary of commerce shall administer the provisions of this act and the IMPACT program established thereunder. The secretary of commerce shall encourage Kansas basic enterprises with similar training needs to cooperate in establishing SKILL projects. The secretary of commerce shall coordinate the SKILL program with other job training programs administered by the department of commerce. The secretary of commerce shall provide opportunities for coordination and cooperation of SKILL projects with other job training activities in Kansas. *Subject to the limitation in K.S.A. 74-50,103, the secretary shall be authorized to make direct investments in educational and related workforce development institutions, for the purpose of promoting improvements in workforce development, human capital, training expertise and infrastructure.*

(b) The secretary of commerce shall adopt rules and regulations as follows: (1) Prescribing review standards and priorities for approval of proposed agreements under this act, including appropriate incentives for cooperation among projects, in order to maximize the number of new jobs created with respect to individual Kansas basic enterprises, which will remain in Kansas, and (2) prescribing limits on program costs and on project and program size in relation to the number of new jobs created or the wages of new jobs created. No agreement shall be approved which provides for program costs of a project under the agreement of more than 90% of the amount equal to the estimated rate of withholding tax applied to the estimated amount of gross wages of all the new jobs under the project over a ten-year period.

(c) Notice of the approval of a project or program under the IMPACT act shall be provided to the chairpersons of the senate committee on commerce and the committee on economic development of the house of representatives.

(d) The secretary of commerce may adopt such other rules and regulations as may be required for the implementation and administration of this act.

Sec. 68. K.S.A. 2003 Supp. 74-50,107 is hereby amended to read as follows: 74-50,107. (a) The secretary of commerce shall determine and from time to time shall redetermine the rate at which moneys shall be credited to the IMPACT program repayment fund in order to satisfy all bond repayment obligations which have been incurred to finance program costs for IMPACT programs (which shall be referred to as the debt service rate) and the rate at which moneys shall be credited to the IMPACT

program services fund in order to finance program costs that are not financed by bonds (which shall be referred to as the direct funding rate). The total of the debt service rate and the direct funding rate shall be the combined rate. Each rate so determined shall be certified to the secretary of revenue. ~~On and after July 1, 2003,~~ The combined rate determined under this subsection shall not exceed 1.5%. On and after July 1, 2005, the combined rate determined under this subsection shall not exceed 2%.

(b) Upon receipt of the rates determined and certified under subsection (a), the secretary of revenue shall apply daily the combined rate to that portion of the moneys withheld from the wages of individuals and collected under the Kansas withholding and declaration of estimated tax act K.S.A. 79-3294 *et seq.*, and amendments thereto. The amount so determined shall be credited as follows: (1) The portion attributable to the debt service rate shall be credited to the IMPACT program repayment fund, and (2) the remaining portion shall be credited to the IMPACT program services fund.

~~The aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed 10% of the amount which results when the rate of 1% is applied to all money withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.~~

~~—On and after July 1, 2003,~~ The aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed ~~10%~~ 20% of the amount which results when the rate of 1.5% is applied to all moneys withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

On and after July 1, 2005, the aggregate of all amounts credited to the IMPACT program repayment fund under this section during any fiscal year to pay bond repayment obligations on bonds to finance major project investments shall not exceed ~~10%~~ 20% of the amount which results when the rate of 2% is applied to all money withheld from the wages of individuals and received under the Kansas withholding and declaration of estimated tax act.

Sec. 69. K.S.A. 2003 Supp. 74-50,108 is hereby amended to read as follows: 74-50,108. There is hereby created in the state treasury the IMPACT program services fund. The secretary of ~~commerce~~ shall administer the IMPACT program services fund. All moneys credited to the ~~SKILL~~ IMPACT program services fund shall be for all or part of the program costs of projects or major project investments approved by the secretary of ~~commerce~~ under this act, except that moneys in the IMPACT program services fund which are not required to pay program costs or major projects investments may be transferred to the state general fund in accordance with provisions of appropriation acts. All expenditures from the IMPACT program services fund shall be for the purposes of paying program costs and shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of ~~commerce~~ or the secretary's designee. The secretary of ~~commerce~~ shall remit all moneys received under this act, including the proceeds of bonds issued by the Kansas development finance authority for the purposes of this act 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 IMPACT program services fund.

New Sec. 70. (a) As used in this act: (1) "Contributions" means and includes the donation of cash, services or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(A) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(B) personal property items contributed shall be valued at the lesser of the item's fair market value or cost to the donor and may be inclusive of costs incurred in making the contribution. Such value shall not include sales tax;

(C) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any en-

cumbersome; and

(D) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

(2) "region" means multi-county areas as defined by the secretary of commerce;

(3) "regional foundation" means any organization in Kansas that demonstrates capacity to provide economic development services to regions as defined by this act, and: (A) Has obtained a ruling from the internal revenue service of the United States department of treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) or 501(c)(6) of the federal internal revenue code;

(B) has been designated as a certified development company by the United States small business administration;

(C) has been designated as an economic development district by the United States department of commerce's economic development administration;

(D) has been organized as a regional planning commission under K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A. 12-716 et seq., and amendments thereto; or

(E) is incorporated in the state of Kansas as a nonstock, nonprofit corporation;

(4) "rural community" means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible; and

(5) "taxpayer" means: (A) Any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;

(B) any individual subject to the state income tax imposed by the provisions of the Kansas income tax act;

(C) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

(D) any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto.

(b) For taxable years commencing after December 31, 2003, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act.

(c) (1) The secretary of commerce is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in that region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations promulgated pursuant to subsection (c)(1) to use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and \$2,000,000 for fiscal year 2007. Each region as defined by this act shall receive an equal share of this allocation.

(5) Any credits not sold by such regional foundations shall be reclaimed by the secretary from such region and redistributed to other regions that sold all credits previously issued.

(6) The secretary shall annually review and approve or disapprove the proposal of each designated regional foundation for continued eligibility for tax credits. The department of commerce retains that right to reclaim credits in such cases the regional foundation closes or there is demonstrated violation of the organization's policies. Changes to the investment

policies of each regional foundation are subject to approval of the secretary.

(d) (1) The amount of credit allowed pursuant to this act, shall not exceed 50% of the total amount contributed during the taxable year by the taxpayer to a regional foundation approved pursuant to this act.

(2) If the amount of the credit allowed by this act, exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(e) The provisions of this act shall be applicable to all taxable years beginning after December 31, 2003.

Sec. 71. K.S.A. 40-2803 is hereby amended to read as follows: 40-2803. For the purpose of computing the tax imposed upon life insurance companies under the provisions of this act the term "net income" shall mean the net taxable income for the preceding calendar year of such company as determined under the provisions of section 802 of the internal revenue code of 1954, as heretofore or hereafter amended. The term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations. The term "net income" shall include the amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, *and amendments thereto. The term "net income" shall include the amount of any contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to section 70, and amendments thereto.* In case the entire business of such company is not transacted within this state, the net income for the purposes of this act shall be determined by multiplying such net income by a fraction, the numerator of which shall be the premiums received from business transacted within this state and the denominator of which is the amount of premiums received by such company from all its business. Insurance companies connected through stock ownership, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination.

Sec. 72. K.S.A. 40-2804 is hereby amended to read as follows: 40-2804. For the purpose of computing the tax imposed under the provisions of this act the term "net income" as applied to a domestic fire and casualty insurance company shall mean the amount required to be reported as "net income" in the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; as applied to a domestic mutual hail insurance company the term "net income" shall mean the amount required to be reported as "net income," annual increase in reserve fund in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto; and as applied to a domestic county mutual fire insurance company the term "net income" shall mean the amount required to be reported as "net income," annual net gain in its combined reserve and general funds in section VII of the annual statement form required to be filed by such company with the Kansas commissioner of insurance under the provisions of K.S.A. 40-225, and amendments thereto. If any such domestic fire and casualty insurance company, domestic mutual hail insurance company, or domestic county mutual fire insurance company does business in states other than Kansas its "net income" shall be determined by the proportion of net premiums (gross premiums less cancellations) received from business written in Kansas compared to total net premiums received from all its business. Insurance companies connected through stock ownership with a common parent corporation, which operate under common control and management are hereby authorized to make a consolidated return for the purpose of determining "net income" under the provisions of this section and intercompany transactions shall not be considered or included for the purpose of such determination. If a domestic insurance company is exempt for any reason from filing an annual statement with the Kansas insurance department, its net income shall be determined in the same



manner as herein provided. For the purposes of this section, the term "net income" shall not include dividends received from stock issued by Kansas Venture Capital, Inc. to the extent such dividends are included in the Kansas taxable income of a corporation, interest income on obligations of this state or a political subdivision thereof which is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations. For the purposes of this section, the term "net income" shall include the amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto. For the purposes of this section, the term "net income" shall include the amount of any contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to section 70, and amendments thereto.

Sec. 73. K.S.A. 2003 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

(b) There shall be added to federal adjusted gross income:

(i) Interest income less any related expenses directly incurred in the purchase of state or political subdivision obligations, to the extent that the same is not included in federal adjusted gross income, on obligations of any state or political subdivision thereof, but to the extent that interest income on obligations of this state or a political subdivision thereof issued prior to January 1, 1988, is specifically exempt from income tax under the laws of this state authorizing the issuance of such obligations, it shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income. Interest income on obligations of this state or a political subdivision thereof issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income whether or not included in federal adjusted gross income.

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction.

(iv) Federal income tax refunds received by the taxpayer if the deduction of the taxes being refunded resulted in a tax benefit for Kansas income tax purposes during a prior taxable year. Such refunds shall be included in income in the year actually received regardless of the method of accounting used by the taxpayer. For purposes hereof, a tax benefit shall be deemed to have resulted if the amount of the tax had been deducted in determining income subject to a Kansas income tax for a prior year regardless of the rate of taxation applied in such prior year to the Kansas taxable income, but only that portion of the refund shall be included as bears the same proportion to the total refund received as the federal taxes deducted in the year to which such refund is attributable bears to the total federal income taxes paid for such year. For purposes of the foregoing sentence, federal taxes shall be considered to have been deducted only to the extent such deduction does not reduce Kansas taxable income below zero.

(v) The amount of any depreciation deduction or business expense deduction claimed on the taxpayer's federal income tax return for any capital expenditure in making any building or facility accessible to the handicapped, for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-32,177, and amendments thereto.

(vi) Any amount of designated employee contributions picked up by an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and amendments to such sections.

(vii) The amount of any charitable contribution made to the extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-32,196, and amendments thereto.

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2003 Supp. 79-32,204 and amendments thereto.

(ix) The amount of any ad valorem taxes and assessments paid and the amount of any costs incurred for habitat management or construction

and maintenance of improvements on real property, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments thereto.

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2003 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) *The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to section 70, and amendments thereto.*

(c) There shall be subtracted from federal adjusted gross income:

(i) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States and its possessions less any related expenses directly incurred in the purchase of such obligations or securities, to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(ii) Any amounts received which are included in federal adjusted gross income but which are specifically exempt from Kansas income taxation under the laws of the state of Kansas.

(iii) The portion of any gain or loss from the sale or other disposition of property having a higher adjusted basis for Kansas income tax purposes than for federal income tax purposes on the date such property was sold or disposed of in a transaction in which gain or loss was recognized for purposes of federal income tax that does not exceed such difference in basis, but if a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to that portion of such gain which is included in federal adjusted gross income.

(iv) The amount necessary to prevent the taxation under this act of any annuity or other amount of income or gain which was properly included in income or gain and was taxed under the laws of this state for a taxable year prior to the effective date of this act, as amended, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

(v) The amount of any refund or credit for overpayment of taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state, or any taxing jurisdiction, to the extent included in gross income for federal income tax purposes.

(vi) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income.

(vii) Amounts received as annuities under the federal civil service retirement system from the civil service retirement and disability fund and other amounts received as retirement benefits in whatever form which were earned for being employed by the federal government or for service in the armed forces of the United States.

(viii) Amounts received by retired railroad employees as a supplemental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) *et seq.*

(ix) Amounts received by retired employees of a city and by retired employees of any board of such city as retirement allowances pursuant to K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter ordinance exempting a city from the provisions of K.S.A. 13-14,106, and amendments thereto.

(x) For taxable years beginning after December 31, 1976, the amount of the federal tentative jobs tax credit disallowance under the provisions of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount of the targeted jobs tax credit and work incentive credit disallowances under 26 U.S.C. 280 C.

(xi) For taxable years beginning after December 31, 1986, dividend income on stock issued by Kansas Venture Capital, Inc.

(xii) For taxable years beginning after December 31, 1989, amounts received by retired employees of a board of public utilities as pension and retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249

and amendments thereto.

(xiii) For taxable years beginning after December 31, 1993, the amount of income earned on contributions deposited to an individual development account under K.S.A. 79-32,117h, and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation.

(xv) For all taxable years beginning after December 31, 1999, amounts not exceeding \$2,000, or \$4,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2003 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

(d) There shall be added to or subtracted from federal adjusted gross income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and amendments thereto.

(e) The amount of modifications required to be made under this section by a partner which relates to items of income, gain, loss, deduction or credit of a partnership shall be determined under K.S.A. 79-32,131, and amendments thereto, to the extent that such items affect federal adjusted gross income of the partner.

New Sec. 74. (a) The purpose of the Kansas angel investor tax credit act is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses, which are job and wealth creating enterprises, by granting tax credits against the Kansas income tax liability of investors investing in these businesses. The Kansas angel investor tax credit act shall be administered by the Kansas technology enterprise corporation with the primary goal of encouraging individuals to provide seed-capital financing for emerging, Kansas businesses engaged in the development, implementation and commercialization of innovative technologies, products and services.

(b) This act shall be known and may be cited as the Kansas angel investor tax credit act.

New Sec. 75. As used in this act:

(a) "Angel investor" and "investor" mean an accredited individual investor of high net worth, as defined in 17 C.F.R. 230.501(a) as in effect on the effective date of this act, who seeks high returns through private investments in start-up companies and may seek active involvement in business, such as consulting and mentoring the entrepreneur;

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

(c) "corporation" means the Kansas technology enterprise corporation, a public instrumentality created pursuant to K.S.A.74-8101, and amendments thereto;

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

(e) "qualified Kansas business" means the Kansas businesses that are approved and certified as qualified Kansas businesses as provided in section 4, and amendments thereto;

(f) "qualified securities" means a cash investment through any one or more forms of financial assistance as provided in this subsection that have been approved in form and substance by the Kansas technology enter-

prise corporation. Such forms of financial assistance are: (1) Any form of equity, such as: (A) A general or limited, partnership interest; (B) common stock; (C) preferred stock, with or without voting rights, without regard to seniority position, and whether or not convertible into common stock; or (D) any form of subordinate or convertible debt, or both, with warrants or other means of equity conversion attached; or

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

(g) "secretary" means the secretary of the department of commerce.

New Sec. 76. (a) A credit against the tax imposed by article 32 of chapter 79 of the Kansas Statutes Annotated on the Kansas taxable income of an angel investor and against the tax imposed by K.S.A. 40-252, and amendments thereto, shall be allowed for a cash investment in the qualified securities of a qualified Kansas business. The credit shall be in a total amount equal to 50% of such investors' cash investment in any qualified Kansas business, subject to the limitations set forth in subsection (b). This tax credit may be used in its entirety in the taxable year in which the cash investment is made except that no tax credit shall be allowed in a year prior to January 1, 2005. If the amount by which that portion of the credit allowed by this section exceeds the investors' liability in any one taxable year, beginning in the year 2005, the remaining portion of the credit may be carried forward until the total amount of the credit is used. If the investor is a corporation having an election in effect under subchapter S or limited liability corporation of the federal internal revenue code or a partnership, the credit provided by this section shall be claimed by the shareholders of corporations or the partners of a partnership in the same manner as shareholders or partners account for such shareholder's or partner's proportionate shares of the income or loss of these corporations or partnership.

(b) The secretary of revenue shall not allow tax credits that are attributable to an individual investor of more than \$50,000 of cash investments in the qualified securities of a single Kansas business or for cash investments in the qualified securities of more than five Kansas businesses each year. No tax credits authorized by this act shall be allowed for any cash investments in qualified securities for any year after the year 2016. The cumulative aggregate amount of the tax credits allowed by the secretary of revenue, pursuant to this act, shall not exceed \$20,000,000. The total amount of tax credits which may be allowed under this section shall not exceed \$2,000,000 per tax year.

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

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

(e) Any investor that is not subject to taxation under the provisions of article 32, chapter 79 of the Kansas Statutes Annotated and that makes a cash investment in a qualified security of a qualified Kansas business shall be deemed to acquire an interest in the nature of a transferable credit limited to an amount equal to 50% of this cash investment. This interest may be transferred to an investor and be claimed by this investor as a credit against the investor's Kansas income tax liability beginning in the year provided in subsection (a). No person shall be entitled to a refund for the interest created under this section. Only the full credit for any one investment may be transferred and this interest may only be transferred one time. A credit acquired by transfer shall be subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer shall be provided by the investor in the manner required by the director of taxation.

(f) The reasonable costs of the administration of this act, the review of applications for certification as qualified Kansas businesses and the issuance of tax credits authorized by this act shall be reimbursed through fees paid by the qualified Kansas businesses and the investors or the transferees of investors, according to a reasonable fee schedule adopted

by the corporation.

New Sec. 77. (a) Before an angel investor may be entitled to receive tax credits, as authorized by this act, such investor must have made a cash investment in a qualified security of a qualified Kansas business. This business must have been approved by the corporation as a qualified Kansas business prior to the date on which the cash investment was made. To be designated as a qualified Kansas business, a business must make application to the corporation in accordance with the provisions of this section.

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

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

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

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

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

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

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

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

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

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

(2) the business must have been in operation for less than five years;

(3) the business must not be engaged primarily in any one or more of the following enterprises: (A) Any service provider set forth in K.S.A. 17-2707, and amendments thereto; (B) the business of banking, savings and loan or lending institutions, credit or finance, or financial brokerage or investments; (C) the provision of professional services, such as legal, accounting or engineering services; (D) governmental, charitable, religious or trade organizations; (E) the ownership, development, brokerage, sales or leasing of real estate; (F) insurance; (G) construction or construction management or contracting; (H) business consulting or brokerage; (I) any business engaged primarily as a passive business, having irregular or non-continuous operations, or deriving substantially all of the income of the business from passive investments that generate interest, dividends, royalties, or capital gains, or any business arrangements the effect of which is to immunize an investor from risk of loss; (J) any Kansas certified capital formation company; and (K) any activity that is in violation of the law.

(4) The business must satisfy all other requirements of this act.

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

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

(f) A qualified Kansas business shall have the burden of proof to demonstrate to the corporation the qualifications of the business under this section and shall have the obligation to notify the corporation in a timely manner of any changes in the qualifications of the business or in the

eligibility of investors to claim a tax credit for cash investment in a qualified security.

New Sec. 78. The designation of a business as a qualified Kansas business shall be made by the corporation. A business shall be so designated if the corporation determines, based upon the application submitted by the business and any additional investigation the staff of the corporation shall make, that the following criteria have been or shall be satisfied:

- (1) The business has a reasonable chance of success;
- (2) the ability of investors in the business to receive tax credits for cash investments in qualified securities of the business is necessary, because funding otherwise available for the business is not available on commercially reasonable terms;
- (3) the business has the reasonable potential to create measurable employment within the state;
- (4) the business has an innovative and proprietary technology, product and service;
- (5) the existing owners of the business and other founders have made or are committed to make a substantial financial and time commitment to the business;
- (6) the securities to be issued and purchased are qualified securities; and
- (7) binding commitments have been made by the business to the corporation for adequate reporting of financial data, including a requirement for an annual report, or, if required by the board of directors of the corporation, an annual audit of the financial and operational records of the business, the right of access to the financial records of the business and the right of the corporation to record and publish normal and customary data and information related to the issuance of tax credits that are not otherwise determined to be trade or business secrets.

New Sec. 79. (a) Each qualified Kansas business for which tax credits have been issued pursuant to this act shall report to the corporation on an annual basis, the following: (1) The name, address and taxpayer identification number of each angel investor who has made cash investment in the qualified securities of a qualified Kansas business and has received tax credits for this investment during the preceding year and all other preceding years; (2) the amounts of these cash investments by each angel investor and a description of the qualified securities issued in consideration of such cash investments; (3) the name, address and taxpayer identification number of each investor to which tax credits issued pursuant to this act have been transferred by the original angel investor; and (4) any additional information as the corporation may require pursuant to this act.

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

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

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

(e) If the secretary determines that a business is not in substantial

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

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

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

(h) The department and the corporation may prepare and adopt procedures concerning the performance of the duties placed upon each respective entity by this act.

New Sec. 80. The state of Kansas shall not be held liable for any damages to any investor that makes an investment in any qualified security of a qualified Kansas business.

New Sec. 81. (a) The purpose of the Kansas downtown redevelopment act is to promote, stimulate and develop the general and economic welfare of the state of Kansas and its rural and low income communities, to encourage the rehabilitation and use of real property located in downtown areas that have become vacant or minimally utilized and to assist in the development and redevelopment of eligible areas within cities and counties thereby promoting the general welfare of the citizens of this state, by authorizing cities and counties to apply to the department of commerce to designate downtown redevelopment areas, wherein rebate of real property tax increments collected from real property may apply to properties which have undergone approved improvements.

(b) This act shall be known and may be cited as the Kansas downtown redevelopment act.

New Sec. 82. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates, otherwise:

(a) "Base year appraised value" means the appraised value, as determined by the county appraiser, of the real property located within the boundaries of a downtown redevelopment area for the tax year immediately preceding a twelve-month period in which an investment for improvements to the real property or trade fixtures therein, equal to or exceeding 25% of the appraised value of the real property, was made;

(b) "core commercial district" means an area of a city or unincorporated area of a county characterized by a variety of compact commercial, office, residential and public uses that make it most directly analogous to central business districts commonly identified by zoning regulations;

(c) "distressed community" means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below the poverty level as reported in the most recently completed decennial census published by the U.S. bureau of the census;

(d) "downtown redevelopment area" or "redevelopment area" means an area designated by the secretary of commerce pursuant to this act for the purpose of identifying real property that is eligible to receive tax benefits as provided in section 84, and amendments thereto;

(e) "governing body" means the governing body of a city or county;

(f) "real property taxes" means all taxes levied on an ad valorem basis upon land and the improvements thereon;

(g) "secretary" means the secretary of the department of commerce; and

(h) "tax increment" means all real property taxes assessed pursuant

to K.S.A. 79-1439, and amendments thereto, to the amount of the current appraised value of the property in excess of the base year appraised value of the property located within a redevelopment area or proposed redevelopment area.

New Sec. 83. (a) The governing body of a city or of an unincorporated area of a county proposing to establish a downtown redevelopment area shall make a written application to the secretary of the department of commerce for the designation of a downtown redevelopment area. Applications shall be made in a format approved by the secretary.

(b) After a review of the application and after an examination of the facts alleged, the secretary may approve the application based upon one or more of the following criteria:

(1) The city or unincorporated area of a county in which the redevelopment area is proposed has a population of less than 50,000 or the proposed redevelopment area qualifies as a distressed community;

(2) the proposed redevelopment area is located in a well-defined, core commercial district of the city or the unincorporated area of the county;

(3) if the structures located within the proposed redevelopment area have a vacancy rate that exceeds 15%; or

(4) the average appraised valuation of the properties located within the proposed redevelopment area has not increased by more than 15% in the past 10 years.

(c) In the event the secretary denies an application to designate a downtown redevelopment area, the secretary shall, within 90 days of the denial, issue a written statement of the controlling facts relied upon to the governing body of the city or of the unincorporated area of the county that requested the designation.

New Sec. 84. (a) The owner of real property located within a downtown redevelopment area may submit a written application to the governing body of the city or of the unincorporated area of the county in which the redevelopment area is located to request downtown redevelopment area tax benefits. The application for tax benefits shall be made on a form approved by the governing body of the city or of the unincorporated area of the county or such governing body's designee, and shall be accompanied by copies of dated records that verify the applicant's investment in improvements to the real property or trade fixtures located therein.

(b) After a review of the application for redevelopment tax benefits and after an examination of the facts alleged, the governing body of the city or of the unincorporated area of the county in which the downtown redevelopment area is located shall either approve or deny the application for redevelopment tax benefits based upon the following criteria:

(1) The applicant has made, within a twelve-month period, an investment in improvements to the real property or trade fixtures located therein, the value of which is equivalent to or exceeds 25% of the appraised value of the property, as determined by the county appraiser, for the immediately preceding tax year; and

(2) the real property that is the subject of the application is in full compliance with city ordinances or county resolutions.

New Sec. 85. Real property that has been approved for downtown redevelopment tax benefits pursuant to section 84, and amendments thereto, shall be assessed and taxed for real property tax purposes pursuant to law in the same manner that such property would be assessed and taxed if it had not been approved for downtown redevelopment tax benefits. All real property taxes assessed to the base year appraised value shall be credited to the fund for the purpose of returning all or part of the property tax increment to the taxpayer in the form of a rebate of 100% each year in years one through five, 80% in year six, 60% in year seven, 40% in year eight and 20% in year nine. No rebate shall be paid on or after the tenth year. Upon payment of taxes by the taxpayer, the rebate must be made within 30 days after the next distribution date as specified in K.S.A. 12-1678a, and amendments thereto.

Sec. 86. K.S.A. 12-1771, 12-1772, 40-2803, 40-2804, 74-8224, 74-8227, 74-8228 and 74-8229 and K.S.A. 2003 Supp. 12-1770a, 74-50,103, 74-50,104, 74-50,107, 74-50,108, 74-8004, 74-8221, 74-8222, 74-8223, 74-8225, 74-8226 and 79-32,117 are hereby repealed.

Sec. 87. This act shall take effect and be in force from and after its



publication in the statute book.

Approved April 19, 2004.

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