

SENATE BILL No. 209

By Committee on Ways and Means

2-18

1 AN ACT concerning government contracts and agreements; relating to
2 public disclosure of bids; contract and economic development
3 agreement requirements or preferences; competitive bid act; amending
4 K.S.A. 2012 Supp. 16-2003, 45-221, 72-6760, 75-3739a and 75-3740
5 and repealing the existing sections; also repealing K.S.A. 75-3740b and
6 K.S.A. 2012 Supp. 45-221j, 45-221k, 75-3317, 75-3319, 75-3320, 75-
7 3321, 75-3322, 75-3322b, 75-3322c and 75-3740d.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) For purposes of this subsection, "governmental
11 entity" shall be defined as provided in K.S.A. 16-2005, and amendments
12 thereto, and also include "governing bodies" as defined in K.S.A. 12-105a,
13 and amendments thereto.

14 (b) Notwithstanding any law to the contrary, all bid requests from
15 governmental entities or the director of purchases of the department of
16 administration and bids received for construction, goods and services
17 involving the expenditure of any state or local government funds in an
18 amount in excess of \$100,000, including related documents and all
19 information submitted which is considered by the governmental entity or
20 the director of purchases in evaluating the bid, shall be considered a public
21 record and shall be published by the director of administration upon
22 receipt by the director of purchases in the manner set forth herein. As part
23 of such a bid, bidders shall not be required to provide trade secrets,
24 information listed in K.S.A. 45-221, and amendments thereto, as
25 exceptions to the public record disclosure requirements or any information
26 deemed confidential under state or federal law.

27 (c) All governmental entities making such bid requests shall submit
28 copies or electronic copies of such bid requests and any amendments when
29 issued and such bids and accompanying documents when received to the
30 director of purchases of the department of administration for publishing as
31 provided in this section.

32 (d) In cooperation with Kansas.gov and the information network of
33 Kansas, inc., the secretary of administration and the director of purchases
34 of the department of administration shall provide for public access to all
35 such bid requests and all such bids received for each such bid request by a
36 governmental entity or the director of purchases on the KanView page of

1 the official internet website of the state of Kansas (Kansas.gov) as
2 described in this section. The information network of Kansas, inc. and
3 Kansas.gov shall assist the director of administration and the director of
4 purchases in accomplishing the directives of this section. The information
5 to be provided pursuant to this section shall be made available to the
6 public without cost and in a manner that enables the public to easily
7 search, display, and aggregate the information.

8 (e) The director of purchases of the department of administration, the
9 director of administration, the information network of Kansas, inc. and
10 Kansas.gov shall cause to be placed on Kansas.gov and the KanView
11 section of Kansas.gov a permanent link or tab to such bid requests and
12 such bids received for each such bid request. Such link or tab shall clearly
13 describe the information available and shall be readily accessible on the
14 first page of Kansas.gov and prominently displayed on the first page of
15 KanView. The bid request and each bid with accompanying documents,
16 including all information considered by the director or governmental entity
17 in evaluating such bid, shall be readily available for viewing by the public
18 via the link or tab.

19 (f) The director of purchases of the department of administration and
20 the director of administration shall cause the presentation of such bid
21 requests, such bids and related documents, and other relevant information
22 to be organized in a manner which best provides for ease of access and
23 searching by the public. Other relevant information shall include, but not
24 be limited to, the governmental entity making such bid request and a brief
25 explanation of the nature and purpose of such bid request. Such bid request
26 shall be published on the website when issued by the director or
27 governmental entity. Such bids and related documents shall be published
28 on the website when received by the director of purchases from bidders or
29 governmental entities which have received the bids.

30 (g) No bid may be accepted by the director of purchases of the
31 department of administration or by any governmental entity involving the
32 expenditure of state or local government funds in an amount greater than
33 \$100,000 unless all bids and related documents received have been
34 published in accordance with this section for at least 20 days. The 20-day
35 period shall commence on the date after the last such bid received for such
36 respective bid request or such amended or reissued bid request is so
37 published, and shall consist of 20 consecutive days including weekends
38 and holidays. Submission of additional material by a bidder to the director
39 of purchases or to the governmental entity shall restart the 20-day period
40 on the day after such material is published in accordance with this section.
41 No information shall be provided by such bidder and no such bid may be
42 accepted based upon information that is not published in the manner set
43 forth in this section.

1 (h) When such bid is accepted, the governmental entity shall
2 promptly advise the director of purchases of the department of
3 administration, and the director of purchases shall promptly update the
4 information on the website with information as to which bid has been
5 accepted by the director of purchases of the department of administration
6 or by the governmental entity in a prominent and readily available manner.
7 Such bid request and such bids submitted may be removed from the
8 website 30 days after the date the bid acceptance has been noted on the
9 website.

10 (i) This section shall be a part of and supplemental to the competitive
11 bid protection act.

12 New Sec. 2. (a) For purposes of this subsection, "business entity"
13 shall mean any corporation, professional corporation, limited liability
14 company, partnership, whether general or limited, limited liability
15 partnership, sole proprietorship, association, joint venture or any other
16 business organization created by law, or group or association thereof.

17 (b) (1) Notwithstanding any Kansas law to the contrary, and unless
18 otherwise required by federal law, each governmental entity in this state
19 that contracts for goods and services, or enters into any agreement to
20 award a grant, tax abatement, tax credit, or bond for economic
21 development purposes financed in whole or in part by state or local funds
22 or state or local tax revenues, shall ensure that neither the awarding
23 governmental entity nor any agent responsible for procuring a contract
24 directly between the governmental entity and a bidder or business entity
25 shall not:

26 (A) Require any bidder or business entity to enter into or agree to
27 enter into any collective bargaining agreement or any other similar
28 agreement with one or more labor organizations; or

29 (B) discriminate against or treat differently any bidder or business
30 entity for becoming, refusing to become or remaining signatories or
31 otherwise to agree to enter into any collective bargaining agreement or any
32 other similar agreement with one or more labor organizations.

33 (2) Nothing in this subsection shall prohibit:

34 (A) Any bidder or business entity from voluntarily entering into
35 agreements described in paragraph (A) of subsection (b); or

36 (B) any bidder or business entity from requiring its subcontractors or
37 material suppliers of any tier to enter into a collective bargaining
38 agreement.

39 (c) (1) Notwithstanding any Kansas law to the contrary, and unless
40 otherwise required by federal law, each governmental entity in this state
41 that contracts for public works construction or for goods and services, or
42 enters into any agreement to award a grant, tax abatement, tax credit, or
43 bond for economic development purposes financed in whole or in part by

1 state or local funds or state or local tax revenues, shall ensure that neither
2 the awarding governmental entity nor any agent responsible for procuring
3 a contract directly between the governmental entity and a contractor or
4 business entity shall not:

5 (A) Require any business entity, bidder, contractor, subcontractor or
6 material supplier to enter into or agree to enter into any agreement that
7 provides for any preference, limitation, or specification based on any of
8 the reasons constituting an unlawful discriminatory practice as listed in
9 K.S.A. 2012 Supp. 44-1002 (i)(1), and amendments thereto, or any other
10 reason not based on cost, considerations for determining a responsible
11 bidder, technical requirements or any factors required by federal law.

12 (B) discriminate against or treat preferentially any business entity,
13 bidder, contractor, subcontractor or material supplier on the basis of any of
14 the reasons constituting an unlawful discriminatory practice as listed in
15 K.S.A. 44-1002 (i), and amendments thereto, or any other reason not based
16 on cost, considerations for determining a responsible bidder, or other
17 factors required by federal law;

18 (C) require any business entity, bidder, contractor, subcontractor or
19 material supplier to enter into or agree to enter into any agreement to pay
20 compensation at any rate higher than the minimum wage required by state
21 or federal law, an agreement to provide a benefit not required by state or
22 federal law or an agreement for a specified wage or benefit scale; or

23 (D) discriminate against or treat preferentially any business entity,
24 bidder, contractor, subcontractor or material supplier for becoming,
25 refusing to become or remaining signatories or otherwise to agree to enter
26 into any agreement to pay compensation at any rate higher than the
27 minimum wage required by state or federal law, an agreement to provide a
28 benefit not required by state or federal law, or an agreement for a specified
29 wage or benefit scale.

30 (2) Nothing in this subsection shall prohibit any business entity, bidder,
31 contractor, subcontractor, construction manager, design-builder or material
32 supplier of any tier from voluntarily entering into agreements described in
33 paragraphs (1)(A) and (C).

34 Sec. 3. K.S.A. 2012 Supp. 16-2003 is hereby amended to read as
35 follows: 16-2003. (a) Unless otherwise required by *federal* law, each
36 governmental entity within this state that contracts for public works
37 construction shall ensure that neither the awarding governmental entity nor
38 any agent responsible for procuring a contract directly between the
39 governmental entity and a contractor shall not:

40 (1) Require any bidder, contractor, subcontractor or material supplier
41 to enter into or agree to enter into any prehire agreement, project labor
42 agreement, collective bargaining agreement or any other similar agreement
43 with one or more labor organizations on the same or other related

1 construction projects; or

2 (2) discriminate against or treat differently any bidder, contractor,
3 subcontractor or material supplier for becoming, refusing to become or
4 remaining signatories or otherwise to agree to enter into any prehire
5 agreement, project labor agreement, collective bargaining agreement or
6 any other similar agreement with one or more labor organizations on the
7 same or other related construction projects.

8 (b) *Notwithstanding any provision of state law to the contrary, a*
9 *governmental entity shall not award a grant, tax abatement, tax credit, or*
10 *agreement for an economic development bond financed in whole or in part*
11 *by state or local funds or state or local tax revenues that is conditioned*
12 *upon a requirement that the awardee include a term described in*
13 *subsection (a)(1) or (2).*

14 (c) Nothing in this section shall prohibit:

15 (1) Any bidder, contractor, subcontractor, construction manager,
16 design-builder or material supplier of any tier from voluntarily entering
17 into agreements described in paragraph (1) of subsection (a); or

18 (2) any contractor, construction manager or design builder from
19 requiring its subcontractors or material suppliers of any tier to enter into a
20 collective bargaining agreement.

21 Sec. 4. K.S.A. 2012 Supp. 45-221 is hereby amended to read as
22 follows: 45-221. (a) Except to the extent disclosure is otherwise required
23 by law, a public agency shall not be required to disclose:

24 (1) Records the disclosure of which is specifically prohibited or
25 restricted by federal law, state statute or rule of the Kansas supreme court
26 or rule of the senate committee on confirmation oversight relating to
27 information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-
28 4315d, and amendments thereto, or the disclosure of which is prohibited or
29 restricted pursuant to specific authorization of federal law, state statute or
30 rule of the Kansas supreme court or rule of the senate committee on
31 confirmation oversight relating to information submitted to the committee
32 pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to
33 restrict or prohibit disclosure.

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

36 (3) Medical, psychiatric, psychological or alcoholism or drug
37 dependency treatment records which pertain to identifiable patients.

38 (4) Personnel records, performance ratings or individually identifiable
39 records pertaining to employees or applicants for employment, except that
40 this exemption shall not apply to the names, positions, salaries or actual
41 compensation employment contracts or employment-related contracts or
42 agreements and lengths of service of officers and employees of public
43 agencies once they are employed as such.

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

3 (6) Letters of reference or recommendation pertaining to the character
4 or qualifications of an identifiable individual, except documents relating to
5 the appointment of persons to fill a vacancy in an elected office.

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

9 (8) Information which would reveal the identity of an individual who
10 lawfully makes a donation to a public agency, if anonymity of the donor is
11 a condition of the donation, except if the donation is intended for or
12 restricted to providing remuneration or personal tangible benefit to a
13 named public officer or employee.

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

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

22 (A) Is in the public interest;

23 (B) would not interfere with any prospective law enforcement action,
24 criminal investigation or prosecution;

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

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

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

30 (F) would not reveal the name, address, phone number or any other
31 information which specifically and individually identifies the victim of any
32 sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,
33 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes
34 Annotated, and amendments thereto.

35 If a public record is discretionarily closed by a public agency pursuant
36 to this subsection, the record custodian, upon request, shall provide a
37 written citation to the specific provisions of paragraphs (A) through (F)
38 that necessitate closure of that public record.

39 (11) Records of agencies involved in administrative adjudication or
40 civil litigation, compiled in the process of detecting or investigating
41 violations of civil law or administrative rules and regulations, if disclosure
42 would interfere with a prospective administrative adjudication or civil
43 litigation or reveal the identity of a confidential source or undercover

1 agent.

2 (12) Records of emergency or security information or procedures of a
3 public agency, or plans, drawings, specifications or related information for
4 any building or facility which is used for purposes requiring security
5 measures in or around the building or facility or which is used for the
6 generation or transmission of power, water, fuels or communications, if
7 disclosure would jeopardize security of the public agency, building or
8 facility.

9 (13) The contents of appraisals or engineering or feasibility estimates
10 or evaluations made by or for a public agency relative to the acquisition *or*
11 *disposal* of property, prior to the award of formal contracts therefor.

12 (14) Correspondence between a public agency and a private
13 individual, other than correspondence which is intended to give notice of
14 an action, policy or determination relating to any regulatory, supervisory or
15 enforcement responsibility of the public agency or which is widely
16 distributed to the public by a public agency and is not specifically in
17 response to communications from such a private individual.

18 (15) Records pertaining to employer-employee negotiations, if
19 disclosure would reveal information discussed in a lawful executive
20 session under K.S.A. 75-4319, and amendments thereto.

21 (16) Software programs for electronic data processing and
22 documentation thereof, but each public agency shall maintain a register,
23 open to the public, that describes:

24 (A) The information which the agency maintains on computer
25 facilities; and

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

28 (17) Applications, financial statements and other information
29 submitted in connection with applications for student financial assistance
30 where financial need is a consideration for the award.

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

34 (19) Well samples, logs or surveys which the state corporation
35 commission requires to be filed by persons who have drilled or caused to
36 be drilled, or are drilling or causing to be drilled, holes for the purpose of
37 discovery or production of oil or gas, to the extent that disclosure is
38 limited by rules and regulations of the state corporation commission.

39 (20) Notes, preliminary drafts, research data in the process of
40 analysis, unfunded grant proposals, memoranda, recommendations or
41 other records in which opinions are expressed or policies or actions are
42 proposed, except that this exemption shall not apply when such records are
43 publicly cited or identified in an open meeting or in an agenda of an open

1 meeting.

2 (21) Records of a public agency having legislative powers, which
3 records pertain to proposed legislation or amendments to proposed
4 legislation, except that this exemption shall not apply when such records
5 are:

6 (A) Publicly cited or identified in an open meeting or in an agenda of
7 an open meeting; or

8 (B) distributed to a majority of a quorum of any body which has
9 authority to take action or make recommendations to the public agency
10 with regard to the matters to which such records pertain.

11 (22) Records of a public agency having legislative powers, which
12 records pertain to research prepared for one or more members of such
13 agency, except that this exemption shall not apply when such records are:

14 (A) Publicly cited or identified in an open meeting or in an agenda of
15 an open meeting; or

16 (B) distributed to a majority of a quorum of any body which has
17 authority to take action or make recommendations to the public agency
18 with regard to the matters to which such records pertain.

19 (23) Library patron and circulation records which pertain to
20 identifiable individuals.

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

23 (25) Records which represent and constitute the work product of an
24 attorney.

25 (26) Records of a utility or other public service pertaining to
26 individually identifiable residential customers of the utility or service,
27 except that information concerning billings for specific individual
28 customers named by the requester shall be subject to disclosure as
29 provided by this act.

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

32 (28) Sealed bids and related documents *involving the expenditure of*
33 *state or local government funds of \$100,000 or less*, until a bid is accepted
34 or all bids rejected.

35 (29) Correctional records pertaining to an identifiable inmate or
36 release, except that:

37 (A) The name; photograph and other identifying information;
38 sentence data; parole eligibility date; custody or supervision level;
39 disciplinary record; supervision violations; conditions of supervision,
40 excluding requirements pertaining to mental health or substance abuse
41 counseling; location of facility where incarcerated or location of parole
42 office maintaining supervision and address of a releasee whose crime was
43 committed after the effective date of this act shall be subject to disclosure

1 to any person other than another inmate or releasee, except that the
2 disclosure of the location of an inmate transferred to another state pursuant
3 to the interstate corrections compact shall be at the discretion of the
4 secretary of corrections;

5 (B) ~~the ombudsman of corrections,~~ the attorney general, law
6 enforcement agencies, counsel for the inmate to whom the record pertains
7 and any county or district attorney shall have access to correctional records
8 to the extent otherwise permitted by law;

9 (C) the information provided to the law enforcement agency pursuant
10 to the sex offender registration act, K.S.A. 22-4901 et seq., and
11 amendments thereto, shall be subject to disclosure to any person, except
12 that the name, address, telephone number or any other information which
13 specifically and individually identifies the victim of any offender required
14 to register as provided by the Kansas offender registration act, K.S.A. 22-
15 4901 et seq., and amendments thereto, shall not be disclosed; and

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

21 (30) Public records containing information of a personal nature where
22 the public disclosure thereof would constitute a clearly unwarranted
23 invasion of personal privacy.

24 (31) Public records pertaining to prospective location of a business or
25 industry where no previous public disclosure has been made of the
26 business' or industry's interest in locating in, relocating within or
27 expanding within the state. This exception shall not include those records
28 pertaining to application of agencies for permits or licenses necessary to
29 do business or to expand business operations within this state, except as
30 otherwise provided by law.

31 (32) Engineering and architectural estimates made by or for any
32 public agency relative to public improvements.

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

35 (34) Records involved in the obtaining and processing of intellectual
36 property rights that are expected to be, wholly or partially vested in or
37 owned by a state educational institution, as defined in K.S.A. 76-711, and
38 amendments thereto, or an assignee of the institution organized and
39 existing for the benefit of the institution.

40 (35) Any report or record which is made pursuant to K.S.A. 65-4922,
41 65-4923 or 65-4924, and amendments thereto, and which is privileged
42 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

43 (36) Information which would reveal the precise location of an

1 archeological site.

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

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

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

12 (40) Disclosure reports filed with the commissioner of insurance
13 under subsection (a) of K.S.A. 40-2,156, and amendments thereto.

14 (41) All financial analysis ratios and examination synopses
15 concerning insurance companies that are submitted to the commissioner by
16 the national association of insurance commissioners' insurance regulatory
17 information system.

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

20 (43) Market research, market plans, business plans and the terms and
21 conditions of managed care or other third-party contracts, developed or
22 entered into by the university of Kansas medical center in the operation
23 and management of the university hospital which the chancellor of the
24 university of Kansas or the chancellor's designee determines would give an
25 unfair advantage to competitors of the university of Kansas medical center.

26 (44) The amount of franchise tax paid to the secretary of revenue or
27 the secretary of state by domestic corporations, foreign corporations,
28 domestic limited liability companies, foreign limited liability companies,
29 domestic limited partnership, foreign limited partnership, domestic limited
30 liability partnerships and foreign limited liability partnerships.

31 (45) Records, other than criminal investigation records, the disclosure
32 of which would pose a substantial likelihood of revealing security
33 measures that protect: (A) Systems, facilities or equipment used in the
34 production, transmission or distribution of energy, water or
35 communications services; (B) transportation and sewer or wastewater
36 treatment systems, facilities or equipment; or (C) private property or
37 persons, if the records are submitted to the agency. For purposes of this
38 paragraph, security means measures that protect against criminal acts
39 intended to intimidate or coerce the civilian population, influence
40 government policy by intimidation or coercion or to affect the operation of
41 government by disruption of public services, mass destruction,
42 assassination or kidnapping. Security measures include, but are not limited
43 to, intelligence information, tactical plans, resource deployment and

1 vulnerability assessments.

2 (46) Any information or material received by the register of deeds of
3 a county from military discharge papers, DD Form 214. Such papers shall
4 be disclosed: To the military dischargee; to such dischargee's immediate
5 family members and lineal descendants; to such dischargee's heirs, agents
6 or assigns; to the licensed funeral director who has custody of the body of
7 the deceased dischargee; when required by a department or agency of the
8 federal or state government or a political subdivision thereof; when the
9 form is required to perfect the claim of military service or honorable
10 discharge or a claim of a dependent of the dischargee; and upon the written
11 approval of the commissioner of veterans affairs, to a person conducting
12 research.

13 (47) Information that would reveal the location of a shelter or a
14 safehouse or similar place where persons are provided protection from
15 abuse or the name, address, location or other contact information of
16 alleged victims of stalking, domestic violence or sexual assault.

17 (48) Policy information provided by an insurance carrier in
18 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments
19 thereto. This exemption shall not be construed to preclude access to an
20 individual employer's record for the purpose of verification of insurance
21 coverage or to the department of labor for their business purposes.

22 (49) An individual's e-mail address, cell phone number and other
23 contact information which has been given to the public agency for the
24 purpose of public agency notifications or communications which are
25 widely distributed to the public.

26 (50) Information provided by providers to the local collection point
27 administrator or to the 911 coordinating council pursuant to the Kansas
28 911 act, and amendments thereto, upon request of the party submitting
29 such records.

30 (51) Records of a public agency which identify the home address or
31 home ownership of a law enforcement officer as defined in K.S.A. 2012
32 Supp. 21-5111, and amendments thereto, parole officer, probation officer,
33 court services officer or community correctional services officer. The
34 agency head of such law enforcement office, parole office, probation
35 office, court services office or community correctional services office or
36 such individual officer shall file with the custodian of such record a
37 request to have such officer's identifying information removed from public
38 access. Within seven days of receipt of such requests, the public agency
39 shall remove such officer's identifying information from such public
40 access.

41 (52) Records of a public agency which identify the home address or
42 home ownership of a federal judge, a justice of the supreme court, a judge
43 of the court of appeals, a district judge, a district magistrate judge, the

1 United States attorney for the district of Kansas, an assistant United States
2 attorney, the attorney general, an assistant attorney general, a district
3 attorney or county attorney or an assistant district attorney or assistant
4 county attorney. Such person or such person's employer shall file with the
5 custodian of such record a request to have such person's identifying
6 information removed from public access. Within seven days of receipt of
7 such requests, the public agency shall remove such person's identifying
8 information from such public access.

9 (b) Except to the extent disclosure is otherwise required by law or as
10 appropriate during the course of an administrative proceeding or on appeal
11 from agency action, a public agency or officer shall not disclose financial
12 information of a taxpayer which may be required or requested by a county
13 appraiser or the director of property valuation to assist in the determination
14 of the value of the taxpayer's property for ad valorem taxation purposes; or
15 any financial information of a personal nature required or requested by a
16 public agency or officer, including a name, job description or title
17 revealing the salary or other compensation of officers, employees or
18 applicants for employment with a firm, corporation or agency, except a
19 public agency. Nothing contained herein shall be construed to prohibit the
20 publication of statistics, so classified as to prevent identification of
21 particular reports or returns and the items thereof.

22 (c) As used in this section, the term "cited or identified" shall not
23 include a request to an employee of a public agency that a document be
24 prepared.

25 (d) If a public record contains material which is not subject to
26 disclosure pursuant to this act, the public agency shall separate or delete
27 such material and make available to the requester that material in the
28 public record which is subject to disclosure pursuant to this act. If a public
29 record is not subject to disclosure because it pertains to an identifiable
30 individual, the public agency shall delete the identifying portions of the
31 record and make available to the requester any remaining portions which
32 are subject to disclosure pursuant to this act, unless the request is for a
33 record pertaining to a specific individual or to such a limited group of
34 individuals that the individuals' identities are reasonably ascertainable, the
35 public agency shall not be required to disclose those portions of the record
36 which pertain to such individual or individuals.

37 (e) The provisions of this section shall not be construed to exempt
38 from public disclosure statistical information not descriptive of any
39 identifiable person.

40 (f) Notwithstanding the provisions of subsection (a), any public
41 record which has been in existence more than 70 years shall be open for
42 inspection by any person unless disclosure of the record is specifically
43 prohibited or restricted by federal law, state statute or rule of the Kansas

1 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
2 amendments thereto.

3 (g) Any confidential records or information relating to security
4 measures provided or received under the provisions of subsection (a)(45)
5 shall not be subject to subpoena, discovery or other demand in any
6 administrative, criminal or civil action.

7 Sec. 5. K.S.A. 2012 Supp. 72-6760 is hereby amended to read as
8 follows: 72-6760. (a) Except as provided by this section ~~and K.S.A. 72-~~
9 ~~6760b~~, no expenditure involving an amount greater than \$20,000 for
10 construction, reconstruction or remodeling or for the purchase of materials,
11 goods or wares shall be made by the board of education of any school
12 district except upon sealed proposals, and to the lowest responsible bidder.

13 (b) The provisions of subsection (a) do not apply to expenditures by a
14 board of education for the purchase of:

15 (1) Services;

16 (2) ~~products required to be purchased under the provisions of K.S.A.~~
17 ~~75-3317 through 75-3322, and amendments thereto;~~

18 (3) ~~educational materials directly related to curriculum and secured~~
19 ~~by copyright;~~

20 ~~(4)~~(3) motor fuels required to provide or furnish transportation;

21 ~~(5)~~ (4) food and foodstuffs necessary for the implementation or
22 operation of any child nutrition program;

23 ~~(6)~~ (5) articles or products that are produced, manufactured or
24 provided by inmates under the prison-made goods act of Kansas;

25 ~~(7)~~ (6) natural gas that will be consumed in buildings owned or
26 operated by the school district;

27 ~~(8)~~ (7) materials, goods or wares required for reconstructing,
28 remodeling, repairing or equipping buildings when such purchase has been
29 necessitated by the occurrence of a loss against which the board of
30 education has purchased property or casualty insurance; and

31 ~~(9)~~ (8) materials, goods or wares which are purchased:

32 (A) From vendors who have entered into contracts with the state
33 director of purchases pursuant to state purchasing statutes for purchases by
34 state agencies;

35 (B) under the same pricing provisions established in the state
36 contracts, subject to agreement of the vendor to honor the state contract
37 prices; and

38 (C) under the same pricing provisions established in federal, national
39 or other state contracts facilitated by a federal or local governmental entity
40 or agency, subject to:

41 (i) Agreement of the vendor to honor the contract prices; and

42 (ii) approval by the board of education for expenditures in an amount
43 greater than \$20,000.

1 (c) Whenever the board of education of any school district lets bids
2 for the purchase of materials, goods or wares and bids are submitted by
3 bidders domiciled within the school district and by bidders domiciled
4 outside the school district and the low bid is submitted by a bidder
5 domiciled outside the school district, the school district domiciliary which
6 submitted the lowest bid may be deemed the preferred bidder and awarded
7 the bid if:

8 (1) The quality, suitability and usability of the materials, goods or
9 wares are equal;

10 (2) the amount of the bid of the school district domiciliary is not more
11 than 1% greater than the amount of the low bid; and

12 (3) the school district domiciliary agrees to meet the low bid by filing
13 a written agreement to that effect within 72 hours after receiving
14 notification of being deemed the preferred bidder.

15 (d) The provisions of subsection (c) do not apply to expenditures for
16 construction, reconstruction or remodeling.

17 Sec. 6. K.S.A. 2012 Supp. 75-3739a is hereby amended to read as
18 follows: ~~75-3739a. (a) Subject to the provisions of K.S.A. 75-3317~~
19 ~~through 75-3322, and amendments thereto,~~ The director of purchases shall
20 have power to utilize the reverse auctioning electronic procurement
21 process for the purchase of selected goods or materials for one or more
22 state agencies in accordance with this section. The director of purchases
23 shall adopt policies and procedures for such reverse auctioning electronic
24 procurements process in accordance with and subject to the provisions of
25 this section.

26 (b) The provisions of K.S.A. 75-430, and amendments thereto,
27 relating to advertisements in the Kansas register and the provisions of
28 K.S.A. 75-3739 et seq., and amendments thereto, regarding procedures for
29 sealed bidding and the opening of bids shall not apply to bids or purchases
30 conducted under the reverse auctioning electronic procurement process in
31 accordance with this section. All bids submitted under the reverse
32 auctioning electronic procurement process in accordance with this section
33 shall be subject to the open records act.

34 (c) Reverse auctioning shall not be used for the acquisition of any
35 services for construction projects or for the acquisition of any other
36 services.

37 (d) As used in this section, "reverse auctioning" means a procurement
38 process following procedures approved by the director of purchases where
39 bidders are invited to bid on specific goods through real-time electronic
40 bidding, with the award being made to the lowest responsible and
41 responsive bidder; during the bidding process, bidders' prices are revealed
42 and bidders shall have the opportunity to modify their bid prices for the
43 duration of the time period established for the bid opening.

1 Sec. 7. K.S.A. 2012 Supp. 75-3740 is hereby amended to read as
2 follows: 75-3740. (a) ~~Except as provided by K.S.A. 75-3740b, and~~
3 ~~amendments thereto, and subsection (g);~~ All contracts and purchases made
4 by or under the supervision of the director of purchases or any state agency
5 for which competitive bids are required shall be awarded to the lowest
6 responsible bidder, taking into consideration conformity with the
7 specifications, terms of delivery, and other conditions imposed in the call
8 for bids.

9 (b) The director of purchases shall have power to decide as to the
10 lowest responsible bidder for all purchases, but if:

11 ~~(1) the dollar amount of the bid received from the lowest responsible~~
12 ~~bidder from within the state is identical to the dollar amount of the bid~~
13 ~~received from the lowest responsible bidder from without the state, the~~
14 ~~contract shall be awarded to the bidder from within the state; and~~

15 ~~(2) in the case of bids for paper products specified in K.S.A. 75-~~
16 ~~3740b, and amendments thereto, the dollar amounts of the bids received~~
17 ~~from two or more lowest responsible bidders are identical, the contract~~
18 ~~shall be awarded to the bidder whose bid is for those paper products~~
19 ~~containing the highest percentage of recycled materials.~~

20 (c) Any or all bids may be rejected, and a bid shall be rejected if it
21 contains any material alteration or erasure made after the bid is opened.
22 The director of purchases may reject the bid of any bidder who is in
23 arrears on taxes due the state, who is not properly registered to collect and
24 remit taxes due the state or who has failed to perform satisfactorily on a
25 previous contract with the state. The secretary of revenue is hereby
26 authorized to exchange such information with the director of purchases as
27 is necessary to effectuate the preceding sentence notwithstanding any other
28 provision of law prohibiting disclosure of the contents of taxpayer records
29 or information. Prior to determining the lowest responsible bidder on
30 contracts for construction of buildings or for major repairs or
31 improvements to buildings for state agencies, the director of purchases
32 shall consider: (1) The criteria and information developed by the secretary
33 of administration, with the advice of the state building advisory
34 commission to rate contractors on the basis of their performance under
35 similar contracts with the state, local governmental entities and private
36 entities, in addition to other criteria and information available; and (2) the
37 recommendations of the project architect, or, if there is no project
38 architect, the recommendations of the secretary of administration or the
39 agency architect for the project as provided in K.S.A. 75-1254, and
40 amendments thereto. In any case where competitive bids are required and
41 where all bids are rejected, new bids shall be called for as in the first
42 instance, unless otherwise expressly provided by law or the state agency
43 elects not to proceed with the procurement.

1 (d) Before the awarding of any contract for construction of a building
2 or the making of repairs or improvements upon any building for a state
3 agency, the director of purchases shall receive written approval from the
4 state agency for which the building construction project has been
5 approved, that the bids generally conform with the plans and specifications
6 prepared by the project architect, by the secretary of administration or by
7 the agency architect for the project, as the case may be, so as to avoid error
8 and mistake on the part of the contractors. In all cases where material
9 described in a contract can be obtained from any state institution, the
10 director of purchases shall exclude the same from the contract.

11 (e) All bids with the names of the bidders and the amounts thereof,
12 together with all documents pertaining to the award of a contract, shall be
13 made a part of a file or record and retained by the director of purchases for
14 five years, unless reproduced as provided in K.S.A. 75-3737, and
15 amendments thereto, and shall be open to public inspection at all
16 reasonable times.

17 (f) As used in this section and in K.S.A. 75-3741, and amendments
18 thereto, "project architect" shall have the meaning ascribed thereto in
19 K.S.A. 75-1251, and amendments thereto.

20 ~~(g) When a state agency is receiving bids to purchase passenger-~~
21 ~~motor vehicles, such agency shall follow the procedures prescribed in~~
22 ~~subsection (b)(1), except in the case where one of the responsible bidders~~
23 ~~offers motor vehicles which are assembled in Kansas. In such a case, 3%~~
24 ~~of the bid of the responsible bidder which offers motor vehicles assembled~~
25 ~~in Kansas shall be subtracted from the bid amount, and that amount shall~~
26 ~~be used to determine the lowest bid pursuant to subsection (b)(1). This~~
27 ~~subsection shall only apply to bids which match the exact motor vehicle~~
28 ~~specifications of the agency purchasing passenger motor vehicles.~~

29 Sec. 8. K.S.A. 75-3740b and K.S.A. 2012 Supp. 16-2003, 45-221, 45-
30 221j, 45-221k, 72-6760, 75-3317, 75-3319, 75-3320, 75-3321, 75-3322,
31 75-3322b, 75-3322c, 75-3739a, 75-3740 and 75-3740d are hereby
32 repealed.

33 Sec. 9. This act shall take effect and be in force from and after its
34 publication in the statute book.