

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

In the Matter of the Application of BONNER SPRINGS )  
FIREFIGHTERS RELIEF ASSOCIATION, )  
CUTLER TOWNSHIP FIREFIGHTERS RELIEF )  
ASSOCIATION, DERBY FIREFIGHTERS RELIEF )  
ASSOCIATION, DODGE CITY FIREFIGHTERS RELIEF )  
ASSOCIATION, HALSTEAD FIREFIGHTERS RELIEF )  
ASSOCIATION, HARPER FIREFIGHTERS RELIEF )  
ASSOCIATION, JOHNSON COUNTY #1 FIREFIGHTERS )  
RELIEF ASSOCIATION, JOHNSON COUNTY #2 RURAL )  
FIREFIGHTERS RELIEF ASSOCIATION, LEAWOOD )  
FIREFIGHTERS RELIEF ASSOCIATION, LENEXA )  
FIREFIGHTERS RELIEF ASSOCIATION, LONGFORD RURAL )  
FIREFIGHTERS RELIEF ASSOCIATION, MIAMI COUNTY #1 )  
FIREFIGHTERS RELIEF ASSOCIATION, OSAGE COUNTY #2 )  
FIREFIGHTERS RELIEF ASSOCIATION, OSBORNE COUNTY )  
#1 FIREFIGHTERS RELIEF ASSOCIATION, OZAWKIE )  
FIREFIGHTERS RELIEF ASSOCIATION, PAOLA )  
FIREFIGHTERS RELIEF ASSOCIATION, RENO COOUNTY )  
#4 FIREFIGHTERS RELIEF ASSOCIATION, ST MARYS )  
FIREFIGHTERS RELIEF ASSOCIATION, SALINE COUNTY )  
#5 FIREFIGHTERS RELIEF ASSOCIATION, SENECA )  
FIREFIGHTERS RELIEF ASSOCIATION, WAKEENEY )  
FIREFIGHTERS RELIEF ASSOCIATION, OVERLAND )  
PARK FIREFIGHTERS RELIEF ASSOCIATION, SHARON )  
FIREFIGHTERS RELIEF ASSOCIATION, LAWRENCE )  
FIREFIGHTERS RELIEF ASSOCIATION, LYON COUNTY #5 )  
FIREFIGHTERS RELIEF ASSOCIATION, MCPHERSON )  
COUNTY #5 FIREFIGHTERS RELIEF ASSOCIATION, OLPE )  
RURAL #1 FIREFIGHTERS RELIEF ASSOCIATION, RENO )  
COUNTY #3 FIREFIGHTERS RELIEF ASSOCIATION, )  
SALINE COUNTY RURAL #2 FIREFIGHTERS RELIEF )  
ASSOCIATION, WABAUNSEE COUNTY #4, FIREFIGHTERS )  
RELIEF ASSOCIATION, WICHITA FIREFIGHTERS RELIEF )  
ASSOCIATION. )

Docket No. 3022-FR

## ORDER

After due and proper notice, this matter was called for hearing on November 16, 2001, 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 applying for a redetermination were Bonner Springs Firefighters Relief Association, Cutler Township Firefighters Relief Association, Derby Firefighters Relief Association, Dodge City Firefighters Relief Association, Halstead Firefighters Relief Association, Harper Firefighters Relief Association, Johnson County #1 Firefighters Relief Association, Johnson County #2 Rural Firefighters Relief Association, Leawood Firefighters Relief Association, Lenexa Firefighters Relief Association, Longford Rural Firefighters Relief Association, Miami County #1 Firefighters Relief Association, Osage County #2 Firefighters Relief Association, Osborne County #1 Firefighters Relief Association, Ozawkie Firefighters Relief Association, Paola Firefighters Relief Association, Reno County #4 Firefighters Relief Association, St Marys Firefighters Relief Association, Saline County #5 Firefighters Relief Association, Seneca Firefighters Relief Association, Wakeeney Firefighters Relief Association, Overland Park Firefighters Relief Association, Sharon Firefighters Relief Association, Lawrence Firefighters Relief Association, Lyon County #5 Firefighters Relief Association, McPherson County #5 Firefighters Relief Association, Olpe Rural #1 Firefighters Relief Association, Reno County #3 Firefighters Relief Association, Saline County Rural #2 Firefighters Relief Association, Wabaunsee County #4 Firefighters Relief Association, and Wichita Firefighters Relief Association.

The Bonner Springs Firefighters Relief Association presented evidence by Sworn Affidavit. The Cutler Township Firefighters Relief Association presented evidence by Sworn Affidavit. The Derby Firefighters Relief Association presented evidence By Sworn Affidavit. The Dodge City Firefighters Relief Association presented evidence by Sworn Affidavit. The Halstead Firefighters Relief Association presented evidence by Sworn Affidavit. The Harper Firefighters Relief Association presented evidence by Sworn Affidavit. The Johnson County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. The Johnson County #2 Rural Firefighters Relief Association presented evidence by Sworn Affidavit. The Leawood Firefighters Relief Association presented evidence by Sworn Affidavit. The Lenexa Firefighters Relief Association presented evidence by Sworn Affidavit. Longford Rural Firefighters Relief Association presented evidence by Sworn Affidavit. Miami County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. Osage County #2 Firefighters Relief Association presented evidence by Sworn Affidavit. Osborne County #1 Firefighters Relief Association withdrew their application for a hearing and was not heard. Ozawkie Firefighters Relief Association presented evidence by Sworn Affidavit. Paola Firefighters Relief Association presented evidence by Sworn Affidavit. Reno County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. St Marys Firefighters Relief Association presented evidence by Sworn Affidavit. The Saline County #5 Firefighter Relief Association presented evidence by Sworn Affidavit. Seneca Firefighters Relief Association presented evidence by Sworn Affidavit. Wakeeney Firefighters Relief Association presented evidence by Sworn Affidavit. Overland Park Firefighters Relief Association presented evidence by Sworn Affidavit. Sharon Firefighters Relief Association presented evidence by Sworn Affidavit. Lawrence Firefighters Relief Association appeared and presented evidence by Firefighters Relief Association Secretary Jim Sloan. Lyon County #5 Firefighters Relief Association presented

evidence by Sworn Affidavit. The McPherson County #5 Firefighter Relief Association presented evidence by Sworn Affidavit. Olpe Rural #1 Firefighters Relief Association presented evidence by Sworn Affidavit. Reno County #3 Firefighters Relief Association presented evidence by Sworn Affidavit. Saline County Rural #2 Firefighters Relief Association presented evidence by Sworn Affidavit. Wabaunsee County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. The Wichita Firefighter Relief Association presented evidence by Sworn Affidavit.

The Kansas Insurance Department was represented by Paula S. Greathouse, Staff Attorney, and John Washburn, Fire & Casualty Division policy examiner assigned to Firefighter Relief Association regulatory activities.

Matthew D. All, Assistant Commissioner, 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 2002 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 lightning 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 Bonner Springs Firefighters Relief Association, the Cutler Township Firefighters Relief Association, the Derby Firefighters Relief Association, the Dodge City Firefighters Relief Association, the Halstead Firefighters Relief Association, the Harper Firefighters Relief Association, the Johnson County #1 Firefighters Relief Association, and the Johnson County #2 Rural Firefighters Relief Association, the Leawood Firefighters Relief Association, the Lenexa Firefighters Relief Association, the Longford Rural Firefighters Relief Association, the Miami County #1 Firefighters Relief Association, Osage County #2 Firefighters Relief



Association, the Ozawkie Firefighters Relief association, the Paola Firefighters Relief Association, the Reno County #4 Firefighters Relief Association, the St Marys Firefighters Relief Association, the Saline County #5 Firefighters Relief Association. the Seneca Firefighters Relief Association, the Wakeeney Firefighters Relief Association, the Overland Park Firefighters Relief Association, the Sharon Firefighters Relief Association, Lawrence Firefighters Relief Association, the Lyon County #5 Firefighters Relief association, the McPherson County #5 Firefighters Relief Association, the Olpe Rural #1 Firefighters Relief Association, the Reno County #3 Firefighters Relief Association, the Saline County Rural #2 Firefighters Relief Association. the Wabaunsee County #4 Firefighters Relief Association, the Wichita Firefighters Relief Association.”

8. Osborne County #1 Firefighters Relief Association withdrew its application for redetermination based on their failure to submit necessary documentation.

9. Bonner Springs Firefighters Relief Association offered evidence, that the area served by Bonner Springs Fire Department has grown since 1983 in population and has increased by 277 and the assessed tangible property valuation for the fire protection area has increased by \$31,970,818 since 1983. 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 Bonner Springs Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional 277 in population and \$31,970,818 in assessed tangible property valuation, as enumerated in paragraph 9.

11. Cutler Township Firefighters Relief Association offered evidence, that the population increased by 312 that the assessed tangible property valuation for the fire protection district had increased \$3,050,764 since 1994. 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 Cutler Township 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 indicated was served in 1994. The area currently being protected by Cutler Township Fire Department has an increased population of 312 and additional assessed tangible property valuation in the amount of \$3,050,764, as enumerated in paragraph 11 above.

13. Derby Fire Department Firefighters Relief Association offered evidence, that the population increased by 8,021 and the assessed tangible property valuation for the fire protection district protected has increased since 1989 and the increased assessed tangible property valuation of \$45,098,137 since 1989. 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 Derby Fire Department is currently providing fire protection to a more populous and more valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Derby Fire Department has an increased population of 8,021 and

an additional assessed tangible property valuation in the amount of \$45,098,137, as enumerated in paragraph 13 above.

15. Dodge City 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 6,401 since 1983 and the increased assessed tangible property valuation for the enlarged area is \$45,918,753 since 1983. 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.

16. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 15 above, it appears that the Dodge City 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 Dodge City Fire Department has an added population of 6,401 as well as an additional assessed tangible property valuation in the amount of \$45,918,753, as enumerated in paragraph 15 above.

17. Halstead Firefighters Relief Association offered evidence that the population has increased by 282 and the assessed tangible property valuation has increased by \$10,842,292 since 1983. 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.

18. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 17 above, it appears that Halstead 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 1983. The area now has an additional 282 in population and an additional \$10,842,292 in assessed tangible property valuation, as enumerated in paragraph 18 above.

19. Harper Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$10,944,786 since 1983. 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.

20. As a result of the growth in assessed tangible property valuation as outlined in paragraph 19 above, it appears that Harper 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 1983. The area now has an increased additional \$10,944,786 in assessed tangible property valuation, as enumerated in paragraph 19 above.

21. Johnson County #1 Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$59,681,564 since 1983. 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.

22. As a result of the growth in the assessed tangible property valuation as outlined in paragraph 21 above, it appears that Johnson County #1 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 1983. The area now has an additional \$59,681,564 in assessed tangible property valuation, as enumerated in paragraph 21 above.

23. Johnson County #2 Rural Fire Firefighters Relief Association offered evidence

that the population of the area served by Johnson County #2 Rural Fire Department has grown by 5,756 since 1996 and the assessed tangible property valuation has increased by \$107,677,982 since 1996. 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.

24. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 23 above, it appears that Johnson County #2 Rural 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 1996. The area now has an additional population of 5,756 and an additional \$107,677,982 in assessed tangible property valuation, as enumerated in paragraph 23 above.

25. Leawood Firefighters Relief Association offered evidence that the population of the area served by Leawood Fire Department has grown by 13,751 since 1994 and the assessed tangible property valuation for the fire protection area has increased by \$326,969,114 since 1994. 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.

26. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 25 above, it appears that Leawood Fire Department is providing fire protection services to a greater population and more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1994. The area now has an additional population

of 13,751 and an additional \$326,969,114 in assessed tangible property valuation, as enumerated in paragraph 25.

27. Lenexa Firefighters Relief Association offered evidence, that the population and the assessed tangible property valuation for the fire protection district had increased the population by 19,628 and the assessed tangible property valuation of \$638,361,962 since 1983. 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.

28. As a result of the increased population and valuation of the area being served as outlined in paragraph 27 above, it appears that Lenexa 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 Lenexa Fire Department has an additional population of 19,628 and an assessed tangible property valuation in the amount of \$638,361,962, as enumerated in paragraph 27 above.

29. Longford Rural Fire Department Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population for the enlarged fire protection district is a population increase of 567 and an increase in assessed tangible property valuation of 9,963,368 since 1983. 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.

30. As a result of the additional population and more valuable being served as outlined in paragraph 29 above, it appears that Longford Rural Fire Department is currently providing fire protection to a more populous and valuable area than reflected by the records maintained by the

Kansas Insurance Department. The area currently being protected by the Longford Rural Fire Department has an added population of 567 and an increased valuation of \$9,963,368 as enumerated in paragraph 29 above.

31. Miami County #1 Firefighters Relief Association offered evidence, by Sworn Affidavit, by contracts and a map of the enlarged area. The increased population for the enlarged fire protection area is 13,396 since 1991 and the increased assessed tangible property valuation for the enlarged area is \$133,247,217 since 1991. 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.

32. As a result of the additional area being served as outlined in paragraph 31 above, it appears that the Miami County #1 Fire Department is currently providing fire protection to a larger area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by Miami County #1 Fire Department has an added population of 13,396 as well as an additional assessed tangible property valuation in the amount of \$133,247,217, as enumerated in paragraph 31 above.

33. Osage County Fire District #2 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population of the area served by Osage County Fire District #2 has grown by 492 since 1983 and the assessed tangible property valuation has increased by \$9,971,549 since 1983. 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.

34. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 33 above, it appears that Osage County Fire District #2 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 1983. The area now has an additional population of 492 and an additional \$9,971,549 in assessed tangible property valuation, as enumerated in paragraph 33 above.

35. Ozawkie Firefighters Relief Association offered evidence, by Sworn Affidavit, that the area served by Ozawkie Fire Department has grown and the population has increased by 474 and the assessed tangible property valuation has increased by \$1,324,480 since 1983. 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.

36. As a result of the increase in population and the assessed tangible property valuation as outlined in paragraph 35 above, it appears that Ozawkie 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 1983. The area now has an additional population of 474 and an increase of \$1,324,480 in assessed tangible property valuation, as enumerated in paragraph 35 above.

37. Paola Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population and the assessed tangible property valuation of the area served by Paola Fire Department has an increased population of 580 and the valuation increased by \$21,351,222 since 1983. 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 increase in population and the assessed tangible property valuation as outlined in paragraph 37 above, it appears that Paola 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 1983. The area now has an additional population of 580 and an increase of \$21,351,222 in assessed tangible property valuation, as enumerated in paragraph 37 above.

39. Reno County #4 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 491 and the assessed tangible property valuation of the area served by Reno County #4 Fire Department has grown by \$8,648,592 since 1983. 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.

40. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 39 above, it appears that Reno County #4 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 1983. The area now has an additional population of 491 and an assessed tangible property valuation of \$8,648,592.

41. St Marys Firefighter Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 1,364 assessed tangible property valuation has increased by \$12,230,539 since 1983. 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.

42. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 41 above, it appears that St Marys 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 St Marys Fire Department has an additional population of 1,364 and an additional assessed tangible property valuation of \$12,230,539, as enumerated in paragraph 41 above.

43. Saline County #5 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 \$8,302,206 since 1983. 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.

44. As a result of the additional area being served as outlined in paragraph 43 above, it appears that the Saline County #5 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 Saline County #5 Fire Department has an additional assessed tangible property valuation in the amount of \$8,302,206, as enumerated in paragraph 43 above.

45. Seneca 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 \$3,651,271 since 1983. 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.

46. As a result of the additional area being served as outlined in paragraph 45 above, it appears that the Seneca 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 Seneca Fire Department has an additional assessed tangible property valuation in the amount of \$3,651,271, as enumerated in paragraph 45 above.

47. Wakeeney 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 \$2,585,129 since 1983. 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.

48. As a result of the additional area being served as outlined in paragraph 47 above, it appears that the Wakeeney 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 Wakeeney Fire Department has an additional assessed tangible property valuation in the amount of \$2,585,129, as enumerated in paragraph 47 above.

49. Overland Park Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 23,855 and the assessed tangible property valuation of the area served by Overland Park Fire Department has grown by \$769,595,991 since 1997. 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.

50. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 49 above, it appears that Overland Park 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 23,855 and an assessed tangible property valuation of \$769,595,991.

51. Sharon Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 90 and the assessed tangible property valuation of the area served by Sharon Fire Department has grown by \$4,883,066 since 1983. 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.

52. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 51 above, it appears that Sharon 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 1983. The area now has an additional population of 90 and an assessed tangible property valuation of \$4,883,066.

53. Lawrence Fire Firefighters Relief Association offered evidence, that the population has increased by 8,342 and the assessed tangible property valuation of the area served by Lawrence Fire Department has grown by \$279,054,123 since 1998. 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.

54. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 53 above, it appears that Lawrence 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 1998. The area now has an additional population of 8,342 and an assessed tangible property valuation of \$279,054,123.

55. Lyon County #5 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 562 and the assessed tangible property valuation of the area served by Lyon County #5 Fire Department has grown by \$17,972,910 since 1987. 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.

56. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 55 above, it appears that Lyon County #5 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 562 and an assessed tangible property valuation of \$17,972,910.

57. McPherson County #5 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 259 and the assessed tangible property valuation of the area served by McPherson County #5 Fire Department has grown by \$6,993,723 since 1983. 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.

58. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 57 above, it appears that McPherson County #5 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 1983. The area now has an additional population of 259 and an assessed tangible property valuation of \$6,993,723.

59. Olpe Rural #1 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation of the area served by Olpe Rural #1 Fire Department has grown by \$3,642,592 since 1983. 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.

60. As a result of the growth in assessed tangible property valuation as outlined in paragraph 59 above, it appears that Olpe Rural #1 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 1983. The area now has an assessed tangible property valuation of \$3,642,592.

61. Reno County #3 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 1270 and the assessed tangible property valuation of the area served by Reno County #3 Fire Department has grown by \$11,305,826 since 1983. 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.

62. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 61 above, it appears that Reno County #3 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 1983. The area now has an additional population of 1,270 and an assessed tangible property valuation of \$11,305,826.

63. Saline County Rural #2 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 268 and the assessed tangible property valuation of the area served by Saline County #2 Rural Fire Department has grown by \$16,388,076 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.

64. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 63 above, it appears that Saline County #2 Rural 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 268 and an assessed tangible property valuation of \$16,388,076.

65. Wabaunsee County #4 Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 143 and the assessed tangible property valuation of the area served by Wabaunsee County #4 Fire Department has grown by \$810,954 since 1983. 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.

66. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 65 above, it appears that Wabaunsee County #4 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 1983. The area now has an additional population of 143 and an assessed tangible property valuation of \$810,954.

67. Wichita Fire Firefighters Relief Association offered evidence, by Sworn Affidavit, that the population has increased by 55,561 and the assessed tangible property valuation of the area served by Reno County #4 Fire Department has grown by \$894,662,337 since 1983. 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.

68. As a result of the growth in population and assessed tangible property valuation as outlined in paragraph 67 above, it appears that Wichita 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 1983. The area now has an additional population of 55,561 and an assessed tangible property valuation of \$894,662,337.

### **Conclusions of Law**

69. 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 2002 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

70. 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.



71. 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.

72. To redetermine the proportionate amount payable to all firefighters relief associations for the 2002 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).

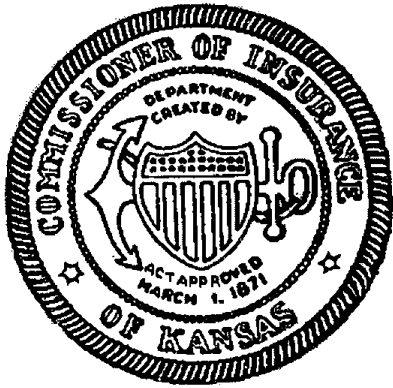
73. The procedure contained in paragraphs 71 and 72 above, shall affect the proportionate amount payable to all firefighters relief associations.

**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 21<sup>ST</sup> DAY OF DECEMBER, 2001, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.



\_/s/ Kathleen Sebelius\_\_\_\_\_

Kathleen Sebelius  
Commissioner of Insurance

BY:

\_/s/ Matthew D. All\_\_\_\_\_

Matthew D. All  
Assistant Commissioner

**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 21<sup>st</sup> day of December, 2001, addressed to the following:

Gordon Vicker  
Bonner Springs Firefighters  
PO Box 38  
Bonner Springs, KS 66012

Betty Town  
Miami County # 1 Firefighters  
22021 Nall  
Bucyrus, KS 66013

Donald Hess  
Johnson County # 1 Firefighters  
PO Box 325  
Gardner, KS 66030

Jim Sloan  
Lawrence Firefighters  
3832 Stetson Dr  
Lawrence, KS 66049

Bill Petersen  
Ozawkie Firefighters  
102 W Central  
Ozawkie, KS 66070

Karen Sutton  
Cutler Township Firefighters  
4124 Jackson Rd  
Rantoul, KS 66079

Jerome Mitzner  
Johnson County # 2 Rural Firefighters  
19495 Metcalf Av  
Stilwell, KS 66085

Shaun Tuggle

Overland Park Firefighters  
7828 Ash  
Prairie Village, KS 66208

Peter Chronister  
Leawood Firefighters  
4800 Town Center Dr  
Leawood, KS 66211

Gary Paul  
Lenexa Firefighters  
9620 Pflumm  
Lenexa, KS 66215

Layne Schulte  
Wabaunsee Co # 4 Firefighters  
PO Box 330  
Maple Hill, KS 66507

William Curtis  
Osage County # 2 Firefighters  
415 Lincoln  
Osage City, KS 66523

Ray Barthuly  
St Marys Firefighters  
813 Walnut  
St Marys, KS 66536

Alan Henry  
Seneca Firefighters  
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Seneca, KS 66538

Bettina Shank  
Lyon Co # 5 Firefighters  
210 N Mulberry  
Neosho Rapids, KS 66864

Robert Brown  
Olpe Rural # 1 Firefighters  
Olpe, KS 66865

Mark Jacobs  
Derby Firefighters  
611 Mulberry  
Derby, KS 67037

John Branch  
Halstead Firefighters  
527 College  
Halstead, KS 67056

Carmen Aldritt  
Harper Firefighters  
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Harper, KS 67058

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PO Box 143  
Sharon, KS 67138

Earnest Schuler  
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731 N Main  
Wichita, KS 67203

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Von Kramer  
Longford Rural Firefighters  
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Longford, KS 67458

