

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

In the Matter of the Application of ATCHISON COUNTY FD #2)
FIREFIGHTERS RELIEF ASSOCIATION, BURRTON)
FIREFIGHTERS RELIEF ASSOCIATION, BUTLER COUNTY)
#7 FIREFIGHTERS RELIEF ASSOCIATION, BUTLER)
COUNTY #8 FIREFIGHTERS RELIEF ASSOCIATION,)
EUDORA FIREFIGHTERS RELIEF ASSOCIATION,)
FAIRMOUNT TOWNSHIP FIREFIGHTERS RELIEF)
ASSOCIATION, FORD COUNTY #1 FIREFIGHTERS RELIEF)
ASSOCIATION, HESSTON FIREFIGHTERS RELIEF)
ASSOCIATION, HOYT FIREFIGHTERS RELIEF)
ASSOCIATION, IOLA FIREFIGHTERS RELIEF)
ASSOCIATION, JUNCTION CITY FIREFIGHTERS RELIEF)
ASSOCIATION, KANSAS CITY FIREFIGHTERS RELIEF)
ASSOCIATION, LIBERAL FIREFIGHTERS RELIEF)
ASSOCIATION, LYON COUNTY #2 FIREFIGHTERS RELIEF)
ASSOCIATION, MANHATTAN FIREFIGHTERS RELIEF)
ASSOCIATION, MULVANE FIREFIGHTERS RELIEF)
ASSOCIATION, OAKLEY FIREFIGHTERS RELIEF)
ASSOCIATION, OFFERLE FIREFIGHTERS RELIEF)
ASSOCIATION, OLATHE FIREFIGHTERS RELIEF)
ASSOCIATION, PRATT COUNTY TOWNSHIP 12)
FIREFIGHTERS RELIEF ASSOCIATION, SALINE COUNTY)
#6 FIREFIGHTERS RELIEF ASSOCIATION, SHERMAN)
TOWNSHIP DICKENSON COUNTY FIREFIGHTERS RELIEF)
ASSOCIATION, ST GEORGE FIREFIGHTERS RELIEF)
ASSOCIATION, STRANGER TOWNSHIP FIREFIGHTERS)
RELIEF ASSOCIATION, WAKARUSA TOWNSHIP)
FIREFIGHTERS RELIEF ASSOCIATION, WALTON)
FIREFIGHTERS RELIEF ASSOCIATION, WINFIELD)
FIREFIGHTERS RELIEF ASSOCIATION.)

Docket No. 3098-FR

ORDER

After due and proper notice, this matter was called for hearing on November 22, 2002, 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: Atchison County #2 Firefighters Relief Association, Burrton

Firefighters Relief Association, Butler County #7 Firefighters Relief Association, Butler County #8 Firefighters Relief Association, Eudora Firefighters Relief Association, Fairmount Township Firefighters Relief Association, Ford County #1 Firefighters Relief Association, Hesston Firefighters Relief Association, Hoyt Firefighters Relief Association, Iola Firefighters Relief Association, Junction City Firefighters Relief Association, Kansas City Firefighters Relief Association, Liberal Firefighters Relief Association, Lyon County #2 Firefighters Relief Association, Manhattan Firefighters Relief Association, Mulvane Firefighters Relief Association, Oakley Firefighters Relief Association, Offerle Firefighters Relief Association, Olathe Firefighters Relief Association, Pratt County Township 12 Firefighters Relief Association, Saline County #6 Firefighters Relief Association, Sherman Township Dickinson County Firefighters Relief Association, St George Firefighters Relief Association, Stranger Township Firefighters Relief Association, Wakarusa Township Firefighters Relief Association, Walton Firefighters Relief Association, Winfield Firefighters Relief Association.

The Atchison County #2 Firefighters Relief Association presented evidence by Sworn Affidavit. The Burrton Firefighters Relief Association presented evidence by Sworn Affidavit. The Butler County #7 Firefighters Relief Association withdrew their request for a hearing. The Butler County #8 Firefighters Relief Association withdrew their request for a hearing. The Eudora Firefighters Relief Association presented evidence by Sworn Affidavit. The Fairmount Township Firefighters Relief Association presented evidence by Sworn Affidavit. The Ford County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. The Hesston Firefighters Relief Association presented evidence by Sworn Affidavit. The Hoyt Firefighters Relief Association presented evidence by Sworn Affidavit. The Iola Firefighters Relief Association presented evidence by Sworn Affidavit. The Junction City Firefighters Relief Association

presented evidence by Sworn Affidavit. The Kansas City Firefighters Relief Association presented evidence by Sworn Affidavit. The Liberal Firefighters Relief Association presented evidence by Sworn Affidavit. The Lyon County #2 Firefighters Relief Association presented evidence by Sworn Affidavit. The Manhattan Firefighters Relief Association presented evidence by Sworn Affidavit. The Mulvane Firefighters Relief Association presented evidence by Sworn Affidavit. The Oakley Firefighters Relief Association presented evidence by Sworn Affidavit. The Offerle Firefighters Relief Association presented evidence by Sworn Affidavit. The Olathe Firefighter Relief Association presented evidence by Sworn Affidavit. The Pratt County Township 12 Firefighters Relief Association presented evidence by Sworn Affidavit. The Saline County #6 Firefighters Relief Association presented evidence by Sworn Affidavit. The Sherman Township Dickinson County Firefighters Relief Association presented evidence by Sworn Affidavit. The St George Firefighters Relief Association presented evidence by Sworn Affidavit. The Stranger Township Firefighters Relief Association did not appear or present any evidence for the hearing. The Wakarusa Township Firefighters Relief Association presented evidence by Sworn Affidavit. The Walton Firefighters Relief Association withdrew their request for a hearing. The Winfield Firefighters Relief Association presented evidence by Sworn Affidavit.

The Kansas Insurance Department was represented by Brent Getty, Staff Attorney, and John Washburn, Fire & Casualty Division Policy Examiner assigned to Firefighter Relief Association regulatory activities.

Matthew D. All, Assistant Commissioner of Insurance, 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 2003 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 firefighters' 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 County #2 Firefighters Relief Association, the Burrton Firefighters Relief Association, the Eudora Firefighters Relief Association, the Fairmount Township Firefighters Relief Association, the Ford County #1 Firefighters Relief Association, the Hesston Firefighters Relief Association, the Hoyt Firefighters Relief Association, the Iola Firefighters Relief Association, the Junction City Firefighters Relief Association, the Kansas City Firefighters Relief Association, the Liberal Firefighters Relief Association, the Lyon County Fire District #2 Firefighters Relief Association, the Manhattan Firefighters Relief Association, the Mulvane Firefighters Relief Association, the Oakley Firefighters Relief Association, the Offerle County Firefighters Relief Association, the Olathe Firefighters Relief Association, the Pratt County Township 12 Firefighters Relief Association, the Saline County #6 Firefighters Relief Association, the Sherman Township Dickinson County Firefighters Relief Association, the St George Firefighters Relief Association, the Stranger Township Firefighters Relief Association, the Wakarusa Township Firefighters Relief Association, and the Winfield Firefighters Relief Association.

8. Butler County #7 Firefighters Relief Association withdrew its application, in writing, for redetermination based on their inability to submit necessary documentation.

9. Butler County #8 Firefighters Relief Association withdrew its application, in writing, for redetermination based on their inability to submit necessary documentation.

10. Walton Firefighters Relief Association withdrew its application, in writing, for redetermination based on their inability to submit necessary documentation.

11. Atchison Country #2 Firefighters Relief Association offered evidence, that the area served by Atchison County #2 Fire Department has grown since 1983 and the assessed tangible property valuation for the fire protection area has increased by \$2,321,097 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.

12. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 11 above, it appears that Atchison County Fire District #2 is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has a \$2,321,097 increase in assessed tangible property valuation, as enumerated in paragraph 11.

13. Burrton Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the enlarged fire protection district had increased \$4,773,071 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.

14. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 13 above, it appears that Burrton Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has a \$4,773,071 increase in assessed tangible property valuation, as enumerated in paragraph 13.

15. Eudora 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 fire protection area is 2,704 since 1983 and the increased assessed tangible property valuation for the area is \$34,239,769 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 Eudora 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 Eudora Fire Department has an added population of 2,704 as well as an additional assessed tangible property valuation in the amount of \$34,239,769, as enumerated in paragraph 15 above.

17. Fairmount Township 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 fire protection area is 3,145 since 1997 and the increased assessed tangible property valuation for the area is \$11,439,682 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 the amendments thereto.

18. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 17 above, it appears that the Fairmount Township 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 Fairmount Township Fire Department has an added population of 3,145 as well as an additional assessed tangible property valuation in the amount of \$11,439,682, as enumerated in paragraph 17 above.

19. Ford County #1 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 357 since 1983 and the increased assessed tangible property valuation for the enlarged area is \$19,550,097 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.

20. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 19 above, it appears that the Ford County #1 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 Ford County #1 Fire Department has an added population of 357 as well as an additional assessed tangible property valuation in the amount of \$19,550,097, as enumerated in paragraph 19 above.

21. Hesston 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 fire protection area is 1,690 since 1983 and the increased assessed tangible property valuation for the area is \$17,116,730 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.

22. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 21 above, it appears that the Hesston 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 Hesston

Fire Department has an added population of 1,690 as well as an additional assessed tangible property valuation in the amount of \$17,116,730, as enumerated in paragraph 21 above.

23. Hoyt 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 fire protection area is 454 since 1983 and the increased assessed tangible property valuation for the area is \$6,256,841 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.

24. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 23 above, it appears that the Hoyt 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 Hoyt Fire Department has an added population of 454 as well as an additional assessed tangible property valuation in the amount of \$6,256,841, as enumerated in paragraph 23 above.

25. Iola Fire Department Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the enlarged fire protection district protected has increased since 1983 and the increased assessed tangible property valuation of \$63,144,749 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.

26. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 25 above, it appears that Iola Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was

served in 1983. The area now has a \$63,144,749 increase in assessed tangible property valuation, as enumerated in paragraph 25.

27. Junction City Fire Department Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the fire protection district protected has increased since 1983 and the increased assessed tangible property valuation of \$134,282,274 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 increase in the assessed tangible property valuation as outlined in paragraph 27 above, it appears that Junction City Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has a \$134,282,274 increase in assessed tangible property valuation, as enumerated in paragraph 27.

29. Kansas City Fire Department Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the fire protection district protected has increased since 1992 and the increased assessed tangible property valuation of \$256,215,407 since 1992. 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 increase in the assessed tangible property valuation as outlined in paragraph 29 above, it appears that Kansas City Fire Department is providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department

indicated was served in 1992. The area now has a \$256,215,407 increase in assessed tangible property valuation, as enumerated in paragraph 29.

31. Liberal 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 fire protection area is 1,762 since 1999 and the increased assessed tangible property valuation for the area is \$1,570,544 since 1999. 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 increase in population and assessed tangible property valuation as outlined in paragraph 31 above, it appears that the Liberal 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 Liberal Fire Department has an added population of 1,762 as well as an additional assessed tangible property valuation in the amount of \$1,570,544, as enumerated in paragraph 31 above.

33. Lyon County #2 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 fire protection area is 1,175 since 1989 and the increased assessed tangible property valuation for the area is \$476,676 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 the amendments thereto.

34. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 33 above, it appears that the Lyon County #2 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 Lyon County #2 Fire Department has an added population of 1,175 as well as an additional assessed tangible property valuation in the amount of \$476,676, as enumerated in paragraph 33 above.

35. Manhattan 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 fire protection area is 4,739 since 1996 and the increased assessed tangible property valuation for the area is \$649,694,963 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 the amendments thereto.

36. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 35 above, it appears that the Manhattan 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 Manhattan Fire Department has an added population of 4,739 as well as an additional assessed tangible property valuation in the amount of \$649,694,963, as enumerated in paragraph 35 above.

37. Mulvane 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 fire protection area is 2,048 since 1988 and the increased assessed tangible property valuation for the area is \$14,577,641 since 1988. 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.

38. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 37 above, it appears that the Mulvane 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 Mulvane Fire Department has an added population of 2,048 as well as an additional assessed tangible property valuation in the amount of \$14,577,641, as enumerated in paragraph 37 above.

39. Oakley Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$21,081,827 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 assessed tangible property valuation as outlined in paragraph 39 above, it appears that Oakley 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 \$21,081,827 in assessed tangible property valuation, as enumerated in paragraph 39 above.

41. Offerle 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 fire protection area is 161 since 1987 and the increased assessed tangible property valuation for the area is \$6,122,792 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 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 the Offerle 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 Offerle

Fire Department has an added population of 161 as well as an additional assessed tangible property valuation in the amount of \$6,122,792, as enumerated in paragraph 41 above.

43. Olathe 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 fire protection area is 46,582 since 1998 and the increased assessed tangible property valuation for the area is \$306,753,627 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 the amendments thereto.

44. As a result of the increase in population and assessed tangible property valuation as outlined in paragraph 43 above, it appears that the Olathe 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 Olathe Fire Department has an added population of 46,582 as well as an additional assessed tangible property valuation in the amount of \$306,753,627, as enumerated in paragraph 43 above.

45. Pratt County Township 12 Fire Firefighters Relief Association offered evidence that the population of the area served by Pratt County Township 12 Fire Department has grown by 206 since 1983 and the assessed tangible property valuation has increased by \$8,734,653 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.

46. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 45 above, it appears that Pratt County Township 12 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 206 and an additional \$8,734,653 in assessed tangible property valuation, as enumerated in paragraph 45 above.

47. Saline County #6 Fire Firefighters Relief Association offered evidence that the population of the area served by Saline County #6 Fire Department has grown by 94 since 1988 and the assessed tangible property valuation has increased by \$2,572,895 since 1988. 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.

48. As a result of the growth in population and increase in the assessed tangible property valuation as outlined in paragraph 47 above, it appears that Saline County #6 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 94 and an additional \$2,572,895 in assessed tangible property valuation, as enumerated in paragraph 47 above.

49. Sherman Township Dickinson County Firefighters Relief Association offered evidence, that the area served by Sherman Township Dickinson County Fire Department has grown and the assessed tangible property valuation for the fire protection area has increased by \$1,901,959 since 1993. 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 the assessed tangible property valuation as outlined in paragraph 49 above, it appears that Sherman Township Dickinson County Fire Department is

providing fire protection services to a more valuable area than records maintained by the Kansas Insurance Department indicated was served in 1993. The area now has an additional \$1,901,959 in assessed tangible property valuation, as enumerated in paragraph 49.

51. St George Firefighters Relief Association offered evidence, that the population and the assessed tangible property valuation for the fire protection district had increased the population by 649 and the assessed tangible property valuation of \$7,910,655 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 additional area being served as outlined in paragraph 51 above, it appears that St George Fire Department is currently providing fire protection to a larger population than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by St George Fire Department has an additional population of 649 and an assessed tangible property valuation in the amount of \$7,910,655, as enumerated in paragraph 51 above.

53. Stranger Township Fire Department Firefighters Relief Association offered no evidence that the population for the fire protection district had changed or the assessed tangible property valuation had changed 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, it appears that Stranger Township Fire Department has no change, due to no evidence presented, as reflected by the records maintained by the Kansas Insurance Department.

55. Wakarusa Township Firefighters Relief Association offered evidence, by Sworn Affidavit, of the increased assessed tangible property valuation for the area is \$31,574,577 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.

56. As a result of the more valuable area being served, as outlined in paragraph 55 above, it appears that the Wakarusa Township 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 Wakarusa Township Fire Department has an additional assessed tangible property valuation in the amount of \$31,574,577, as enumerated in paragraph 55 above.

57. Winfield Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation has increased by \$17,902,128 since 1990. 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 increase in the assessed tangible property valuation as outlined in paragraph 57 above, it appears that Winfield 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 1990. The area now has an additional \$17,902,128 in assessed tangible property valuation, as enumerated in paragraph 57 above.

Conclusions of Law

59. 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).

60. 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.

61. 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.

62. To redetermine the proportionate amount payable to all firefighters relief associations for the 2003 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).

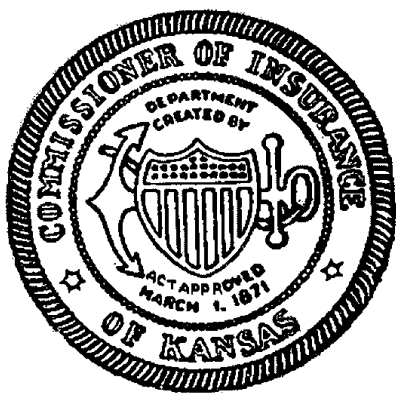
63. The procedure contained in paragraphs 61 and 62 above, shall affect the proportionate amount payable to all firefighters relief associations.

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 30TH DAY OF DECEMBER, 2002, 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 of Insurance

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 30th day of December, 2002, addressed to the following:

Mr. Eric Noll
Atchison County #2
5348 Dickenson Road
Effingham, Kansas 66023

Mr. Clark Kirk
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821 North Burrton Avenue
Burrton, Kansas 67020

Mr. Dale Shaffer
Butler County #7
Post Office Box 368
Benton, Kansas 67017

Mr. Chris Gray
Butler County #8
13086 S.W. 230th
Douglas, Kansas 67039

Mr. Mike Underwood
Eudora Firefighters Relief Association
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Eudora, Kansas 66025

Mr. Garry Eberth
Fairmount Township FRA
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Wakarusa Township FRA
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Mr. Bill Hamm
Walton FRA

400 South Main
Newton, Kansas 67114

Mr. Steve Kunkel
Winfield FRA
817 Fuller Street
Winfield, Kansas 67156-2823

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