

**BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS**

In the Matter of the Application of ANDERSON COUNTY )  
FIREFIGHTERS RELIEF ASSOCIATION, ATCHISON )  
FIREFIGHTERS RELIEF ASSOCIATION, BALDWIN )  
FIREFIGHTERS RELIEF ASSOCIATION, COLBY )  
FIREFIGHTERS RELIEF ASSOCIATION, HAYS )  
FIREFIGHTERS RELIEF ASSOCIATION, HUTCHINSON )  
FIREFIGHTERS RELIEF ASSOCIATION, INDEPENDENCE )  
FIREFIGHTERS RELIEF ASSOCIATION, JEFFERSON )  
COUNTY #5 FIREFIGHTERS RELIEF ASSOCIATION, )  
JOHNSON COUNTY #2 CONSOLIDATED FIREFIGHTERS )  
RELIEF ASSOCIATION, KAW TOWNSHIP FIREFIGHTERS )  
RELIEF ASSOCIATION, LEAVENWORTH FIREFIGHTERS )  
RELIEF ASSOCIATION, LINN COUNTY RURAL )  
FIREFIGHTERS RELIEF ASSOCIATION, LOUISBURG )  
FIREFIGHTERS RELIEF ASSOCIATION, MCPHERSON )  
FIREFIGHTERS RELIEF ASSOCIATION, MINNEOLA )  
FIREFIGHTERS RELIEF ASSOCIATION, MISSION )  
TOWNSHIP FIREFIGHTERS RELIEF ASSOCIATION, )  
NORWICH FIREFIGHTERS RELIEF ASSOCIATION, )  
OSAWATOMIE FIREFIGHTERS RELIEF ASSOCIATION, )  
POTWIN FIREFIGHTERS RELIEF ASSOCIATION, QUINTER )  
FIREFIGHTERS RELIEF ASSOCIATION, SALINA )  
FIREFIGHTERS RELIEF ASSOCIATION, SHAWNEE )  
COUNTY#3 FIREFIGHTERS, STEVENS COUNTY )  
FIREFIGHTERS RELIEF ASSOCIATION, TESCOTT )  
FIREFIGHTERS RELIEF ASSOCIATION, TONGANOXIE )  
FIREFIGHTERS RELIEF ASSOCIATION, TOPEKA )  
FIREFIGHTERS RELIEF ASSOCIATION, )  
TOPEKA-TECUMSEH FIREFIGHTERS RELIEF )  
ASSOCIATION, VALLEY CENTER FIREFIGHTERS RELIEF )  
ASSOCIATION, VICTORIA FIREFIGHTERS RELIEF )  
ASSOCIATION, WAMEGO FIREFIGHTERS RELIEF )  
ASSOCIATION, WELLINGTON FIREFIGHTERS RELIEF )  
ASSOCIATION, WHITEWATER FIREFIGHTERS RELIEF )  
ASSOCIATION )

Docket No. 2902-FR

## **ORDER**

After due and proper notice, this matter was called for hearing on November 20, 2000, pursuant to Kansas Statutes Annotated (K.S.A.) 40-1706(c)(6) and the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Those Firefighter Relief Associations present and applying for a redetermination were Anderson County Firefighters Relief Association, Atchison Firefighters Relief Association, Baldwin Firefighters Relief Association, Colby Firefighters Relief Association, Hays Firefighters Relief Association, Hutchinson Firefighters Relief Association, Independence Firefighters Relief Association, Jefferson County #5 Firefighters Relief Association, Johnson County Consolidated #2 Firefighters Relief Association, Kaw Township Firefighters Relief Association, Leavenworth Firefighters Relief Association, Linn County Rural Firefighters Relief Association, Louisburg Firefighters Relief Association, McPherson Firefighters Relief Association, Minneola Firefighters Relief Association, Mission Township Firefighters Relief Association, Norwich Firefighters Relief Association, Osawatomie Firefighters Relief Association, Potwin Firefighters Relief Association, Quinter Firefighters Relief Association, Salina Firefighters Relief Association, Shawnee County #3 Firefighters Relief Association, Stevens County #1 Firefighters Relief Association, Tescott Firefighters Relief Association, Tonganoxie Firefighters Relief Association, Topeka Firefighters Relief Association, Topeka-Tecumseh Firefighters Relief Association, Valley Center Firefighters Relief Association, Victoria Firefighters Relief Association, Wamego Firefighters Relief Association, Wellington Firefighters Relief Association, and Whitewater Firefighters Relief Association.

The Anderson County Firefighters Relief Association withdrew their request for a Redetermination Hearing on October 18, 2000. The Atchison Firefighters Relief Association presented

evidence under oath by Sworn Affidavit. The Baldwin Firefighters Relief Association presented evidence By Sworn Affidavit. The Colby Firefighters Relief Association presented evidence by Sworn Affidavit. The Hays Firefighters Relief Association presented evidence by Sworn Affidavit. The Hutchinson Firefighters Relief Association presented evidence by Sworn Affidavit. The Independence Firefighters Relief Association appeared and presented evidence by Larry McManus, Secretary Treasurer and by Dale Rail, Independence Fire Chief. The Jefferson County #5 Firefighters Relief Association presented evidence by Sworn Affidavit. The Johnson County Consolidated #2 Firefighters Relief Association presented evidence by Sworn Affidavit. The Kaw Township Firefighters Relief Association presented evidence by Sworn Affidavit. Leavenworth Firefighters Relief Association presented evidence by Sworn Affidavit. Linn County Rural Firefighters Relief Association presented evidence by Sworn Affidavit. Louisburg Firefighters Relief Association presented evidence by Sworn Affidavit. McPherson Firefighters Relief Association presented evidence by Sworn Affidavit. Minneola Firefighters Relief Association withdrew the request for a Redetermination Hearing on October 4, 2000. Mission Township Firefighters Relief Association presented evidence by Sworn Affidavit. Norwich Firefighters Relief Association withdrew the request for a Redetermination Hearing on November 16, 2000. Osawatomie Firefighters Relief Association presented evidence by Sworn Affidavit. Potwin Firefighters Relief Association presented evidence by Sworn Affidavit. Quinter Firefighters Relief Association presented evidence by Sworn Affidavit. The Salina Firefighter Relief Association presented evidence by Sworn Affidavit. The Shawnee County #3 Firefighter Relief Association presented evidence by Sworn Affidavit. The Stevens County #1 Firefighter Relief Association presented evidence by Sworn Affidavit. The Tescott Firefighter Relief Association presented evidence by Sworn Affidavit. The Tonganoxie Firefighter Relief Association presented evidence by Sworn Affidavit. The Topeka

Firefighter Relief Association presented evidence by Sworn Affidavit. The Topeka-Tecumseh Firefighter Relief Association presented evidence by Sworn Affidavit. The Valley Center Firefighter Relief Association withdrew their request for a Redetermination Hearing on November 20,2000. The Victoria Firefighter Relief Association presented evidence by Sworn Affidavit. The Wamego Firefighter Relief Association presented evidence by Sworn Affidavit. The Wellington Firefighter Relief Association presented evidence by Sworn Affidavit. The Whitewater Firefighter Relief Association presented evidence by Sworn Affidavit.

The Kansas Insurance Department was represented by Margaret Gatewood, Senior Counsel, and John Washburn, Fire & Casualty Division Policy Examiner assigned to Firefighter Relief Association regulatory activities.

JaLynn Copp, Counselor for the Insurance Department, is the Presiding Officer duly appointed by Commissioner Sebelius.

Said Presiding Officer, being fully advised in the premises and giving due consideration to the evidence presented, makes the following findings of fact, conclusions of law, and order, to wit:

#### **Findings of Fact**

1. At issue is the 2000 and future distributions of the Firefighters Relief Fund to firefighters relief associations throughout the State of Kansas pursuant to the Firefighters Relief Act, K.S.A. 40-1701, *et seq.* Applicants are contending that changed circumstances exist to warrant a redetermination of proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund pursuant to K.S.A. 40-1706.

2. Under the Firefighters Relief Act, every insurance company doing business in the State of Kansas is required to pay an annual two percent (2%) tax based on the amount of premium written

on fire and lightening insurance covering risks located within the State of Kansas during the previous calendar year. The Firefighters Relief Act provides for the money collected to be distributed for the purposes outlined in K.S.A. 40-1706.

3. In 1984, K.S.A. 40-1706 was amended by the Kansas Legislature through the enactment of House Bill No. 3090. Part of that amendment dealt with the method by which distribution determinations were to be made to the various firefighter's relief associations in the State. This statute was further amended in 1987, 1988, and 1990. Specifically, the relevant provisions of the law are found in K.S.A. 40-1706(c)(4) and (5), which provide:

“(c) Prior to August 1, 1987, and each August 1 thereafter, except as provided in subsections (b) and (d), of the total amount of moneys credited to the State Firefighters Relief Fund as of July 1 of the same year the amounts determined as prescribed in subsection (c)(1) through (c)(6) shall be paid as provided therein ...

(4) The remaining amount of the moneys credited to the state firefighters relief fund, after the amounts are reserved or paid for the purposes authorized by subsection (b)(2), (c)(1), (c)(2) and (c)(3), shall be paid by the Commissioner of Insurance to firefighters relief associations so that the amount received by each firefighters relief association bears the same proportion to the total amount to be paid as received from the amounts collected from the tax received from the amounts collected from the tax imposed by K.S.A. 40-1703 and amendments thereto for all of calendar year 1983, years to the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983, subject to adjustments made to correct for errors in the payments distributed and as otherwise provided pursuant to this subsection (c)(4), adjustments made pursuant to subsection (c)(5) for firefighters relief associations that did not receive a payment from taxes paid for all of calendar year 1983 and adjustments pursuant to subsection (c)(6) for redeterminations based upon changed circumstances. The Commissioner of Insurance may make adjustments in the amounts of payments for the current year made under this subsection (c)(4) for error in the payments distributed for the prior year, except that adjustments may be made in the payments to be distributed by August 1, 1987, for any errors in the payments distributed during the period from July 1, 1984 through June 30, 1987, and an adjustment shall be made in the payment to be distributed by August 1, 1987, for each firefighters relief association which was in existence for only part of calendar year 1983 and which received a payment for calendar year 1987 based on taxes received for only part of calendar year 1983, to reflect the total of the payments that would most probably have been received by such

firefighters relief association during the period from August 1, 1984 through June 30, 1987, if such firefighters relief association had been in existence for all of calendar year 1983, reduced by the payments actually received by such firefighters relief association during the period from August 1, 1984 through June 30, 1987. For purposes of all payments under subsection (c)(4) after the adjusted payment distributed by August 1, 1987, such firefighters relief association shall be considered to have received for calendar year 1983, the amount it most probably would have received if it had been in existence for all of calendar year 1987, which shall be the amount having the same proportional relationship to 365 days as the amount actually received for calendar year 1983 has to the number of days that such firefighters relief association was in existence during calendar year 1983, subject to adjustments pursuant to subsection (c)(6) for redetermination based upon changed circumstances.

(5) Whenever a firefighters relief association is to receive a payment under subsection (c)(4) but did not receive a payment from any of the taxes collected for the calendar year 1983, the commissioner of insurance shall determine for the nonreceiving association, from such information as is made available to the commissioner by the nonreceiving association, the amount the nonreceiving association would most probably have received if it had actually received such payment from the taxes collected for all of calendar year 1983, with appropriate adjustments based on payments to firefighters relief associations of fire departments providing fire protection services within geographic areas having similar populations and assessed tangible property valuation as the geographic area provided fire protection services by the fire department of each such nonreceiving association. The commissioner shall make such determination as follows:

(A) One-half of the amount due shall be determined based upon the population figure provided by the association pursuant to administrative rules and regulations adopted by the commissioner. The determination of this 1/2 of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has a population similar to that of the nonreceiving association shall be ascertained;

(ii) The payment the comparable association received from the taxes collected for all of calendar year 1983 shall be divided by two;

(iii) The population of the area served by the nonreceiving association shall be divided by the population of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment factor reflecting the variance in population size; and

(iv) The amount received from taxes collected for all of the calendar year 1983 by the association with the comparable population shall be multiplied by the population adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(A).

(B) The remaining 1/2 of the amount due shall be determined based upon the assessed tangible property valuation figure provided by the nonreceiving association pursuant to administrative rules and regulations adopted by the commissioner. The determination of the remaining 1/2 of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has an assessed tangible property valuation as of November 1, 1989, similar to that of the nonreceiving association shall be ascertained;

(ii) The payment the comparable association received from taxes collected for all of calendar year 1983 shall be divided by two;

(iii) The assessed tangible property valuation of the area served by the nonreceiving association shall be divided by the assessed tangible property valuation of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment factor reflecting the variance in assessed tangible property valuation; and

(iv) The amount received from taxes collected for all of calendar year 1983 by the association with the comparable assessed tangible property valuation shall be multiplied by the valuation adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(B).

(C) The amount obtained in paragraph (iv) of subsection (c)(5)(A) shall be added to the amount obtained in paragraph (iv) of subsection (c)(5)(B) to determine the total amount the nonreceiving association most probably would have received if it had actually received a payment from the taxes collected for all of calendar year 1983. The amount a nonreceiving association most probably would have received if it had actually received a payment from taxes collected for all of calendar year 1983 shall be divided by the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983 to determine the proportionate amount due the nonreceiving association for the current and succeeding years and thereafter such association shall not be considered to be a nonreceiving association. The commissioner of insurance



shall include the amount so determined within the computations prescribed by subsection (c)(4) for payments thereunder.”

4. K.S.A. 40-1706(c)(6) provides for a determination of the proportionate amount payable to all firefighters relief associations from the Firefighters Relief Fund. The statute provides:

“One or more firefighters relief associations may apply, prior to October 1, of any year, to the commissioner of insurance for a redetermination of the proportionate amounts payable to all firefighters relief associations under subsection (c)(4) and, upon receipt of such application, the commissioner of insurance shall hold one joint hearing in accordance with the provisions of the Kansas Administrative Procedure Act prior to December 1 of such year, at which all applicants shall be heard and may present information. The commissioner of insurance may redetermine such proportionate amounts based upon such information as is presented to or otherwise made available by the applicants to the commissioner and may make a finding of changed circumstances. However, increases in the assessed tangible property valuation resulting from a statewide reappraisal conducted pursuant to K.S.A. 79-1476, *et seq.*, and amendments thereto, shall not constitute a changed circumstance. Upon making such finding, the commissioner of insurance may include such redetermination within the computations prescribed by subsection (c)(4) for payments in subsequent years. Any increase or reduction in the amounts to be distributed as a result of a finding of changed circumstances by the commissioner shall be proportionately distributed among all firefighters relief associations. An application for redetermination shall not be made by any firefighters relief association more than once every three years, but this restriction shall not apply with respect to applications for redetermination submitted in calendar year 1989 that were based in whole or in part on an increase in the assessed tangible property valuation resulting from statewide reappraisal.”

7. Presenting evidence of changed circumstances were the Atchison Firefighters Relief Association, the Baldwin Firefighters Relief Association, the Colby Firefighters Relief Association, the Hays Firefighters Relief Association, the Hutchinson Firefighters Relief Association, the Independence Firefighters Relief Association, the Jefferson County #5 Firefighters Relief Association, and the Johnson County Consolidated #2 Firefighters Relief Association, the Kaw Township Firefighters Relief Association, the Leavenworth Firefighters Relief Association, the Linn County Rural Firefighters Relief



Association, the Louisburg Firefighters Relief Association, McPherson Firefighters Relief Association, the Mission Township Firefighters Relief Association, the Osawatomie Firefighters Relief Association, the Potwin Firefighters Relief Association, the Quinter Firefighters Relief Association, the Salina Firefighters Relief Association, the Shawnee County #3 Firefighters Relief Association, the Stevens County #1 Firefighters Relief Association, the Tescott Firefighters Relief Association, the Tonganoxie Firefighters Relief Association, the Topeka Firefighters Relief Association, the Topeka-Tecumseh Firefighters Relief Association, the Victoria Firefighters Relief Association, the Wamego Firefighters Relief Association, the Wellington Firefighters Relief Association, the Whitewater Firefighters Relief Association.

8. Anderson County Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

9. Atchison Firefighters Relief Association offered evidence, that the area served by Atchison Fire Department has grown since 1985 and the assessed tangible property valuation for the fire protection area has increased by \$147,949,859 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

10. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 9 above, it appears that Atchison Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional \$147,949,859 in assessed tangible property valuation, as enumerated in paragraph 9.

11. Baldwin Firefighters Relief Association offered evidence, that the population increased by 580 that the assessed tangible property valuation for the fire protection district had increased \$11,896,170 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

12. As a result of the additional area being served as outlined in paragraph 11 above, it appears that Baldwin Fire Department is currently providing fire protection to a more populous and larger area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Baldwin Fire Department has an increased population of 580 and additional assessed tangible property valuation in the amount of \$11,896,170, as enumerated in paragraph 11 above.

13. Colby Fire Department Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the fire protection district protected has increased since 1985 and the increased assessed tangible property valuation of \$19,441,349 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

14. As a result of the additional area being served as outlined in paragraph 13 above, it appears that Colby Fire Department is currently providing fire protection to a more valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Colby Fire Department has an additional assessed tangible property valuation in the amount of \$19,441,349, as enumerated in paragraph 13 above.

15. Hays Firefighters Relief Association offered evidence of an increase in population as well as an increase in the assessed tangible property valuation. The increased population for the enlarged fire protection area is 1,312 since 1985 and the increased assessed tangible property valuation for the enlarged area is \$74,234,011 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and the amendments thereto.

17. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 16 above, it appears that the Hays Fire Department is currently providing fire protection to a more populous and valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Hays Fire Department has an added population of 1,312 as well as an additional assessed tangible property valuation in the amount of \$74,234,011, as enumerated in paragraph 16 above.

18. Hutchinson Firefighters Relief Association offered evidence that the population has increased by 5,509 and the assessed tangible property valuation has increased by \$165,789,173 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

19. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 18 above, it appears that Hutchinson Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 5,509 and \$165,789,173 in assessed tangible property valuation, as enumerated in paragraph 18 above.

20. Independence Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$45,529,424 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

21. As a result of the growth in assessed tangible property valuation as outlined in paragraph 20 above, it appears that Independence Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an increased additional \$45,529,424 in assessed tangible property valuation, as enumerated in paragraph 20 above.

22. Jefferson County #5 Firefighters Relief Association offered evidence with maps and contracts that the population has increased by 1,064 and the assessed tangible property valuation has increased by \$8,832,336 since 1994. As a result of the growth in the assessed tangible property valuation as outlined in paragraph 22 above, it appears that Jefferson County #5 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1994.

23. As a result of the growth in assessed tangible property valuation as outlined in Paragraph 22 above, it appears that Jefferson County #5 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1994. The area now has an increased population of 1,064 and an additional \$8,832,336 in assessed tangible property valuation, as enumerated in paragraph 22 above.

24. Johnson County Consolidated #2 Fire Firefighters Relief Association offered

evidence, that the assessed tangible property valuation has increased by \$368,497,059 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

25. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 24 above, it appears that Johnson County Consolidated #2 Fire Department is providing fire protection services to more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional \$368,497,059 in assessed tangible property valuation, as enumerated in paragraph 24 above.

26. Kaw Township Firefighters Relief Association offered evidence, including a map, that the population of the area served by Kaw Township Fire Department has grown by 345 since 1985 and the assessed tangible property valuation for the fire protection area has increased by \$5,907,952 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

27. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 26 above, it appears that Kaw Township Fire Department is providing fire protection services to a greater population area and more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 345 and an additional \$5,907,952 in assessed tangible property valuation, as enumerated in paragraph 26.

28. Leavenworth Firefighters Relief Association offered evidence, that the population and the assessed tangible property valuation for the fire protection district had increased the population by 5,571 and the assessed tangible property valuation of \$80,990,308 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

29. As a result of the growth in population and valuation in paragraph 28 above, it appears that Leavenworth Fire department is currently providing fire protection to a larger population and more valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Leavenworth Fire Department has an additional population of 5,571 and an assessed tangible property valuation in the amount of \$80,990,308, as enumerated in paragraph 28 above.

30. Linn County Rural Fire Department Firefighters Relief Association offered evidence, including maps and contracts, by Sworn Affidavit, that the population for the fire protection district is a population increase of 871 and an increase in assessed tangible property valuation of 10,591,439 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

31. As a result of the additional area being served as outlined in paragraph 30 above, it appears that Linn County Rural Fire Department is currently providing fire protection to a more populated and valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Linn County Rural Fire Department has an

added population of 871 and an increased valuation of \$10,591,439 as enumerated in paragraph 30 above.

32. Louisburg Firefighters Relief Association offered evidence, by Sworn Affidavit, by contracts and a map. The increased population for the fire protection area is 590 since 1985 and the increased assessed tangible property valuation for the enlarged area is \$14,512,296 since 1984. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and the amendments thereto.

33. As a result of the increased population and valuation for the area being served as outlined in paragraph 32 above, it appears that the Louisburg Fire Department is currently providing fire protection to a more populated and valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Louisburg Fire Department has an added population of 590 as well as an additional assessed tangible property valuation in the amount of \$14,512,296, as enumerated in paragraph 32 above.

34. McPherson Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by McPherson Fire Department has grown by 2,689 since 1985 and the assessed tangible property valuation has increased by \$47,042,150 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

35. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 34 above, it appears that McPherson Fire Department is providing fire protection services to a more populated and valuable area than the records maintained by



the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 2,689 and an additional \$47,042,150 in assessed tangible property valuation, as enumerated in paragraph 34 above.

36. Minneola Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

37. Mission Township Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by Mission Township Fire Department has grown by 2,882 since 1985 and the assessed tangible property valuation has increased by \$65,159,806 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

38. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 37 above, it appears that Mission Township Fire Department is providing fire protection services to a more populated and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 2,882 and an additional \$65,159,806 in assessed tangible property valuation, as enumerated in paragraph 37 above.

39. Norwich Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

40. Osawatomie Firefighters Relief Association offered evidence, by Sworn Affidavit, that the area served by Osawatomie Fire Department has grown and the population has increased by 109 and the assessed tangible property valuation has increased by \$7,191,814 since 1985. Pursuant to

K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

41. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 40 above, it appears that Osawatomie Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 109 and \$7,191,814 in assessed tangible property valuation, as enumerated in paragraph 40 above.

40. Potwin Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Potwin Fire Department has a population increase of 465 and the valuation increased by \$4,440,531 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

41. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 40 above, it appears that Potwin Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 465 and \$4,440,531 in assessed tangible property valuation, as enumerated in paragraph 40 above.

42. Quinter Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Quinter Fire Department has grown by 441 in population and \$7,991,176 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the

amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

43. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 42 above, it appears that Quinter Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 441 and an assessed tangible property valuation of \$7,991,176.

44. Salina Firefighter Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 1,616 and the assessed tangible property valuation has increased by \$470,762,615 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 *et seq.*, and the amendments thereto.

45. As a result of the increase in assessed tangible property valuation as outlined in paragraph 44 above, it appears that Salina Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department. The area currently being protected by the Salina Fire Department has an additional population of 1,616 and an assessed tangible property valuation of \$470,762,615, as enumerated in paragraph 44 above.

46. Shawnee County #3 Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in assessed tangible property valuation. The increased assessed tangible property valuation for the enlarged area is \$6,054,091 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 *et seq.*, and the amendments thereto.

47. As a result of the additional valuation for the area being served as outlined in paragraph 46 above, it appears that the Shawnee County #3 Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Shawnee County #3 Fire Department has an additional assessed tangible property valuation in the amount of \$6,054,091, as enumerated in paragraph 46 above.

48. Stevens County #1 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Stevens County #1 Fire Department has grown by 615 in population and \$36,251,630 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

49. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 48 above, it appears that Stevens County #1 Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 615 and an assessed tangible property valuation of \$36,251,630.

50. Tescott Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Tescott Fire Department has grown by 54 in population and \$1,730,482 since 1995.

51. As a result of the growth in population and assessed tangible property valuation as

outlined in paragraph 50 above, it appears that Tescott Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1995. The area now has an additional population of 54 and an assessed tangible property valuation of \$1,730,482.

52. Tonganoxie Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Tonganoxie Fire Department has grown by 959 in population and \$10,933,616 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

53. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 52 above, it appears that Tonganoxie Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 959 and an assessed tangible property valuation of \$10,933,616.

54. Topeka Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Topeka Fire Department has grown by 3,724 in population and \$455,656,269 since 1997.

55. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 54 above, it appears that Topeka Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1997. The area now has an additional population of 3,724 and an assessed tangible property valuation of \$455,656,269.

56. Topeka-Tecumseh Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Topeka-Tecumseh Fire Department has grown by 2,621 in population and \$68,666,760 in valuation since 1994.

57. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 56 above, it appears that Topeka-Tecumseh Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1994. The area now has an additional population of 2,621 and an assessed tangible property valuation of \$68,666,760.

58. Valley Center Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

59. Victoria Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in assessed tangible property valuation. The increased assessed tangible property valuation for the area is \$2,629,735 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

60. As a result of the additional valuation for the area being served as outlined in paragraph 59 above, it appears that the Victoria Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Victoria Fire Department has an additional assessed tangible property valuation in the amount of \$2,629,735, as enumerated in paragraph 59 above.

61. Wamego Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Wamego Fire Department has grown by 505 in population and \$14,096,204 in valuation since 1985.

62. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 61 above, it appears that Wamego Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional population of 505 and an assessed tangible property valuation of \$14,096,204.

63. Wellington Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and assessed tangible property valuation of the area served by Wellington Fire Department has grown by 1,504 in population and \$54,815,759 in valuation since 1987.

64. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 63 above, it appears that Wellington Fire Department is providing fire protection services to a more populous and valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1987. The area now has an additional population of 1,504 and an assessed tangible property valuation of \$54,815,759.

65. Whitewater Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in assessed tangible property valuation. The increased assessed tangible property valuation for the area is \$3,719,255 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 et seq., and the amendments thereto.

66. As a result of the additional valuation for the area being served as outlined in



paragraph 65 above, it appears that the Whitewater Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Whitewater Fire Department has an additional assessed tangible property valuation in the amount of \$3,719,255, as enumerated in paragraph 65 above.

### **Conclusions of Law**

67. Based upon the information presented by Applicants and available to the Commissioner of Insurance, changed circumstances are found to exist for all Applicants, to support a redetermination of the proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund for 2000 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

68. K.S.A. 40-1706(c)(6), which gives the Commissioner of Insurance the authority to redetermine the proportionate amounts payable to all firefighters relief associations, is silent as to the specific method by which the Commissioner is to make such a redetermination. The statute gives the Commissioner the discretion to determine how the redetermination is to be made.

69. Applicants presented evidence that the increased population and assessed tangible property valuation has resulted from either the addition of areas or through sheer growth, which was not a record with the Kansas Insurance Department in 1983.

70. To redetermine the proportionate amount payable to all firefighters relief associations for the 2000 and future distributions, the additional population and assessed tangible property valuation added by each applying association shall be treated separately, as a nonreceiving association, and these figures of the additional population and assessed tangible property valuation of each association will be

placed into the formula used to determine the proportionate amounts payable to nonreceiving associations, as contained in K.S.A. 40-1706(c)(5).

71. The procedure contained in paragraphs 48 and 49 above, shall affect the proportionate amount payable to all firefighters relief associations.

**IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:**

1. Changed circumstances exist as to all Applicants, to warrant a redetermination of the proportionate amounts payable to all firefighters relief associations.

2. The additional population and assessed tangible property valuation of each applying firefighters relief association, shall be individually placed into the formula found in K.S.A. 40-1706(c)(5) used to calculate that nonreceiving association's share of distribution. The resulting amount will be added to the amount that applying association would receive as a receiving association's proportionate share of future distributions.

**IT IS SO ORDERED THIS 10<sup>th</sup> DAY OF JANUARY, 2001, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Kathleen Sebelius\_\_\_\_\_  
Kathleen Sebelius  
Commissioner of Insurance  
BY:

\_\_\_\_\_/s/ JaLynn Copp\_\_\_\_\_  
JaLynn Copp  
Presiding Officer

### Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Order was served by placing the same in the United States Mail, first class postage prepaid, on this 10<sup>th</sup> day of January, 2001, addressed to the following:

Mr. Gary Benjamin, Treasurer  
Anderson County Firefighters Relief Association  
315 Orange Street  
Garnett, Kansas 60032

Mr. Larry Scott, Treasurer  
Atchison Firefighters Relief Association  
218 North 6<sup>th</sup> Street  
Atchison, Kansas 66002

Mr. Larry Franq, President  
Baldwin Firefighters Relief Association  
Post Office Box 86  
Baldwin, Kansas 66006

Mr. Richard Dickman, Treasurer  
Colby Firefighters Relief Association  
925 East 5<sup>th</sup> Street  
Colby, Kansas 67701

Mr. Joe Taylor, President  
Hays Firefighters Relief Association  
Post Office Box 490  
Hays, Kansas 67601

Mr. Robert Robinson, Treasurer  
Hutchinson Firefighters Relief Association  
18 East Avenue "B"  
Hutchinson, Kansas 67501

Mr. Larry McManus, Treasurer  
Independence Firefighters Relief Association  
R.R. #1, Box 139  
Independence, Kansas 67301

Mr. Robert Fritch, Treasurer  
Jefferson County Firefighters Relief Association #5  
3435 74<sup>th</sup> Street  
Meridan, Kansas 66512

Mr. Jeffery Boddy, Treasurer  
Johnson County Consolidated Fire District #2  
1205 South 103<sup>rd</sup>  
Edwardsville, Kansas 66111

Ms. Gayle Bickel, President  
Kaw Township Firefighters Relief Association  
Post Office Box 153  
Grantville, Kansas 66429

Mr. Bruce Larison, Trustee  
Leavenworth Firefighters Relief Association  
4517 Park Ten Court  
Leavenworth, Kansas 66048

Mr. David Lamb, President  
Linn County Rural Firefighters Relief Association  
Post Office Box 350  
Mound City, Kansas 66056

Ms. Linda Richards, Treasurer  
Louisburg Firefighters Relief Association  
Post Office Box 688  
Louisburg, Kansas 66053

Mr. Rodney Green, Treasurer  
McPherson Firefighters Relief Association  
312 East Kansas  
McPherson, Kansas 67460

Mr. George Ferguson, Treasurer  
Minneola Firefighters Relief Association  
303 South Maple Street  
Minneola, Kansas 67865

Mr. John Failor, Treasurer  
Mission Township Firefighters Relief Association  
31021 Urish Road

Topeka, Kansas 66614  
Mr. Ed Parks, Secretary  
Norwich Firefighters Relief Association  
326 East First Street  
Norwich, Kansas 67118

Ms. Michaelle Burroughs, Treasurer  
Osawatomie Firefighters Relief Association  
715 Main Street  
Osawatomie, Kansas 66064

Mr. Heath Austin, President  
Potwin Firefighters Relief Association  
Post Office Box 265  
Potwin, Kansas 67123

Mr. Lester Herzog, Treasurer  
Quinter Firefighters Relief Association  
Post Office Box 295  
Quinter, Kansas 67752

Mr. Galen Crum, President  
Salina Firefighters Relief Association  
222 West Elm Street  
Salina, Kansas 67401

Mr. Daryl Olson, Treasurer  
Shawnee County Firefighters Relief Association #3  
Post Office Box 451  
Rossville, Kansas 66533

Mr. Tommy Romero, Treasurer  
Stevens County Firefighters Relief Association #1  
200 East 6<sup>th</sup> Street  
Hugoton, Kansas 67851

Mr. Gordon McClure, Treasurer  
Tescott Firefighters Relief Association  
Post Office Box 211  
Tescott, Kansas 67484

Ms. Karen McDaniels, Treasurer  
Tonganoxie Firefighters Relief Association

Box 326  
Tonganoxie, Kansas 66086

Mr. Chad Baldwin, Treasurer  
Topeka Firefighters Relief Association  
720 West 21<sup>st</sup> Street  
Topeka, Kansas 66612

Mr. Dale Bonjour, President  
Topeka-Tecumseh Firefighters Relief Association  
5301 S.E. California  
Topeka, Kansas 66609

Mr. Bob Tormey, President  
Valley Center Firefighters Relief Association  
616 East 5<sup>th</sup> Street  
Valley Center, Kansas 67147

Mr. Wilmer Dinkel, President  
Victoria Firefighters Relief Association  
Post Office Box 202  
Victoria, Kansas 67671

Mr. Phil Stultz, President  
Wamego Firefighters Relief Association  
428 Lincoln Street  
Wamego, Kansas 66547

Mr. Kent Boster, Treasurer  
Wellington Firefighters Relief Association  
217 North Jefferson  
Wellington, Kansas 67152

Mr. Andy Pullen, Vice-President  
Whitewater Firefighters Relief Association  
Post Office Box 197  
Whitewater, Kansas 67154

/s/ John Washburn  
John Washburn  
Fire and Casualty  
Policy Examiner