

KANSAS REGISTER

State of Kansas

JACK H. BRIER
Secretary of State

Vol. 1, No. 17

April 29, 1982

Pages 441-574

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PUBLISHED BY
JACK H. BRIER
 Secretary of State
 State Capitol
 Topeka, Kansas 66612



PHONE: 913/296-2236

Carol A. Bell
 Publications Director

State of Kansas**DEPARTMENT OF HEALTH
AND ENVIRONMENT****PHILLIPS PETROLEUM CO.
VARIANCE HEARING NOTICE**

Joseph F. Harkins, Secretary of Health and Environment, hereby gives notice to all interested parties that the Kansas Department of Health and Environment will conduct a public hearing to receive testimony relevant to a request by Phillips Petroleum Company, its Successors or Assigns, for a variance from the provisions of K.A.R. 28-19-66, K.A.R. 28-19-67 and K.A.R. 28-19-68, until September 10, 1983. Said variance has been requested under the provisions of K.S.A. 65-3013, to allow the firm to negotiate the sale of the refinery operation or discontinue the production of petroleum products at the facility. The variance request is based on serious hardships without equal or greater benefits to the public.

The hearing will be held on Thursday, May 27, 1982, at 10:00 AM, in the Auditorium on the Third Floor of the Kansas City-Wyandotte County Health Department Building, at 619 Ann Avenue, in Kansas City, Kansas.

Dated this 1st day of April, 1982.

JOSEPH F. HARKINS
Secretary of Health and Environment

Doc. No. 000213

State of Kansas**DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES****NOTICE OF REQUEST FOR
GRANT PROPOSALS**

Closing Date: May 24, 1982

Applications are invited for funding of an Independent Living Center and/or innovative independent living services.

The purpose of the Centers for Independent Living Program is to plan, establish, and operate centers for independent living which offer a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals so that they may live more independently in family and community, or secure and maintain employment, with the maximum degree of self-direction.

Applications for funding must be postmarked or hand delivered by 4:00 p.m. May 24, 1982.

Applications for new awards must be postmarked or hand delivered by 4:00 p.m. May 24, 1982.

Application forms and program information packages may be obtained from Robin O'Dell, Independent Living Coordinator, Division of Rehabilitation Programs, 2700 W. 6th, 2nd Floor, Biddle Building, Topeka, Kansas 66606, telephone 913-296-3911.

GABRIEL R. FAIMON
Commissioner of Rehabilitation Services
State Department of Social
and Rehabilitation Services

Doc. No. 000249

**NORTHWEST KANSAS GROUNDWATER
MANAGEMENT DISTRICT #4****OPEN MEETING NOTICE**

The May meeting of the Northwest Kansas Groundwater Management District No. 4 is scheduled for May 12, 1982 at the district office, 1175 South Range, Colby, Kansas. The meeting begins at 1:00 p.m. General administrative matters and other business will be discussed.

WAYNE A. BOSSERT
Manager

Doc. No. 000250

State of Kansas**DEPARTMENT ON AGING****NOTICE OF PUBLIC HEARING**

The Kansas Department on Aging (KDOA) will hold a public hearing on Monday, May 10, 1982 from 10:00 A.M. to 12:00 P.M. and if necessary, from 1:00 P.M. to 3:00 P.M. at the Bunker Hill Community Center, 6th and Main, Mound City, Kansas on the application of the Linn County Commission to change the boundaries of KDOA's Planning and Service Areas (PSAs) such that Linn County would be transferred from PSA 07, which is under the jurisdiction of the Mid-America Council on Aging, Inc. in Ottawa, to PSA 05, which is under the jurisdiction of the Southeast Kansas Area Agency on Aging, Inc. in Chanute.

At present, PSA 07 consists of Osage, Franklin, Miami, Coffey, Anderson and Linn counties. PSA 05 consists of Woodson, Allen, Bourbon, Wilson, Neosho, Crawford, Montgomery, Labette, and Cherokee counties.

Persons wishing to testify on this matter must either contact KDOA prior to the day of the hearing or must indicate their desire to testify when they sign in at the hearing. Testimony will be taken in the order that requests are received. As time available for oral presentations may be limited, KDOA encourages those testifying to present a written transcript of their testimony at the hearing.

Written testimony will be accepted prior to, at, and up to 5 days after the hearing. Copies of testimony, requests to testify, or general inquiries should be directed to Mr. Richard Wagner, Director of Field Operations, Kansas Department on Aging, 610 West 10th Street, Topeka, Kansas 66612, 913-296-4986 or 1-800-432-3535.

SYLVIA HOUGLAND
Secretary, Kansas Department on Aging

Doc. No. 000262

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES****NOTICE TO BIDDERS**

Sealed bids for items hereinafter listed will be received by James I. Tolbert, Director of Purchases, State Office Building, Topeka, Kansas, until 2:00 p.m., C.S.T., or D.S.T., whichever is in effect on the date indicated, and then will be publicly opened.

MONDAY, MAY 10, 1982

#25029

University of Kansas Medical Center, Kansas City—**CONTINUOUS PRESSURE SENSITIVE LABELS**

#25110

Kansas State Park and Resources Authority—**AB-3 AGGREGATE**, for El Dorado State Park

#25115

State Library of Kansas, Topeka—**LIBRARY NETWORK UNION COM CATALOG**

#25120

University of Kansas Medical Center, Kansas City and University of Kansas, Lawrence—**COAGULATION TEST MATERIAL AND SUPPLIES**

#49910

University of Kansas, Lawrence—**SCINTILLATION COUNTER**

#49911

Wichita State University, Wichita—**SOFTWARE AND MICROCOMPUTER SYSTEM**

#49912

Department of Transportation, Norton—**HERBICIDE**

#49916

Department of Transportation, Norton—**TRAILER**

#49917

Department of Transportation, Chanute—**GRAIN DRILL**

#49918

Department of Administration, Topeka—**GASOLINE**, for Central Motor Pool

#49919

Department of Transportation—**TRACTORS**, for Norton, Salina, Topeka and Hutchinson

#49925

Department of Social and Rehabilitation Services, Topeka—**WORD PROCESSING SYSTEMS**

#49928

University of Kansas, Lawrence—**PARKING CONTROL IDENTIFICATION STICKERS**

TUESDAY, MAY 11, 1982

#25109

Statewide—**JUNE (1982) MEAT PRODUCTS**

#49914

Kansas State University, Manhattan—**VACUUM PACKAGER**

#49926

Larned State Hospital, Larned—**MISCELLANEOUS GROCERIES**

#49932

Department of Transportation—**MOWERS**, for Salina, Chanute, Garden City, Norton, Topeka and Hutchinson

#49933

Kansas State Park and Resources Authority, Topeka—**RAILROAD TIES**, for El Dorado State Park

#49934

Kansas Correctional Industries, Lansing—**ALUMINUM SHEET**

#49935

Kansas State University, Manhattan—**MICRO-PROCESSOR EQUIPMENT**

#49936

Department of Transportation, Topeka—**ASPHALT PAVER**

#49938

Department of Transportation, Hutchinson—**HIGHWAY MOWING RIGHT-OF-WAY**, for the City of Wichita

#49939

Kansas State University, Manhattan—**RURAL FIRE PUMPERS**, for the Kansas State Extension Forester

#49942

Pittsburg State University, Pittsburg—**EXTERIOR PAINTING**

#49984

Kansas Highway Patrol, Topeka—**MOVING SERVICES**

#A-3966

Department of Human Resources—**FURNISH AND INSTALL CARPET AND VENETIAN BLINDS AND PAINT INTERIOR**, of Job Service Center at Garden City

#A-4396

Department of Transportation—**ROOF REPLACEMENT OF HIGHWAY PATROL DIVISION OFFICE BUILDING**, in Chanute

#A-4474

Wichita State University, Wichita—**EXPANSION OF PARKING LOT #10**

#A-4475

Wichita State University, Wichita—**REPAIR PARKING LOTS**

WEDNESDAY, MAY 12, 1982

#25113

Division of Architectural Services and Other Kansas State Agencies—**BLUE PRINTING SERVICES**

#49915

Topeka State Hospital, Topeka—**SALE OF: MISCELLANEOUS USED EQUIPMENT**

#49946

University of Kansas Medical Center, Kansas City—**LIQUID CHROMATOGRAPHY SYSTEM**

#49947

University of Kansas Medical Center, Kansas City—**VINCRIStINE SULFATE INJECTION**

#49950

Department of Transportation, Norton—**MRA-A (DISTRICT 6) ONLY AGGREGATE**, for Oakley, Osborne, and Norton Areas

#49951

Kansas Highway Patrol, Topeka—**LEASE OF AIRPLANE**

#49953

Kansas State University, Manhattan—**FIXED SEATING**

(continued)

#49955

University of Kansas, Lawrence—INDUSTRIAL
PLASTIC UTENSILS AND PAPER GOODS

#49956

Fort Hays State University, Hays—SHINGLES

#49975

University of Kansas, Lawrence—TIME BASE
CORRECTOR

#49983

Kansas State Penitentiary, Lansing—ICE-
MAKER/DISPENSER

#49992

Department of Transportation, Topeka—GUARD
RAIL ACCESSORIES, for Olathe

#49995

Kansas State University, Manhattan—LABOR-MA-
TERIAL TO REPLACE ROOF, on Umberger Hall
(East Lower)

#A-4338

University of Kansas, Lawrence—REPLACE OIL
SWITCHES, in Central Power Plant Facility

#A-4472

Department of Human Resources—REPLACE AIR
CONDITIONING EQUIPMENT AND CONTROLS,
for Job Service Center at Atchison

THURSDAY, MAY 13, 1982

#25121

Kansas State Penitentiary, Lansing—HIGH CAL-
CIUM QUICKLIME

#49393

University of Kansas Medical Center, Kansas City—
PORTABLE PATIENT MONITORS

#49959

Department of Transportation—LIGHT POLE
BASES, MAST ARMS AND POLES, for Norton and
Hutchinson

#49963

Department of Social and Rehabilitation Services,
Topeka—MICRO BRAILLER

#49968

Kansas Highway Patrol, Topeka—BREATH ANAL-
YSIS APPARATUS

#49971

Kansas State University, Manhattan—CARPET
CLEANING SYSTEM

#49972

Kansas State University, Manhattan—KITCHEN
EQUIPMENT

#49981

Kansas State Penitentiary, Lansing—TWO-WAY
RADIO EQUIPMENT

#49990

Department of Transportation, Topeka—WATER
TANK

#49993

Kansas Technical Institute, Salina—AEROMAG-
NETIC STINGER

#A-4462 & A-4464

Department of Human Resources, Topeka—IM-
PROVEMENTS OF HEATING AND AIR CONDI-
TIONING SYSTEMS AND REPLACE CONDENS-
ING UNITS, at 401 Topeka Avenue

FRIDAY, MAY 14, 1982

#49949

University of Kansas, Lawrence—PHOTO-
GRAPHIC SUPPLIES

#49991

Adjutant General's Department, Topeka—EXTE-
RIOR PAINTING, Various Buildings in Salina

#49994

Department of Health and Environment, Topeka—
WATER AND WASTE ANALYSIS SYSTEM

MONDAY, MAY 17, 1982

#49952

Department of Social and Rehabilitation Services,
Topeka—PRINTED TERRY CLOTH SQUARES

#49954

Kansas State University, Manhattan—VIDEO
EQUIPMENT

TUESDAY, MAY 18, 1982

#49958

Fort Hays State University, Hays—VIDEO EQUIP-
MENT

#A-4291

Emporia State University, Emporia—LAKE
WOOSTER BRIDGE REPAIR, at University Campus

#A-4395

Department of Transportation, Phillipsburg—
REROOFING AREA SHOP BUILDING

#A-4443

Kansas State School for the Deaf, Olathe—IM-
PROVEMENT OF CAMPUS SECURITY, for Roth
Building and Emery Hall

TUESDAY, JUNE 1, 1982

#25114

University of Kansas Medical Center, Kansas City—
AIRCRAFT INSURANCE

JAMES I. TOLBERT
Director of Purchases

Doc. No. 000258

(Published in the KANSAS REGISTER, April 29, 1982.)

NOTICE OF BOND SALE

\$131,000.00

CITY OF ST. JOHN

STAFFORD COUNTY, KANSAS

GENERAL OBLIGATION SEWER

IMPROVEMENT BONDS

SERIES A, 1982

Pursuant to K.S.A. 10-106, as amended, written
SEALED BIDS will be received by the Governing
Body of the City of St. John, Stafford County, Kansas,
at the office of the City Clerk, City Hall, 115 East 4th
Street, St. John, Kansas 67576 on:

MAY 18, 1982

at 7:30 o'clock P.M., local time, for the sale of 26
General Obligation Sewer Improvement Bonds, Series
A, 1982, of said City in the aggregate amount of
\$131,000.00, at which time said bids will be publicly
opened. All of the said bonds will be negotiable cou-
pon bonds; be in the denomination of \$5,000.00 each,

(continued)

except Bond No. 1 in the amount of \$6,000.00; be dated May 1, 1982, and mature serially as follows:

MATURITY DATE	AMOUNT MATURING
October 1, 1983	\$ 6,000.00
October 1, 1984	10,000.00
October 1, 1985	10,000.00
October 1, 1986	15,000.00
October 1, 1987	15,000.00
October 1, 1988	15,000.00
October 1, 1989	15,000.00
October 1, 1990	15,000.00
October 1, 1991	15,000.00
October 1, 1992	15,000.00

No bond shall be callable prior to its stated maturity.

This issue of \$131,000.00, Series A, 1982, Bonds is issued pursuant to K.S.A. 12-6a01 *et seq.*, and 10-101 *et seq.*, to finance the City's share of the costs of various sewer improvements in said City.

Proposals will be received on bonds bearing such rate or rates of interest as may be specified by the bidders, provided, however, that not more than five different rates shall be specified in any bid and the same rate shall apply to all bonds of the same maturity. The repetition of a rate will not constitute one of said maximum number of rates. Each interest rate specified shall be a multiple of one-eighth or one-twentieth of one percent and no interest rate shall exceed the maximum permitted by law (12%). No bid of less than par and accrued interest will be considered. Any bid specifying the use of supplemental coupons or more than one interest rate within a single maturity will not be considered.

Each bid shall specify the total interest cost to the City during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the total net interest cost and the average annual net interest rate to the City on the basis of such bid. It shall be understood that the City may rely upon the representation as to the total net interest cost in awarding the said bonds to the bidder submitting the best bid.

Interest on said bonds will be payable on April 1, 1983, and thereafter semi-annually on October 1 and April 1 in each year. Both principal and interest on said bonds will be payable at the office of the State Treasurer in the City of Topeka, Kansas.

The cost of printing said bonds will be paid by the City. Said bonds, duly executed and registered, will be delivered by the City and said bonds will be sold subject to the unqualified legal opinion of Fred W. Rausch, Jr., municipal bond counsel, Topeka, Kansas, whose unqualified approving opinion will be printed on each bond. Other legal services in connection with the issuance of said bonds will be paid for by the City.

All of said bonds will constitute general obligations of said City payable under present law both as to principal and interest from special assessments levied against property especially benefited by said sewer improvements and from ad valorem taxes which may be levied without limitation as to rate or amount upon all tangible, taxable property, real and personal, within the territorial limits of said City.

Said City has an assessed taxable, tangible valuation of \$2,264,450.00 including motor vehicle valuation of \$20,329.00, and a bonded indebtedness of \$261,000.00, including this issue of \$131,000.00. Said bonds are being issued for the purpose of paying costs of various sewer improvements in said City.

Said bonds will be delivered to the purchaser on or before July 16, 1982, at any bank in Wichita or Topeka, Kansas, or Kansas City, Missouri, at the expense of the City. Delivery elsewhere will be made at the expense of the purchaser.

The successful bidder will be furnished, without cost, with the approving opinion of Fred W. Rausch, Jr., municipal bond counsel, Topeka, Kansas, to the effect that the bonds are valid and legally binding general obligations of said City and, unless paid from other sources, are payable from ad valorem taxes levied upon all the taxable, tangible property within the City without limitation as to rate or amount. The obligation hereunder to deliver or accept the bonds pursuant hereto shall be conditioned on the availability and delivery at the time of delivery of the bonds of the said approving opinion, and a certificate, in form and tenor, satisfactory to said bond counsel and dated as of the date of such delivery, to the effect that there is no litigation pending or (to the knowledge of the signor or signors thereof), threatened relating to the bonds.

Each bid shall be accompanied by a certified or cashier's check made payable to the City in an amount equal to two percent of the total amount of such bid. The City reserves the right to reject any and all bids. Bids will be submitted in writing, sealed and marked "Bond Bid". In the event any purchaser whose bid is accepted shall fail to carry out his contract, said deposit shall be paid to the City as liquidated damages. The checks of unsuccessful bidders will be returned.

Bids will be submitted on official bid forms (or their equivalent) which may be obtained from the City Clerk, City Hall, 115 East 4th Street, St. John, Kansas 67576.

GOVERNING BODY OF THE CITY OF ST JOHN,
STAFFORD COUNTY, KANSAS

KENNETH N. PARTON
Mayor

(Seal)

Attest: GOLDIE K. GREEN
City Clerk

Doc. No. 000290

(Published in the KANSAS REGISTER, April 29, 1982.)

**NOTICE OF BOND SALE
CITY OF NORTON, KANSAS
\$450,000 GENERAL OBLIGATION BONDS
SERIES 1982-A (WATER)**

The City of Norton, Kansas, will receive bids for the sale of \$450,000 General Obligation Bonds, Series 1982-A (Water), dated June 1, 1982. Bids will be received at the office of the City Clerk, Norton, Kansas, until 7:30 P.M., C.D.T., May 18, 1982.

Bonds will be in the denomination of \$5,000 and will mature as follows:

Number	Maturity	Amount
1	October 1, 1983	\$ 5,000.00
2-4	October 1, 1984	\$15,000.00
5-8	October 1, 1985	\$20,000.00
9-12	October 1, 1986	\$20,000.00
13-17	October 1, 1987	\$25,000.00
18-22	October 1, 1988	\$25,000.00
23-28	October 1, 1989	\$30,000.00
29-34	October 1, 1990	\$30,000.00
35-41	October 1, 1991	\$35,000.00
42-48	October 1, 1992	\$35,000.00
49-55	October 1, 1993	\$35,000.00
56-63	October 1, 1994	\$40,000.00
64-71	October 1, 1995	\$40,000.00
72-80	October 1, 1996	\$45,000.00
81-90	October 1, 1997	\$50,000.00

Bonds will bear interest at the rates to be determined when said bonds are sold as hereinafter provided and said interest will be payable on April 1, 1983, and semiannually thereafter on the first days of October and April of each year until said principal sum shall have been paid. Both principal of and interest on said bonds will be payable in lawful money of the United States of America at the office of the State Treasurer in Topeka, Kansas.

Bids will be received on bonds bearing such rates of interest as may be specified by the bidders subject to the following conditions: Not more than five different interest rates shall be specified. Interest rates shall be in a multiple of one-eighth or one-twentieth of one percent and shall not exceed Kansas legal rate. No bid less than par and accrued interest will be considered.

Bids shall be sealed and accompanied by a cashier's or certified check on a bank located in the United States of America in the amount of two percent of the total par value of the bonds being sold, payable to the order of the City of Norton, Kansas. Each bidder must certify to the correctness of the computations. The award will be made on the basis of the lowest net interest cost to the City. The City of Norton, Kansas, reserves the right to reject any and all bids.

The purchase price, together with any premium and accrued interest from date of bonds to date of delivery, must be paid at delivery or bidding check will be forfeited.

All of said bonds will constitute General Obligations of the City payable both as to principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable, tangible property within said City.

The City of Norton, Kansas, will furnish the bonds, properly printed, without cost to the successful bidder,

and said bonds will be subject to the approving opinion of NICHOLS AND WOLFE CHARTERED, Topeka, Kansas, whose final approving opinion will be furnished and paid for by the City and delivered with the bonds together with a certified copy of the transcript of proceedings authorizing said bonds.

The City is requesting CUSIP identification numbers be printed on the Series 1982-A Bonds, neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the Series 1982-A Bonds in accordance with the terms of the purchase contract. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid for by the City; provided, however, that CUSIP Service Bureau charge for the assignment of said numbers shall be the responsibility of and shall be paid for by the purchaser.

Bonds will be delivered no later than sixty (60) days from the date of sale at any bank in Topeka, Wichita or Kansas City, Missouri, at the expense of the City, or the successful purchaser may designate another place for delivery, the expense of which will be paid by the purchaser.

The assessed valuation of the City of Norton, Kansas, for 1981 is \$6,724,491.

The total General Obligation bonded indebtedness of the City as of the date of the Bonds being sold, including the Bonds being sold, is \$461,689. The City also has outstanding \$775,000 Utility Revenue Bonds, \$36,000 Airport Revenue Bonds and \$30,000 No-Fund Warrants.

CAROL WERTENBERGER
City Clerk

Doc. No. 000260

(Published in the KANSAS REGISTER, April 29, 1982.)

**NOTICE OF BOND SALE
CITY OF VALLEY FALLS, KANSAS
\$115,000 GENERAL OBLIGATION BONDS
SERIES 1982-A (PARK IMPROVEMENT)**

The City of Valley Falls, Kansas, will receive bids for the sale of \$115,000 General Obligation Bonds, Series 1982-A (Park Improvement), dated June 1, 1982. Bids will be received at the office of the City Clerk, Valley Falls, Kansas, until 11:00 A.M., C.D.T., May 11, 1982.

Bonds will be in the denomination of \$5,000 and will mature as follows:

NUMBER	MATURITY	AMOUNT
1-2	October 1, 1983	\$10,000.00
3-4	October 1, 1984	\$10,000.00
5-6	October 1, 1985	\$10,000.00
7-8	October 1, 1986	\$10,000.00
9-10	October 1, 1987	\$10,000.00
11-12	October 1, 1988	\$10,000.00
13-14	October 1, 1989	\$10,000.00
15-17	October 1, 1990	\$15,000.00
18-20	October 1, 1991	\$15,000.00
21-23	October 1, 1992	\$15,000.00

Bonds will bear interest at the rates to be determined

(continued)

when said bonds are sold as hereinafter provided and said interest will be payable on April 1, 1983, and semiannually thereafter on the first days of October and April of each year until said principal sum shall have been paid. Both principal of and interest on said bonds will be payable in lawful money of the United States of America at the Office of the State Treasurer in Topeka, Kansas.

Bids will be received on bonds bearing such rates of interest as may be specified by the bidders subject to the following conditions: Not more than five different interest rates shall be specified. Interest rates shall be in a multiple of one-eighth or one-twentieth of one percent and shall not exceed Kansas legal rate. No bid less than par and accrued interest will be considered.

Bids shall be sealed and accompanied by a cashier's or certified check on a bank located in the United States of America in the amount of two percent of the total par value of the bonds being sold, payable to the order of the City of Valley Falls, Kansas. Each bidder must certify to the correctness of the computations. The award will be made on the basis of the lowest net interest cost to the City. The City of Valley Falls, Kansas, reserves the right to reject any and all bids.

The purchase price, together with any premium and accrued interest from date of bonds to date of delivery, must be paid at delivery or bidding check will be forfeited.

All of said bonds will constitute General Obligations of the City payable both as to principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable, tangible property within said City.

The City of Valley Falls, Kansas, will furnish the bonds, properly printed, without cost to the successful bidder, and said bonds will be subject to the approving opinion of NICHOLS AND WOLFE CHARTERED, Topeka, Kansas, whose final approving opinion will be furnished and paid for by the City and delivered with the bonds together with a certified copy of the transcript of proceedings authorizing said bonds.

Bonds will be delivered no later than sixty (60) days from the date of sale at any bank in Topeka, Wichita or Kansas City, Missouri, at the expense of the City, or the successful purchaser may designate another place for delivery, the expense of which will be paid by the purchaser.

The assessed valuation of the City of Valley Falls, Kansas, for 1981 is \$2,373,106.

The total General Obligation bonded indebtedness of the City as of the date of the Bonds being sold, including the Bonds being sold, is \$115,000. The City also has outstanding \$80,000 Sewer and Water Revenue Bonds.

GAIL COKER
City Clerk

Doc. No. 000259

State of Kansas

ATTORNEY GENERAL

OPINION NO. 82-84

Cities and Municipalities—Repair or Removal of Unsafe or Dangerous Structures—Ordinances and Resolutions for the Payment of Proceeds of Certain Insurance Policies to Cities or Counties. Representative Larry E. Erne, Coffeyville, April 9, 1982.

The provisions of 1982 Senate Bill No. 545 (As Amended by Senate Committee), which authorize a Kansas city or county to establish (by ordinance or resolution) a procedure for the payment of up to \$5000 of the proceeds of any insurance policy based upon a covered claim payment (exceeding 75% of the face value of the policy) made for damage or loss to a building or structure, caused by or arising out of any fire or explosion, would not, if enacted, violate the constitutional prohibition against laws impairing the obligation of contracts, or constitutional due process requirements. Cited herein: K.S.A. 12-1750, U.S. Const., Art. I, § 10. TRH

OPINION NO. 82-85

Counties and County Officers—Ambulance Service—Limitations on Expenditure of Tax Proceeds. Steven E. Worcester, Graham County Attorney, Hill City, April 14, 1982.

A county hospital established pursuant to K.S.A. 19-801 *et seq.* does not have express or implied authority to provide an ambulance service. Pursuant to K.S.A. 19-261, a county ambulance service is the province of the board of county commissioners, and the expenses incurred in connection therewith are to be paid from the county general fund, which necessitates the oversight and control of such expenses by the board of county commissioners.

Therefore, the ambulance service being provided by the Graham County Hospital with the proceeds of a tax levied under K.S.A. 19-262 is *ultra vires*, and all such moneys, together with equipment purchased therewith, must be returned to the control of the Graham County Board of County Commissioners.

In addition, since K.S.A. 19-261 requires that any taxing district that has provided ambulance service in the county be reimbursed therefore, the Graham County Rescue Squad (funded by the Graham County Fire Department) should be reimbursed for the ambulance service it has provided. Cited herein: K.S.A. 12-105a, 12-105b, 19-101, 19-101a, 19-212, 19-229, 19-261, 19-262, 19-263b, 19-1801, 19-1802, 19-1804, 77-201, 79-2934, Kan. Const., Art. 11, § 5. RVE

OPINION NO. 82-86

Intoxicating Liquors and Beverages—Cereal Malt Beverages—Possession by Persons Under Eighteen Years of Age. John Dekker, City Attorney, Wichita, April 14, 1982.

Where a person under the age of eighteen years handles cereal malt beverages as a shelf stocker, checker or carry-out person employed by a store au-

(continued)

thorized to sell such beverages for off-premises consumption, such minor is not in "possession" of cereal malt beverages in violation of K.S.A. 41-2721. However, even though such minor does not unlawfully possess cereal malt beverages, if the minor's employment duties include the sale of these beverages, such sale would contravene the provisions of K.S.A. 41-2708(i), which preclude a person licensed to sell cereal malt beverages at retail from employing a person under eighteen years of age in dispensing such beverages. Cited herein: K.S.A. 41-2708, 41-2721. JEF

OPINION NO. 82-87

Counties and County Officers—Planning and Zoning—Inapplicability of County Home Rule Powers. Stephen R. Cloud, State Representative, Thirtieth District, Shawnee Mission, April 14, 1982.

The act which originally created township zoning boards, L. 1939, ch. 164, was nonuniform in its application due to language contained in section 1 (now K.S.A. 19-2901). By virtue of amendments in 1981 (L. 1981, ch. 122), the nonuniform language was removed, leaving K.S.A. 19-2901 through 19-2910 and 19-2912 and 19-2913 uniform in their application and thus not subject to the home rule power of a county under K.S.A. 19-101a *et seq.* While K.S.A. 19-2911 does contain a subsection which is nonuniform, the nonuniformity is a result of a legislative act which did not amend the remaining sections of K.S.A. 19-2901 *et seq.* Thus, the nonuniformity of K.S.A. 19-2911 does not affect the uniform applicability of these other sections. Furthermore, as the nonuniform language was part of an act affecting central business district redevelopment bonds, K.S.A. 19-101a(a), *Eleventh*, acts to prevent a county from exempting itself from even this single statute. Cited herein: K.S.A. 1981 Supp. 12-1774, K.S.A. 19-101a, 19-101b, 19-2901, 19-2911, L. 1979, ch. 52, § 121, L. 1980, ch. 91, L. 1981, ch. 122, § 1. JSS

OPINION NO. 82-88

Cities and Municipalities—Investment of Idle Funds—Deferred Compensation Plan. Richard E. Jones, Deputy City Attorney, Topeka, April 19, 1982.

Moneys withheld from employees' salaries for purposes of an approved deferred compensation plan sponsored by a city are "public moneys" within the meaning of K.S.A. 1981 Supp. 9-701. Such moneys, however, are not "idle funds" which are subject to investment under K.S.A. 1981 Supp. 12-1675. Cited herein: K.S.A. 1981 Supp. 9-701, 12-1675, 26 U.S.C.A. 457. BJS

OPINION NO. 82-89

Mentally Ill, Incapacitated and Dependent Persons—Adult Care Homes—Boarding Care Homes; Similarity to Adult Family Homes; Distinction from Adult Family Homes. Senator James L. Francisco, Twenty-Sixth District, Maize, April 19, 1982.

As part of the Alternate Care Services program of the Department of Social and Rehabilitation Services, adult family homes have been established which provide community-based living facilities for elderly or

disabled individuals who can no longer live independently. In that adult family homes do not provide nursing care, they are distinguishable from most forms of adult care homes, which are licensed by the Department of Health and Environment. However, in that they do offer the same type of services as do boarding care homes (a type of adult care home), adult family homes serving 3 or more clients are required to be licensed by the Department of Health and Environment before operating. Cited herein: K.S.A. 39-923, K.S.A. 1981 Supp. 75-3307b. JSS

OPINION NO. 82-90

Schools—Capital Outlay Levy, Fund and Bonds—General Obligation Bonds—Interlocal Cooperation—Use of School District Moneys to Construct a Building for School District and City Purposes. Dr. Merle R. Bolton, Commissioner of Education, Topeka, April 21, 1982.

A school district may enter into an interlocal agreement with a city for the purpose of constructing a building which is necessary for both school and municipal purposes. A school district may use any moneys in the capital outlay fund of the school district or moneys received from the issuance of bonds, or both, for the purpose of contributing to the costs of constructing such a building. Such bonds may be issued under K.S.A. 1981 Supp. 72-8805 without an election, or the school district could issue bonds for this project under K.S.A. 1981 Supp. 72-6761, if an election were held and the voters approved the issuance of the bonds. In addition, such a building could be constructed on land owned by the city, with the city contributing the land as a portion of its share of financing the joint undertaking, pursuant to the interlocal agreement. Finally, after the building is completed, the school district may expend school district moneys, other than capital outlay fund moneys, for maintenance of the building. Cited herein: K.S.A. 12-2901, K.S.A. 1981 Supp. 12-2904, 72-6761, K.S.A. 72-8212, K.S.A. 1981 Supp. 72-8801, 72-8804, 72-8805. RJB

OPINION NO. 82-91

Taxation—Mortgage Registration Fee—Computation of Amount Due. Daniel L. Love, Ford County Attorney, Dodge City, April 21, 1982.

The mortgage registration fee is measured by the principal debt or obligation secured by a mortgage of real property. If the initial amount of the principal debt or obligation secured by a mortgage of real property is increased, an additional mortgage registration fee is due. In such circumstances, however, such fee need be paid only upon the difference between the initial amount of principal debt or obligation secured by the mortgage and the amount of principal debt or obligation subsequently secured by the mortgage. Attorney General Opinion No. 73-191 is withdrawn. Cited herein: K.S.A. 1981 Supp. 79-3102. RJB

ROBERT T. STEPHAN
Attorney General

Doc. No. 000257

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION
SUPREME COURT DOCKET

NOTE: Dates and times of arguments are subject to change.

Monday, May 3, 1982

Case Caption	Attorneys	Originating County
	9:30 a.m.	
53,843 State of Kansas, Appellant, v. Anthony J. Simon, Appellee.	Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,690 State of Kansas, Appellee, v. Arnold B. Griffin, Appellant.	Lyle W. Britt. Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,590 State of Kansas, Appellee, v. Jim W. Harrison, Appellant.	Robert C. Brown. Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,443 State of Kansas, Appellee, v. Albert Boston, Appellant.	Kenneth C. Kimmel. Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
	1:30 p.m.	
53,596 State of Kansas, Appellant, v. Morton Colby and Big 3 Auto Products, Inc., Appellees.	Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,636 State of Kansas, Appellee, v. Robbie D. Hubbard, Appellant.	Jim Lawing; Joseph O. Giaimo. Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,467 State of Kansas, Appellee, v. Ronald L. Rhodes, Appellant.	Paula Packard Kidd. Robert T. Stephan, Atty. Gen.; Jack Peggs, Asst. Dist. Atty.	Sedgwick
53,763 Michael Lee Miller, Appellant, v. City of Overland Park, et al., Appellees.	Kiehl Rathbun. Douglas J. Walker, Jr. Neil R. Shortlidge; James L. Robinson; Kathryn Pruessner Peters; Robert E. Pinnell.	Johnson

Tuesday, May 4, 1982

	9:30 a.m.	
52,104 Kernie W. Binyon and Hilda Binyon, Appellees, v. Roy Nesseth, et al., Appellants.	Robert T. Cornwell.	Sedgwick
53,346 Michelle Pape, a minor, by Kathleen Pape Johansen, Guardian and Conservator, et al., Appellees, v. Kansas Power and Light Company, Appellant, and Michael Pape, a minor, by Pamela Pape, Conservator, Intervenor, Appellee.	ON PETITION FOR REVIEW Martin E. Updegraff; Craig Kennedy. Donald W. Vasos; Phil Lacey; Dan Dykestra; Robert Harris. Robert D. Ochs; Frederick K. Starrett.	Wyandotte

(continued)

Case Caption	Attorneys	Originating County
52,798 W. D. Martin, Appellee, v. Cudahy Foods Company, Appellant.	James L. Pinkerton. Rex G. Beasley.	Sedgwick ON PETITION FOR REVIEW
53,165 In Re: The Due Process Hearing of Veronica Kelly and Evelyn Cochran	Patricia Riley. George Maier.	Wyandotte
1:30 p.m.		
53,747 In the Interest of Eva Woodard, a minor child under 18 years of age	Van Smith. Paul D. Handy, Co. Atty.; Linda S. Trigg, Asst. Co. Atty.; Philip C. Vieux; John P. Wheeler, Jr.; John Rintoul.	Finney
53,786 Suretoll Switch, Inc., Appellee, v. Security Savings and Loan Association, Appellant.	Van Smith.	Finney
51,908 John W. Sieben, Appellee, v. Thomas Sieben, et al., Appellants.	Ward Loyd. Dennis M. Clyde. John H. Fields.	Wyandotte ON PETITION FOR REVIEW
53,436 George A. and Shirley Bowen, Appellants, Consolidated with v. City of Kansas City, Kansas, a municipal corporation, et al., Appellees.	John H. Fields. Robert J. Watson; L. Frank Wilcox, Pro Se; Charles S. Scott, Jr.; Gerald Green, Pro Se.	Wyandotte
53,437 A. Poole and B. Bruncker, Appellants, Consolidated with v. City of Kansas City, Kansas, a municipal corporation, et al., Appellees.	John H. Fields.	Wyandotte
53,441 Charlotte McGowen, Appellant. v. City of Kansas City, Kansas, a municipal corporation, et al., Appellees.	John H. Fields. Robert J. Watson; L. Frank Wilcox, Pro Se; Charles S. Scott, Jr.; Gerald Green, Pro Se.	Wyandotte

Wednesday, May 5, 1982

9:30 a.m.

52,995 Randal Paul Gross, a minor, by his Mother and Next Friend, Myra Gross, Appellant v. Richard O. Van Lerberg, Appellee.	John Ivan. Hugh H. Kreamer.	Johnson ON PETITION FOR REVIEW
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(continued)

Case Caption	Attorneys	Originating County
53,362 City of Overland Park, Appellee, v. Peaches Records and Tapes, Inc., Appellant.	Neil Shortlidge. David J. Waxse.	Johnson
52,480 Estate of Clifford E. Bingham, Deceased, et al., Appellees, v. Nationwide Life Insurance Company of Columbus, Ohio, Appellant.	Patrick D. McAnany. Lee M. Smithyman.	Johnson
52,203 Board of Education, USD 512, Appellee, v. Vic Regnier Builders, Inc., Dennis L. Steele and Francis C. Steele, Appellants.	Robert F. Bennett. H. Thomas Payne; Elmer Hoge.	Johnson
1:30 p.m.		
53,823 In the Matter of the Trust Estate of Mayme Harbaugh, Deceased.	Phillip S. Frick; J. Raymond Eggleston.	Barber
53,723 CMS Electric Cooperative, v. Wendell B. Fox, Jr., et al., Appellees.	W. Luke Chapin. Donald D. Good. Inc., Appellant, Gene Sharp.	Meade
52,535 Keith W. Cook, Appellee, v. Eula A. Cook, Appellant.	Floyd E. Jensen. Jerry Fairbanks.	Sherman ON PETITION FOR REVIEW
Thursday, May 6, 1982		
9:30 a.m.		
53,322 In the Interest of Christopher Lee Douglas Devore, aka Baby Boy Devore, a Minor Child under 18 Years of Age.	Robert T. Stephan, Atty. Gen.; David C. McLane, Asst. Co. Atty.; Fred R. Smith, Asst. Co. Atty.; Donald R. Noland; Kurtis I. Loy.	Crawford
52,847 Dwight Haworth, Appellant, v. Daniel International Corporation, A South Carolina Corporation, et al., Appellees.	Robert S. Tomassi. William G. Haynes. Robert H. Foerschler; Robert A. Vohs.	Coffey
53,460 Fred L. Newmaster, Appellee, v. Southeast Equipment Company, Inc., Appellant.	John B. Markham. Kurtis I. Loy.	Labette
53,511 State of Kansas, Appellee, v. Richard J. Morgan and Barbara S. Morgan, Appellants.	Robert T. Stephan, Atty. Gen.; Jeffrey A. Chubb, Co. Atty. Bruce E. Borders; Stanley L. Basler	Montgomery

(continued)

Case Caption	Attorneys	Originating County
	1:30 p.m.	
53,260 First National Bank and Trust Company, Appellee, v. Fort Motor Credit Company and Heritage Ford-Lincoln-Mercury, Inc., Appellant.	James L. Hargrove. Rex G. Beasley.	Butler
53,450 Virginia Gray Bell, et al., Appellees, v. E. J. Storrer and Suzanna L. Storrer, Appellants.	Robert D. Kroeker. W. Irving Shaw.	Lyon
53,210 In the Matter of the Conservatorship of David Hatfield.	Stephen B. Rhudy; Andrew R. Ramirez. Tim Degginger.	Douglas

Friday, May 7, 1982

Case Caption	Attorneys	Originating County
	9:30 a.m.	
53,594 John Lynch and Maureen Lynch, Appellants, v. Dwight Brown, dba Dwight Brown and Associates, et al., Casson Construction Co., Inc., v. Merchants National Bank and American Savings Association of Kansas, Appellees.	Robert D. Ochs. Douglas A. Hinchcliff; Ronald W. Fairchild; Philip L. Bowman; Eugene W. Hiatt; Robert E. Keeshan.	Shawnee
53,458 Dorothy May Powell, Appellant, v. Benson M. Powell, II, Appellee.	Danton C. Hejtmanek. Malcolm G. Copeland.	Shawnee
53,547 State of Kansas, Petitioner, v. James R. Martin, Respondent.	Arno Windscheffel. Robert D. Ochs; James R. Martin.	Original

COURT OF APPEALS DOCKET

(NOTE: Dates and times of arguments are subject to change.)

KANSAS COURT OF APPEALS

COURT OF APPEALS COURTROOM, 3rd FLOOR, OLD SEDGWICK COUNTY COURTHOUSE

541 NORTH MAIN, WICHITA, KANSAS.

Before MEYER, P.J., ABBOTT and SWINEHART, JJ.

Wednesday, May 19, 1982

Case No.	Case Name	Attorneys	County
		9:00 a.m.	
53,561	Otis L. Goodwin, Appellant, v. State of Kansas, Appellee.	J. Larry Linn. Cris Senseman, Asst. D.A.; Clark V. Owens, II, D.A.; Atty. Gen.	Sedgwick
53,543	State of Kansas, Appellee, v. Keith D. Littlejohn, Appellant.	David Moses, Asst. D.A.; Clark V. Owens, II, D.A.; Atty. Gen. David Michael Rapp.	Sedgwick

(continued)

Case No.	Case Name	Attorneys	County
53,252	State of Kansas, Appellee, v. O. Charles Dunlap aka David A. Smith, Appellant.	Jack Peggs, Asst. D.A.; Clark V. Owens, II, D.A.; Atty. Gen. Ronald D. DeMoss.	Sedgwick
53,317	State of Kansas, Appellee, v. Oliver E. Chilcote, aka Bill Chilcote, Appellant.	Cris Senseman, Asst. D.A.; Clark V. Owens, II, D.A.; Atty. Gen. N. Trip Shawver.	Sedgwick
53,551	State of Kansas, Appellee, v. Guy W. Palmer, Appellant.	Beverly Dempsey, Asst. D.A.; Clark V. Owens, II, D.A.; Atty. Gen. James W. Wilson.	Sedgwick
53,290	Paula Underwood, Appellee, v. Tracy Underwood, Appellant.	James T. Myers.	Meade
58,887	State of Kansas, Appellee, v. Roland Boesker, Appellant.	Robert M. Baker Tim Karstetter, Co. Atty.; Atty. Gen. Charles I. Prather.	McPherson
53,849	In the Matter of the Interest of CATHERINE CARTER, a female minor under age of 16 years.	J. Thomas Marten. John B. Klenda, Asst. Co. Atty.; Tim Karstetter, Co. Atty.; Atty. Gen. Jay S. Emler.	McPherson
53,729	State of Kansas, Appellee, v. Frank M. Widner, Appellant.	Jim Pringle, Co. Atty.; Atty. Gen. Lee A. Johnson; Lee E. Parker.	Sumner
53,393	Walter Myrick, Appellant, v. State of Kansas, Appellee.	Olin Stansbury. Norman G. Manley; William P. Ronan, Co. Atty.; Atty. Gen.	Butler
<i>Thursday, May 20, 1982</i>			
9:00 a.m.			
53,339	Leonard Ropfogel, Appellant, v. Paul and June Enegren dba Parts & Equipment Co., Appellee.	Thomas C. Triplett. Karl W. Friedel.	Sedgwick
53,457	Joe McGill, Inc., Appellant, v. Pros, Inc., et al., Appellee.	Clifford L. Malone. Smith, Shay, Farmer & Wetta; Matlock, Foote, Scott, Joseph & Wilkinson; Jon R. Hansen.	Sedgwick
53,351	Barbara H. Fischer and Charles W. Fischer, Appellants, v. The Travelers Ind. Co., Appellee.	Christopher Randall.	Sedgwick
53,135	Dwight Ellis, Appellee, v. Tri-Point Equipment, Inc., Appellant.	William E. Dakan. Christopher Randall. Charles K. Hyter.	Reno

(continued)

Case No.	Case Name	Attorneys	County
53,530	Stevens, Inc., Appellant, v. Dugan Truck Lines, Inc. and Pacific Intermountain Express, Appellees.	Kent C. Voth. Alan G. Metzger; Jeff A. Roth.	Reno
1:00 p.m.			
53,152	Leah M. Barkley, Appellee, v. John H. Toland, Appellant.	Randall Henry. Mike O'Neal.	Reno
53,077	State of Kansas, Appellee, v. James Leroy Striplin, Appellant.	Joseph McCarville, III, Co. Atty.; Atty. Gen. Dennis Webb.	Reno
53,253	State of Kansas, Appellee, v. Johnny Palmer, Appellant.	Joseph McCarville, III, Co. Atty.; Atty. Gen. Robert L. Taylor.	Reno
53,174	State of Kansas, Appellee, Consolidated w/53,539	Phillip Lunt, Co. Atty.; Atty. Gen.	Pratt
	v. Sylvester Wright, Appellant.	Robert L. Taylor.	
Friday, May 21, 1982			
9:00 a.m.			
53,233 S.C.	Capital Services, Inc., Appellant v. Dahlinger Pontiac-Cadillac, Inc., and Kansas State Bank & Trust Co., Appellees.	James A. Walker. John R. Morse.	Sedgwick
53,173 S.C.	Curtis E. Morgan, dba Brown Feed Store, Appellee, v. Land, E. H., Jr., Appellant.	Jeffrey E. Willis. Alexander Mitchell.	Elk
53,766 S.C.	Barbara Forshee, Appellee, v. Gary R. Forshee, Appellant.	Jeffrey R. Strum. C. Robert Bell.	Sedgwick
53,777	Carol S. Marcotte, Appellant, v. Cessna Aircraft Company and Hartford Accident & Indemnity Co., Appellee.	James B. Zongker. Larry Shoaf.	Sedgwick
53,104	Ziegler Corporation, a Kansas Corporation, Appellee, v. Herbert T. Munhollon, <i>et al.</i> , Appellant.	Michael G. Coash. Kurt A. Harper.	Sumner

KANSAS COURT OF APPEALS
COURT OF APPEALS COURTROOM, 2nd FLOOR, KANSAS JUDICIAL CENTER
301 W. 10th Street, TOPEKA, KANSAS
Before FOTH, C.J., REES and SPENCER, JJ.
Thursday, May 20, 1982

9:00 a.m.

Case No.	Case Name	Attorneys	County
53,902	Michael L. McGill, Appellant, v. State of Kansas, Appellee.	Max Rowinsky; Charles Masner. C. William Ossmann, Asst. D.A.; Gene Olander, D.A.; Atty. Gen.	Shawnee

(continued)

Case No.	Case Name	Attorneys	County
53,537	William Legg, Appellee, v. Topeka Halfway House, Inc., Appellant.	Roger W. Lovett; Arthur W. Solis. John R. Mettner, Jr.	Shawnee
53,217	Wilbert E. Johnson, Appellant, v. Donald Johnson, Appellee.	John Wilkinson.	Republic
53,584	Marjorie Ryan, Appellant, v. St. Francis Hosp. & Medical Center, Inc., Appellee.	George E. Erickson, Jr. Jerry K. Levy. K. Gary Sebelius.	Shawnee
53,531	State of Kansas, ex rel Gene M. Olander, D.A., Appellee, v. The Premises of 5121 S. Topeka, W. H. Hauptman, Nancy Hauptman and Lessee of said premises, William Schump, Appellant.	Gene M. Olander, D.A.; Atty. Gen. Hugh R. McCullough.	Shawnee
1:30 p.m.			
53,258	Lawson Products, Inc., Appellee, v. Fred Stattman Motors, Inc., Appellant.	Morris D. Hildreth. W. J. Fitzpatrick.	Montgomery
53,358	Deanna Meredith, Appellant, v. David Meredith, Appellee.	Paul D. Post.	Montgomery
53,425	Lorena M. Whittaker, Appellant, v. Vernon W. Whittaker, Appellee.	Curt T. Schneider. J. David Farris.	Doniphan
53,550	Clair H. Dulin and Angela M. Dulin, his wife, Appellees, v. Joan V. Melcher, J.V.M., Inc., and D & V Oil, Inc., Appellants.	Robert A. Reeder. David K. Clark Michael G. Glover.	Wilson.
<i>Friday, May 21, 1982</i>			
9:00 a.m.			
53,484	Andrew Olson, Appellee, v. Boyd Bacon, Appellant.	Charles I. Platt.	Morris
53,680	Marvin K. Farris, Appellant, v. State of Kansas, Appellee.	Harold L. Haun. Robert L. Pottroff	Riley
53,163	L. Joseph Pflumm dba Pflumm Plumbing Co., Appellee, v. Commercial National Bank of Kansas City, Kansas, Trustee, David G. McIntyre, dba McIntyre Carpet Co., Appellants.	Mark Furney, Co. Atty.; Atty. Gen. Roy S. Bennett, Jr.	Johnson
53,428	State of Kansas, Appellee, v. Roberta Lynn Harris, Appellant.	Michael E. Whitsitt.	
53,403	In the Matter of the Estate of EDWARD B. BARNETT, Deceased.	Mickey W. Mosier, Asst. Co. Atty.; Saline Wm. Rex Lorson, Co. Atty.; Atty. Gen. William D. Mize. Daniel F. Meara; Forrest E. Short.	Bourbon

(continued)

KANSAS COURT OF APPEALS
ELLIS DISTRICT COURTROOM, 3rd FLOOR, ELLIS COUNTY COURTHOUSE
HAYS, KANSAS

Before FOTH, C.J., REES and SPENCER, JJ.

Tuesday, May 25, 1982

Case No.	Case Name	Attorneys	County
		9:00 a.m.	
53,809	State of Kansas, Appellee, v. Jeffrey L. Moore, Appellant.	John C. Herman, Co. Atty.; Atty. Gen. Gene F. Anderson; Edward Larson.	Ellis
53,068	Melvin Karst, Sr., Melvin Karst, Jr., dba Karst Water Well Drill- ing & Service, Appellee, v. Bernie Tonroy, Appellant.	Thomas C. Boone.	Ellis
53,208	Western Petroleum, Inc., v. Linda Kahn dba North Slope Prop. N. L. Acme Tool, v. Western Petroleum Inc. and Linda Kahn dba North Slope Prop. Mud-Co., Inc. v. Linda Kahn dba North Slope Prop. C & S Tank Serv. Inc. v. Western Pet., Inc., Linda Kahn, dba north Slope Prop. and N.L. Acme Tool and Mud-Co., Inc.,	John T. Bird. Hal D. Meltzer, Turner & Boisseau. Martin and Coffelt; Dreiling, Bieker & Kelley. Cooper & Shalz; Jerry G. Elliott; Foster and Foster.	Ellis
52,780	Bruce Jenson, Appellant, v. Northwest Kansas Elec. Coop. Asso., Inc., Appellee.	Donald F. Hoffman.	Sherman
52,654	Farmers National Co., Appellant, v. Harry M. Liggett Co., Inc., Appellee.	James M. Milliken Selby Soward. C. L. Laman.	Cloud
		1:00 p.m.	
53,629 S.C.	Carroll E. Fabrizious and Elvin Fabrizius, Appellees, v. R. Edward Allen and Marvin Lynd, Appellants.	Kenneth R. Billups. Allen Shelton.	Trego
53,868	State of Kansas, Appellant, v. Ronald Joseph Gamino, Appellee.	Leonard J. Dix, Co. Atty.; Atty. Gen. Edward Charles Hageman.	Rooks
53,736	Max E. Keeten and Lorene Keeten, Appellee, v. Thomas H. Reese and Connie Kae Reese, Appellants.	William H. Stowell. Terry Cikanek.	Phillips

(continued)

Case No.	Case Name	Attorneys	County
53,337	Celous E. Brandenburg, <i>et al.</i> , Appellant, v. Melvin W. Brandenburg, Appellee.	Robert L. Earnest; Michael S. Holland Richard M. Driscoll.	Russell

LEWIS C. CARTER
Clerk of the Appellate Court

Doc. No. 000256

State of Kansas

**PERMANENT ADMINISTRATIVE
REGULATIONS**

NOTICE

The following are permanent administrative regulations which were adopted by a state agency pursuant to K.S.A. 1981 Supp. 77-415 *et seq.* These regulations are scheduled to become effective May 1, 1982, but are subject to legislative review and may be modified or revoked by the Kansas Legislature prior to May 1. Any such legislative action will be reported in the *Kansas Register*. The May 6, 1982 issue of the *Register* will contain a complete index to regulations effective May 1, and any legislative actions on them.

**DEPARTMENT OF HEALTH AND
ENVIRONMENT****ADMINISTRATIVE REGULATIONS****Article 1.—DISEASES**

28-1-1. Definitions. (a) "Carrier" means an infected person (or animal) that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for humans.

(b) "Chemoprophylaxis" means the administration of a chemical, including antibiotics, to prevent the development of an infection or the progression of an infection to active manifest disease.

(c) "Infectious or contagious (communicable) disease" means a disease of humans or animals resulting from an infection or an illness due to a specific agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, or indirectly.

(d) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected person to another person, from an infected animal to a person, or from an infected person to an animal, including arthropods.

(e) "Contact" means a person or animal that has been in association with an infected person or animal or a contaminated environment so as to have had opportunity to acquire the infection.

(f) "Contamination" means the presence of an infectious agent on a body surface, or on or in clothes, bedding, toys, surgical instruments or dressings, or other inanimate articles or substances including water, milk, and food.

(g) "Disinfection" means killing of infectious agents outside the body by chemical or physical means. Concurrent disinfection is the application of disinfective measures as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with this infectious discharge, all personal contact with these discharges or articles being minimized before the disinfection. Terminal disinfection is the application of disinfective measures after an infected person or animal has ceased to be a source of infection, has been

removed from a specific site, or has died and been removed.

(h) "Disease" means a definite morbid process having a characteristic train of symptoms.

(i) "Epidemic (or outbreak)" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(j) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptoms of the disease in question.

(k) "Infection" means the entry and development or multiplication of an infectious agent in the body of humans or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest.

(l) "Infectious agent" means an organism, chiefly a microorganism but including helminths, that is capable of producing infection or infectious disease.

(m) "Infestation" means, for persons or animals, the lodgement, development and reproduction of arthropods on the surface of the body or in clothing.

(n) "Isolation" means the separation, for the period of communicability, of infected persons or animals from others, in places and under conditions that prevent the direct or indirect conveyance of the infectious agents from those infected to those who are susceptible or who may spread the agent to others.

(1) When "Respiratory isolation" is specified, it shall consist of a private room with door kept closed, handwashing upon entering and leaving the room, and disinfection of articles contaminated with patient secretions. Persons susceptible to the specific disease must wear masks.

(2) "Enteric precautions" shall consist of handwashing upon entering and leaving the patient room, wearing of gloves by all persons having direct contact with the patient or with articles contaminated with fecal material, and wearing of gowns by all persons having direct contact with the patient. Articles contaminated with the patient's urine or feces shall be disinfected or discarded; masks are not necessary.

(3) "Blood precautions" shall consist of use of disposable needles and syringes, disposal of used needles and syringes by incineration, and decontamination and sterilization of all non-disposable equipment which is contaminated by blood.

(o) "Local health officer" means the person appointed as local health officer by the board of county commissioners in accordance with K.S.A. 65-201.

(p) "Nosocomial infection" means an infection originating in a medical facility. This includes infections acquired in the hospital but appearing after discharge; it also includes infections among staff.

(q) "Quarantine" means the limitation of freedom of movement of well persons or domestic animals that have been exposed to a communicable disease. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-1 was revoked May 1, 1982 and the number reassigned.

28-1-2. Designation of infectious or contagious diseases. (a) The following enumerated diseases are designated as being infectious or contagious in their

(continued)

nature and shall be reported to the county or joint board of health or the county health officer in accordance with K.S.A. 65-118:

Amebiasis
 Ancylostomiasis (hookworm disease)
 Anthrax
 Botulism
 Brucellosis
 Chancroid
 Chickenpox
 Cholera
 Diphtheria
 Encephalitis, infectious (indicate infectious agent whenever possible)
 Epidemic diarrhea of the newborn
 Food poisoning (indicate whether infection or intoxication and causative agent if possible)
 Giardiasis
 Gonorrhea
 Gonorrhea ophthalmia neonatorum
 Granuloma inguinale
 Hepatitis, type A (Infectious)
 Hepatitis, type B (Serum)
 Histoplasmosis
 Kerato-conjunctivitis, infectious
 Legionellosis (legionnaire's disease or pontiac fever)
 Lymphogranuloma venereum
 Lymphocytic choriomeningitis
 Malaria
 Meningitis, aseptic and other (indicate infectious agent whenever possible)
 Meningitis, meningococcal, including meningococemia
 Mumps
 Pediculosis (louse infestation)
 Pertussi (whooping cough)
 Plague
 Poliomyelitis (specify whether paralytic or non-paralytic)
 Psittacosis
 Q fever
 Rabies
 Rheumatic fever
 Rickettsialpox
 Rocky mountain spotted fever
 Rubella, including rubella syndrome
 Rubeola (measles)
 Salmonellosis
 Scabies
 Shigellosis
 Smallpox
 Staphylococcal disease, hospital-acquired
 Streptococcal disease, hemolytic
 Syphilis
 Taeniasis and cysticercosis (beef or pork tapeworm)
 Tetanus
 Tinea capitis and corporis (ringworm)
 Trachoma
 Trichinosis
 Tuberculosis
 Typhoid fever
 Typhus fever
 Yellow fever.

(b) This designation shall also include any exotic or newly-recognized disease, and any disease unusual in incidence or behavior, known or suspected to be infectious or contagious and constituting a risk to the public health. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-2 was revoked May 1, 1982 and the number reassigned.

28-1-4. Registration of disease prevalence. (a) The following diseases shall be reported by the administrator of all hospitals licensed in the state to the secretary of health and environment for registration on

forms provided by the department of health and environment:

(1) Cancer
 (2) Congenital malformations in infants under one (1) year of age.

(b) All reports pursuant to this regulation shall be confidential medical information. (Authorized by K.S.A. 1981 Supp. 65-101, implementing K.S.A. 65-102; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-4 was revoked May 1, 1982 and the number reassigned.

28-1-5. General provisions for isolation or quarantine of persons afflicted with infectious or contagious disease; examination of persons; collection of specimens. (a) When conditions of isolation and quarantine are not otherwise specified by regulation, the local health officer or the secretary of health and environment shall order and enforce isolation and quarantine of persons afflicted with or exposed to infectious or contagious diseases. The duration and manner of isolation or quarantine so ordered shall be based upon the incubation period, communicable period, and usual mode of transmission of the infectious agent of the disease for which isolation or quarantine is ordered.

(b) Isolation or quarantine shall be ordered in conjunction with investigation of infectious or contagious disease cases and outbreaks for the examination of persons reasonably suspected of having these diseases, and to obtain specimens from these persons for laboratory evidence suggestive of infectious or contagious disease. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-5 was revoked May 1, 1982 and the number reassigned.

28-1-6. Requirements for isolation and quarantine of specific infectious and contagious diseases. (a) Amebiasis: Food handlers shall be excluded from their occupation until three (3) negative stools have been obtained at least forty-eight (48) hours apart.

(b) Anthrax: Isolated until all lesions are healed.

(c) Chickenpox: Isolated for six (6) days after onset of first crop of vesicles.

(d) Cholera: Enteric precautions until three (3) negative stools are obtained. Contacts: Quarantined for five (5) days from date of last exposure and until two (2) negative stools are obtained at least forty-eight (48) hours apart.

(e) Diphtheria: Isolation until two (2) consecutive negative pairs of nose and throat cultures obtained at least twenty-four (24) hours apart or for fourteen days. Household and intimate contacts: Quarantined for five (5) days from the time of last contact or until nose and throat cultures are negative. Healthy carriers shall be treated.

(f) Epidemic diarrhea of the newborn (in hospitals); see K.A.R. 28-1-10.

(g) Gonorrhea ophthalmia neonatorum: Isolation for forty-eight (48) hours following initiation of treatment with antibiotics or until two (2) negative cultures are obtained.

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(h) Malaria: Blood precautions for the duration of hospitalization.

(i) Meningitis, meningococcal: Respiratory isolation for forty-eight (48) hours after initiation of antibiotic therapy.

(j) Meningitis, aseptic and other: Isolation until end of febrile period.

(k) Mumps: Respiratory isolation for ten (10) days.

(l) Pediculosis: Students infested with lice shall be excluded from school or child care facilities until treated with an antiparasitic drug and until all nits have been removed.

(m) Pertussis (whooping cough): Respiratory isolation for three (3) weeks if untreated; or for one (1) week following antibiotic therapy.

(n) Plague (Pneumonic): Isolation for duration of illness; close contacts who do not receive chemoprophylaxis shall be quarantined for six (6) days.

(o) Poliomyelitis: Isolation for ten (10) days from onset; enteric precautions for six (6) weeks.

(p) Psittacosis: Respiratory isolation until afebrile.

(q) Rubeola (measles): Respiratory isolation for four (4) days after onset of rash.

(r) Rubella (german measles): Respiratory isolation for seven (7) days after onset of rash.

(s) Salmonellosis: Enteric precautions for duration of acute symptoms. Infected persons shall be excluded from food handling, patient care, or occupations involving care of young children and the elderly until two (2) negative stool cultures are obtained at least twenty-four (24) hours apart and no sooner than twenty-four (24) hours following discontinuation of antibiotics.

(t) Scabies: Children or students infected with scabies shall be excluded from school or child care facilities until treated with an antiparasitic drug.

(u) Shigellosis: Same as for Salmonellosis.

(v) Staphylococcal disease: Food handlers shall be excluded from their occupation until purulent lesions are healed. In hospitals, see K.A.R. 28-1-9.

(w) Streptococcal disease, hemolytic (including but not limited to erysipelas, scarlet fever, streptococcal sore throat): Isolated for ten (10) days if untreated or for twenty-four (24) hours following antibiotic therapy.

(x) Taeniasis and cysticercosis (beef or pork tapeworm): Enteric precautions until treated.

(y) Tinea capitis and corporis (ringworm): Children or students shall be excluded from school until under treatment by a physician. The physician shall certify that the child or student is under continuing medical care at two (2) week intervals until cure has been effected.

(z) Tuberculosis: Respiratory isolation until three (3) sputa obtained on consecutive days are negative by microscopic examination.

(1) Typhoid fever: Enteric precautions until three (3) negative urine and stool cultures have been obtained at least twenty-four (24) hours apart and no sooner than twenty-four (24) hours following discontinuation of antibiotics.

(2) Venereal diseases (including syphilis, gonorrhea and other diseases associated with venereal transmission): Isolation or quarantine measures shall be established by the local health officer for persons who are confirmed or suspected of being infected with a ven-

ereal disease if these persons are recalcitrant to proper treatment.

(3) Viral hepatitis type A (infectious): Blood and enteric precautions for ten (10) days after onset of symptoms.

(4) Viral hepatitis type B (serum): Blood precautions until specific serologic tests for the disease agent are negative. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-6 was revoked May 1, 1982 and the number reassigned.

28-1-7. Isolation of food handlers with infectious or contagious diseases. Persons employed in the preparation of food for sale or for public consumption shall be excluded from their occupations until all requirements for release from isolation of the specific infectious or contagious disease with which they are afflicted, as specified in K.A.R. 28-1-6, have been met. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-7 was revoked May 1, 1982 and the number reassigned.

28-1-8. Typhoid carriers; release; concurrent disinfection; employment restrictions; immunization of household contacts; submission of specimens to public health laboratory. (a) A person diagnosed as having typhoid fever shall be regarded as a carrier until three (3) negative stool and urine cultures have been obtained at least twenty-four (24) hours apart.

(b) The urine and feces of chronic typhoid carriers shall be disposed of in a manner that protects public and private water supplies.

(c) Typhoid carriers shall not engage in any occupation involving the handling or preparation of food for public consumption, nor in any occupation involving the care of children or patients.

(d) All persons residing in the same household as a typhoid carrier shall maintain active immunization against typhoid.

(e) A sub-culture of *Salmonella typhosa* from all newly identified cases shall be submitted by the laboratory originating the culture to the department of health and environment laboratories for bacteriophage typing. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-8 was revoked May 1, 1982 and the number reassigned.

28-1-9. Special measures for isolation and quarantine in the hospital; staphylococcal disease associated with newborn nurseries. (a) Whenever two (2) or more cases of staphylococcal disease develop within a period of thirty (30) days among either recently delivered mothers or newborn babies in any hospital, infants already in the nursery shall be isolated and cared for by a separate nursing staff who do not come in contact with other infants or children.

(b) The contaminated nursery and other areas desig-

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nated by the local health officer or the secretary of health and environment shall be closed immediately to new admissions and the nursery census shall be reduced as rapidly as possible.

(c) Terminal disinfection of the contaminated nursery shall be carried out before reopening.

(d) All nursery personnel, including physicians, and all newborns and their mothers shall be examined for evidence of staphylococcal disease. Nasal specimens shall be cultured from all persons in contact with infants. Personnel who are found to be carriers of the infective staphylococcal strain shall be excluded from the nursery until cultures are negative. (Authorized by K.S.A. 1981 Supp. 65-101, K.S.A. 65-128; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-9 was revoked May 1, 1982 and the number reassigned.

28-1-10. Special measures for isolation and quarantine in the hospital; epidemic diarrhea of the newborn. (a) Infants infected with epidemic diarrhea of the newborn shall be cared for by a separate nursing staff who do not come in contact with other infants and children. Enteric precautions shall be employed.

(b) The contaminated nursery and other areas designated by the local health officer or the secretary of health and environment shall be closed immediately to new admissions and the nursery census shall be reduced as rapidly as possible.

(c) Terminal disinfection of the contaminated nursery shall be carried out before reopening.

(d) Bacterial examination of stool specimens shall be performed on all nursery personnel including physicians, in order to identify carriers of the infective organism. Personnel who are found to be carriers shall be excluded from the nursery until two (2) negative specimens, obtained at least forty-eight (48) hours apart, have been obtained. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-10 was revoked May 1, 1982 and the number reassigned.

28-1-11. (Authorized by K.S.A. 65-101, 65-104, 65-128; effective Jan. 1, 1966; revoked May 1, 1982.)

28-1-12. Release from isolation or quarantine. All laboratory tests or cultures for release of an individual from isolation or quarantine shall be performed by the laboratory of the state department of health and environment, or by a laboratory approved by the state department of health and environment for this purpose. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-12 was revoked May 1, 1982 and the number reassigned.

28-1-13. Rabies control; isolation of biting animals for observation and examination; quarantine of bitten animals. (a) In conjunction with investigation of the biting of a human or an animal by another animal, the isolation of the biting animal, and the quarantine of the bitten animal, shall be as follows:

(1) An owned domestic animal shall be isolated for

an appropriate period (ten (10) days for dogs and cats) under conditions satisfactory to the local health officer.

(2) Stray, unclaimed, or unwanted domestic animals shall be sacrificed immediately and the head submitted for laboratory examination for evidence of rabies infection.

(3) Wild animals including skunks, foxes, raccoons, coyotes, bats, and other species ordinarily known to be involved in the transmission of rabies, whether owned or unowned, shall be sacrificed immediately and the head submitted for laboratory examination for evidence of rabies infection.

(4) Wild animals including rabbits, gerbils, hamsters, mice, rats, squirrels, and other species not ordinarily known to be involved in the transmission of rabies need not be sacrificed and submitted for laboratory examination for evidence of rabies infection, unless the circumstances of the biting incident, in the judgement of the local health officer, indicate otherwise.

(b) Quarantine of animals bitten by a known or suspected rabid animal shall be as follows:

(1) Stray, unclaimed, or unwanted domestic animals shall be sacrificed immediately.

(2) Wild animals, whether owned or unowned, shall be sacrificed immediately.

(3) Owned, wanted dogs and cats which are not immunized against rabies shall be quarantined for six (6) months under conditions satisfactory to the local health officer. These animals shall be immunized against rabies one (1) month before release from quarantine.

(4) Owned, wanted dogs and cats which, in the judgement of the local health officer, are properly immunized against rabies, shall be immediately re-immunized and quarantined for ninety (90) days. (Authorized by K.S.A. 65-128, K.S.A. 1981 Supp. 65-101; implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-13 was revoked May 1, 1982 and the number reassigned.

28-1-14. Rabies control in wildlife animals. (a) The sale or offering as a promotional consideration of striped or spotted skunks, civit cats, raccoons, foxes, and coyotes for keeping of these animals as pets is prohibited.

(b) Removal of musk glands of skunks and civit cats for purposes of attempted domestication is prohibited.

(c) Attempts to immunize skunks, coyotes, raccoons, foxes, and other wildlife animals known to be involved in the transmission of rabies are prohibited.

(d) The above enumerated prohibitions shall not apply to bona fide zoological parks, research institutions, or licensed game breeders. (Authorized by and implementing K.S.A. 1981 Supp. 65-101, effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-14 was revoked May 1, 1982 and the number reassigned.

28-1-15. Psittacosis control; records of purchase and sale. Breeders, wholesalers, distributors and retailers of psittacine birds shall maintain a record of the

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date of purchase and the source of each psittacine bird, and the name and address of the person to whom each psittacine bird is sold. These records shall be kept for one (1) year. (Authorized by and implementing K.S.A. 1981 Supp. 65-101; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-1-15 was revoked May 1, 1982 and the number reassigned.

28-1-16. (Authorized by K.S.A. 65-128; effective Jan. 1, 1966; revoked May 1, 1982.)

28-1-17. (Authorized by K.S.A. 65-101; effective Jan. 1, 1966; revoked May 1, 1982.)

Article 4.—FAMILY DAY CARE HOMES FOR CHILDREN

28-4-160 to 28-4-169. (Authorized by K.S.A. 65-503, 65-508; effective Jan. 1, 1972; revoked May 1, 1982.)

28-4-170. Definitions. (a) "Child placing agency" or "agency" means an association, organization, or corporation receiving, caring for, or finding homes for orphans or deprived children who are under 16 years of age.

(b) "Division" means the division of health of the department of health and environment.

(c) "License" means a document issued by the secretary granting authority to an association, organization, or corporation to operate and maintain a child placing agency.

(d) "Secretary" means the secretary of the health and environment. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-171. Licensing procedures. (a) Any association, organization, or corporation desiring to conduct a child placing agency shall apply for a license on forms provided by the Kansas department of health and environment.

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant thereto and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. The license and any written exceptions granted by the secretary under K.A.R. 28-4-171(c) shall be posted as required by K.S.A. 65-504.

(c) Exceptions. (1) An exception to a regulation may be allowed by the Kansas department of health and environment if:

(A) The applicant requests an exception from the Kansas department of health and environment; and

(B) The secretary determines the exception to be in the best interests of families and children served by the agency.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(d) A copy of the "regulations for licensing child placing agencies" shall be kept on the premises at all times.

(e) The applicant or licensee shall notify the Kansas

department of health and environment when service is discontinued. Resumption of agency services shall require a new application for license.

(f) An applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently to the right to appeal the denial or revocation to the district court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-172. Administration and personnel. (a) The agency shall develop a written statement of philosophy, purpose, program orientation, and policy of operation including the agency's position on disciplinary methods to be used by staff. Corporal punishment shall be prohibited. The statement shall contain long and short term goals and shall be available to the secretary or a designee of the secretary, and to the public. The agency, at the time of making initial application for a license, shall furnish the division the following:

(1) Evidence of a need for services to a particular group of children;

(2) A definition of the services to be provided in sufficient detail as to indicate the agency has an understanding of each particular service;

(3) A description of the geographical area it serves or intends to serve; and

(4) Evidence that its services will be used by referral sources.

(b) A child placing agency shall have a governing body which shall exercise authority over and have responsibility for the operation, policy, and practices of the child placing agency. The governing body shall select and employ a qualified executive director, who shall be responsible for the administration and operation of the child placing agency. The governing body shall have among its officers a secretary responsible for documenting its activities and for keeping attendance records and minutes of its meetings. These records and minutes shall be available for inspection by the division.

(c) The child placing agency shall prepare an annual report of the agency's activities. The report shall include fiscal and statistical sections indicating the levels of income and expenditures, the size and types of staff and the number of clients serviced by each service program.

(d) The child placing agency shall demonstrate financial solvency to carry out its program for the licensing period. Agencies which have not operated shall have capital necessary for at least a 6 month period of operation. The agency shall prepare an annual budget. Books shall be audited annually by a certified public accountant. A copy of the accountant's statement of income and disbursements shall accompany the licensing application.

(e) The applicant or licensee shall maintain a current organizational table showing the administrative structure of the agency, including the lines of authority, responsibility, communications, and staff assignments. The table shall be provided to all staff members as a part of the orientation procedure and, on request, to the division, clients, or referral sources.

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(f) Child placing agencies shall have written personnel policies and procedures and shall make them available to all staff members, persons seeking employment, and the division. Personnel policies and practices shall be developed by the agency, with input from the staff. These policies and procedures shall be reviewed annually, and revised when necessary. The child placing agency shall make the policies and procedures available to staff in a personnel policy manual.

(g) Each child placing agency shall provide the qualified staff necessary to ensure proper services to children in the agency's care, to biological and adoptive parents, and to foster parents. The child placing agency shall verify the personal qualifications of all employees through character references. Signed statements shall be made a condition of employment for prospective employees. These statements shall list any past or current police records, mental or physical actions, conditions, or addictions of the applicant that would adversely effect their capacity to work with children. The agency shall hire qualified professional staff, as follows:

(1) The executive director of a child placing agency, who shall have:

(A) A degree from an accredited college or university;

(B) Education and experience in administering a child placement or related program commensurate with the size and complexity of the agency;

(C) A thorough understanding of the philosophy, purpose, and policy of the agency; and

(D) The capacity to provide direction and leadership for the agency.

(2) Social service supervisory staff members responsible for the direct supervision of the social workers involved in child placement service, who shall have:

(A) A master's degree from an accredited college or university and be licensed as a social worker by the state of Kansas or shall have a graduate degree in a related area of human services;

(B) Two years of experience in child placement services;

(C) Ability to assume professional responsibility for reviewing the placement of children in out-of-home care when these placements are made by a person with lesser qualifications. There shall be written documentation of specific services provided by this person and the frequency of these services.

(3) Social workers performing intake services, direct services to foster children, homefinding, and assessment related to foster home and adoptive services, who shall have:

(A) A master's degree from an accredited college or university and be licensed as a social worker by the state of Kansas; or

(B) A bachelor's degree from an accredited college or university and be licensed as a social worker by the state of Kansas; or

(C) A bachelor's degree in behavioral sciences from an accredited college or university and 2 years of experience in child placement under direct supervision of a person meeting the supervisory requirements in subsection (g)(2).

(h) The child placing agency shall provide enough qualified personnel to assure that:

(1) Supervisors shall not supervise more than six social workers;

(2) In-service training related to child placement is made available to supplement supervision; and

(3) Casework staff carries caseloads which are sufficiently controlled to allow for all the necessary contacts with the family, children, foster families, adoptive families, and collateral parties.

(i) The agency shall, if it makes use of volunteers, develop a written plan for their orientation, training and use. The agency shall assign professional staff to supervise volunteers.

(j) The child placing agency shall have a personnel file for each employee which shall contain:

(1) The application for employment, resume, or both;

(2) Reference letters from former employer(s);

(3) Any required medical information;

(4) Applicable professional credentials or certifications;

(5) Periodical performance evaluations;

(6) Personnel actions, other appropriate materials, reports, and notes relating to the individual's employment with the agency; and

(7) Employee's starting and termination dates. The staff member shall have reasonable access to his or her file and shall be allowed to add any written statement he or she wishes to make to the file at any time. A child placing agency shall maintain the personnel file of an employee who leaves the agency for a period of 3 years. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-173. Facility. (a) Convenience of location. The agency shall be easily accessible to the clientele, staff, and community and shall have adequate parking available.

(b) Space requirements. The child placing agency shall provide suitable space for the following purposes:

(1) Office, reception areas, and visitation areas which insure comfort, privacy, and convenience of clients and staff and which are appropriately equipped for their intended use;

(2) Storage area for records which provides for systematic controlled access and retrieval, and which insures confidentiality.

(c) Equipment. Suitable equipment shall be maintained in good working condition. Telephones shall be conveniently located and sufficient in number. Equipment and furnishings shall be clean and designed for efficiency, safety, and varied use. When transportation is provided by the agency, it shall be in well-maintained vehicles. Car seats and car restraints shall be provided when the agency transports children. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-174. Social services related to child placing. (a) Intake requirements. A child placing agency shall have a written description of services offered and the criteria for service eligibility which shall include who is eligible for the services and what fees, if any, are charged. The statement of services and criteria shall be available in individual copies for distribution to clients and to the public. A child placing agency shall

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document that social services to preserve the family unit have been provided to the family and child and alternatives to placement have been explored with them. The agency shall keep a record of all applications for services and the reasons for denial of services. The agency shall provide referral assistance to persons seeking services not provided by the agency.

(b) Intake procedures and practices. Upon referral or application, the agency shall assess the child's social and family history, the child's legal status, the strengths, resources and needs of the child and his or her family, the role of the child's parent(s) and significant other(s) during placement, and the identification of the specific needs of the child and family that warrant placement.

(c) Initial case plan. Upon completion of the intake assessment and before placement, except in cases of emergency, the agency shall develop a written service plan. The plan shall include, but not be limited to:

- (1) Selection and description of the type of placement appropriate to meet the child's needs;
- (2) Projected duration of the placement;
- (3) Preplacement activities with child and family;
- (4) Specific treatment goals for child and family;
- (5) Specific steps to accommodate each goal;
- (6) Specific time frames for goals;
- (7) Designation of responsibility for carrying out steps with child, parents, foster parent, adoptive parent(s), and court (when involved) including frequency of contacts;
- (8) Date for first review of progress on steps and goals; and
- (9) Description of the conditions under which the child shall be returned home or when proceedings for termination of parental rights should be initiated.

(d) Case plan development. The parents or other significant persons to the child as well as the child, appropriate to his or her age and understanding, shall participate in developing the placement plan and participate in service contracts or agreements. Before accepting a child for placement from a parent or custodian, the agency shall secure written authority to provide care and written authority for medical care. In emergency situations necessitating immediate placement, the agency shall initiate assessment and initial case plan within 1 week of placement, which shall be completed within 6 weeks of placement.

(e) Supervision and review of the case plan. The agency shall specify in writing the worker(s) who has the ongoing responsibility for the child, the biological, foster and adoptive families, and the casework plan. When a child is placed with another agency or division or whenever more than 1 worker or division are involved with the same family, the roles shall be clearly delineated for the workers and the family members and the specific responsibilities necessary to carry out the plan shall be in writing in the case records. The case plan shall specify the frequency of social worker visits with the child, the child's family and the foster family, but these visits shall not be made less than once each month. The agency shall complete a quarterly review and assessment of the case plan and progress toward goal achievement. The agency shall have a periodic individual case review, either administrative or with outside agency personnel to ascertain whether children are being served in a prompt manner and whether

return to home, continual placement, or adoption efforts are appropriate on the child's behalf.

(f) Placement services to parents. The agency's services shall be accessible and available to the parents of children in care and to expectant parent(s) requesting services. The choice to use an agency's services shall be the parent's decision except when the choice has been taken from the parents by court order. The agency shall have as a goal helping the parents achieve positive self image and to carry out their parental roles and responsibilities while the child is in care. The agency shall have personal contacts with the parents when possible. It shall promote constructive contact by the parent(s) with the child after placement. The agency shall help the family have access to the services necessary to accomplish the case plan goals. While the child is in care, the agency shall counsel the parents relative to the problems and needs that brought about the circumstances of placement. Expectant parents considering placement shall receive assistance in the decision making process before the child is born and immediately thereafter.

(g) Selection of placement. The agency shall select the most appropriate form of placement for the child consistent with the child's family's needs, including foster family care, residential group care or adoption. In choosing the appropriate placement for the child, the agency shall provide for any specialized services the child may need in the least restrictive setting and in the closest available program to the child's home, and shall take into consideration and preserve the child's racial, cultural, ethnic, and religious heritage to the extent possible without jeopardizing the child's right to care. The agency shall consider the child's treatment plan steps and goals and select a placement that has the capacity to assist in their achievement. The agency shall, in accordance with the case plan, provide the child with a continuity of relationships for the anticipated duration of care when selecting the placement.

(h) Preplacement preparation. The caseworker for the child shall become acquainted with the child before placement. The child's worker shall help the child understand the reasons for the placement plan, preparing him or her for a new environment. The worker shall plan and participate in at least 1 preplacement visit. The agency shall arrange a general medical examination by a physician for each child within a week of admission into care unless the child has received an examination within 30 days before admission. The results of this examination shall be recorded on forms supplied by the Kansas department of health and environment. The agency shall ensure that each child has had a dental examination by a dentist within 60 days of admission unless the child has been examined within 6 months before admission. Results of the examination shall be recorded on forms supplied by the Kansas department of health and environment.

(i) Services during care. The agency shall supervise the child in care and shall coordinate the planning and services to child and family as outlined in the case plan. The supervising worker shall see the child a minimum of biweekly in the first 3 months of placement and monthly thereafter. Parents and children shall be provided the opportunity to meet on a regular basis with the agency worker regarding their progress

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on resolving problems that may be precipitated by placement, their progress in coping with problems through the use of substitute care, the parent and child's relationship difficulties arising from separation, and case goals. The placing agency shall have a written agreement with the parents regarding visits to the child and shall facilitate and promote visitation while the child is in care. If the parents require services that the agency does not offer, referral shall be made to appropriate services. Communication between the two agencies shall be on a regular planned basis. The agency shall provide for the child's specialized services as outlined in the case plan. The agency shall have documentation of maintaining clear working agreements with other community resources confidential referrals and providing access to services necessary to meet goals in the case plan.

(j) Aftercare services. The agency shall provide for continuing services for children and families following an adoption or a child's return to the family from the placement. In the case of the disruption of an adoptive placement, the agency shall make plans, either through purchase of service or provision of foster care services, for continued care of the child until a permanent home has been secured. The agency shall offer supportive help to a family receiving a child into placement or giving up a child for placement for a minimum period of 6 months after the placement or relinquishment of the child. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-175. Services in family foster home care. (a) Foster home finding. The agency shall have a recruitment process with designated staff and funding to reach out and inform the community about children needing foster homes. The agency shall provide information to prospective foster parents about foster care, the agency, the requirements for foster parents, the children needing foster care, licensing regulations, the licensing process and the reimbursement rates. The agency shall recruit foster parents who can respond to the agency's need to place specific children and be able to adjust their recruitment techniques as the kinds of children needing placement change.

(b) Application and study process. At the time of inquiry, the potential applicant(s) shall be provided the opportunity to state their own plan for child care. Before formal application, the agency's foster care program and the value and necessity of having a license shall be discussed. It shall be explained that a licensed agency or the Kansas department of social and rehabilitation services shall complete a study and make recommendations concerning the home's eligibility for licensure to the Kansas department of health and environment. If after discussion of the potential applicant(s) plan and the general requirements for licensing, the potential applicant(s) wishes to proceed, the application forms shall be completed. The agency shall provide to prospective foster parents a copy of "regulations for licensing family foster homes" and an application form, both furnished by the Kansas department of health and environment. The application shall be completed, checked for accuracy, and countersigned by an agency representative.

(c) Social study. The agency shall, as a further part of the application process, conduct a social study of the

foster family in their home. In conducting the study, the agency shall include at least one face-to-face interview with each member of the foster family. The agency shall assess the following areas and record the information in the foster parent(s) record:

- (1) Motivation for foster care;
- (2) Family's attitude toward foster children;
- (3) Family's attitude toward natural parent(s);
- (4) Adjustment of own children including school reports;
- (5) Child caring skills;
- (6) Strengths and weaknesses of each member of the household;
- (7) Type of children desired;
- (8) Type of children for whom placement with the family would not be appropriate; and
- (9) Recommendation for number, age, sex, characteristics, and special needs children best served by the family. Copies of the social study are to be made available to the applicant and to licensing representative(s) of the Kansas department of social and rehabilitation services. The placement of children shall be consistent with the assessment and recommendations of the social study, including assessment of subsequent placements.

(d) Services to foster parent(s).

(1) Orientation. The agency shall provide orientation to foster parents to acquaint them with the agency's policies and practices.

(2) Training. There shall be a training plan for all foster parents to receive not less than 6 hours of training yearly. Such training shall provide opportunities for the foster families to increase their skills and parenting ability particularly with respect to the differences they may encounter in raising children not their own. Training opportunities should be chosen from the following topics:

- (A) Developmental needs of the child to be placed;
- (B) Roles and relationships in foster care between the agency, foster parent, natural parent, and child;
- (C) Child management and discipline techniques;
- (D) Separation and the importance of the child's family;
- (E) Importance of the child's continued communication and contact with his or her family;
- (F) Supportive services available to the children and foster families from the community;
- (G) Communication skills;
- (H) Constructive problem solving;
- (I) First aid and home safety; and
- (J) Human sexuality.

(e) Agreement. The agency shall have a written agreement with each foster family which clearly delineates the responsibility of the foster family and the child placing agency.

(f) Annual evaluations. The agency shall schedule an annual on-site evaluation of the foster home to make an assessment of the care and progress of each foster child in the home. The results of the evaluation shall be on file in written form at the agency and a copy submitted to the foster parents.

(g) Foster care payments. The agency shall have a system by which reimbursement is made to foster parents for expenditures or fees for service that is timely and equitable. If either services or care is to be

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provided by a foster family as a donation to the agency, a written agreement between the agency and the family shall specify services which shall be provided free and services or costs to be assumed by the agency. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-176. Adoptive services. (a) Recruitment. The agency shall have a written recruitment plan which includes the methods of recruitment, sources to be used, time-related goals for applicant recruitment, and the designated staff and budget to carry it out. Recruitment shall be a continual process in the agency to meet the particular needs of the children available for adoption. The agency shall provide orientation to prospective adoptive parents to acquaint them with the agency's policies and practices and the approximate time the assessment will take, eligibility standards, types of children available and the availability of subsidy. The orientation shall also include a realistic assessment of the agency's need for adoptive homes.

(b) Application. The agency shall require prospective adoptive parents to submit an application before proceeding with adoption. The application form shall be designed to obtain information declaring their intent to become adoptive parents and basic data about their family, their home, their financial status, and references to initiate a home study. The agency shall, as a further part of the application, conduct a social study with the family in their home.

(c) Adoptive home study. The study process shall include a face-to-face interview with each member of the household. The agency shall have on file a written assessment of the adoptive home. The narrative shall assess the following areas of concern:

- (1) Motivation for adoption;
- (2) Family's attitude toward accepting an adoptive child, and plan for discussing adoption with the child;
- (3) Emotional stability, physical health, and compatibility of adoptive parents;
- (4) Ability to cope with problems, stress, frustrations, crises, and loss;
- (5) Information on medical or health conditions which would effect the applicant's ability to parent a child;
- (6) Record of convictions other than minor traffic violations;
- (7) Ability to provide for child's physical and emotional needs;
- (8) Adjustment of own children, if any, including school reports;
- (9) Positive feelings about parenting an adoptive child;
- (10) Capacity to give and receive affection;
- (11) Types of children desired and kinds of handicaps accepted;
- (12) Types of children who would not be appropriate for the placement with this family;
- (13) References; and
- (14) Recommendations for number, age, sex, characteristics, and special needs children best served by this family.

(d) Services to adoptive parents. The agency shall provide services to adoptive applicants individually or in groups to enable them to make an informed decision as to whether they can meet the specific needs of children awaiting adoption through participation in

the adoptive study and evaluation of their potential for meeting the needs of the children available for adoption. The agency shall discuss potential children with the adopting family and shall prepare the adoptive family for the placement of a particular child by anticipating the adjustments and problems that may arise during and after placement. The agency worker shall establish a time schedule for visits to the adoptive family after the placement of a child in order to be able to make clear recommendations for the finalization of the adoption. The agency services shall be available to the adoptive family after finalization of the adoption. The agency shall inform applicants when it has been decided that a child cannot be placed in their home. Services shall be offered to the applicants to assist them to adjust to this decision.

(e) Services to adoptees. Adoptive records shall be maintained by the agency after finalization. Records shall contain sufficient information to maintain the agency's capability to provide to adult adoptees information concerning the circumstances of their origins and their adoption. Copies of court documents shall be maintained indefinitely. In providing information to adult adoptees served by the agency, confidentiality of information obtained from biological families shall be respected. This information may be released only in compliance with state law and orders of a court of competent jurisdiction. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-177. Services in residential group care. (a) Selection of the appropriate group care facility. The agency shall place a child, or refer a child for placement, only in a licensed group care facility. The selection of the most appropriate facility for a child shall be based upon the following considerations:

- (1) The child's particular level of development, and the child's social and emotional problems that can be benefited through group living experiences;
- (2) The child's relationship to parents and the family situation in relation to location and willingness to participate; and
- (3) The particular treatment plan and team approach that the licensed group care facility can make available. A statement of why a particular selection was made, which discusses these factors, shall be in the case record.

(b) Placement agreement. There shall be a clearly written agreement between the placing agency and the residential group care facility, if separate agencies, which clarifies the following:

- (1) The amount and frequency of contact the agency shall have with the child and the residential facility for supervision purposes;
- (2) The extent to which the agency is to participate in ongoing evaluation of the child's needs and progress;
- (3) How the agency is to work with the child's parents;
- (4) When the agency will have access to information on the child's care and development;
- (5) Visiting plans for child's parents and family members;
- (6) Parental participation in case planning;
- (7) Reporting mechanisms to be used between the

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agency and the residential facility while the child is in care;

- (8) The financial plan in regard to cost of care;
- (9) The conditions under which the child will be discharged from the program; and
- (10) Designation of responsibility for aftercare services. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-178. Services to young parents. (a) Admission. The agency shall describe the services it makes available to parent(s) who are under 18 years of age and who are interested in placing their child. The Statement of services and criteria for service eligibility shall be made available to the public.

(b) Services to parents. The agency shall offer counseling to the parents of young parents applying to the agency for services.

(c) Medical services. The agency shall assist in procuring the medical services needed by the pregnant young woman. Medical services and care shall be coordinated by the agency; shall be based on the inter-relationship of physical, social, environmental, and spiritual factors; and shall insure confidentiality for the parent(s) if requested or required. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-179. Case records. (a) The agency shall maintain case records in a manner that is uniform, detailed, well written, and organized. Records shall be current and be made available for inspection by the division. The agency shall show in their case records the following:

- (1) Continuity of service plan;
- (2) Documentation of the work of the agency; and
- (3) Summaries and assessments of changes effecting the client and changes in the service delivery process.

(b) Foster home records. The agency shall keep separate records for each foster home. The record shall be started at the time of application. The foster home record shall contain:

- (1) The application;
- (2) Home study;
- (3) Medical reports;
- (4) Summary narrative containing the dates as well as the content material from the worker's contacts;
- (5) References;
- (6) Yearly evaluation of strengths and weaknesses of the foster family and assessment of the best way to maximize the foster care experience for the foster family and the children placed with them. This evaluation shall be reviewed with the foster family;
- (7) Yearly relicensing recommendation study and forms connected with it; and
- (8) Placement history of the foster home, children placed, dates admitted and discharged, and pertinent narrative information about the interaction and relationships within the foster family.

(c) Adoptive home records. The agency shall keep separate records for each prospective and actual adoptive family. The adoptive home record shall contain:

- (1) The application;
- (2) The adoptive home study;
- (3) Medical reports;
- (4) References;

(5) A copy of the information given to the parents concerning the child;

(6) All legal documents pertaining to the adoption;

(7) Summary narrative on the pre-placement and post-placement contacts with the family and the adopted child;

(8) A narrative which clearly indicates the reason(s) a family was not accepted or did not have a child placed; and

(9) After placement, a statement of plans for follow-up services to the child in placement and to the adoptive family.

(d) Child's records upon placement. The agency shall maintain individual records for each child placed in a foster or adoptive home which shall include:

(1) The name, sex, race, birth date, and birth place of the child;

(2) Name, address, telephone number, and marital status of parent or guardian of the child;

(3) All legal documents and court status;

(4) Medical history, cumulative health record, and psychological and psychiatric reports;

(5) Social history of the family and parent background clearly and fully stated to provide an informational tool for all subsequent workers;

(6) Summary narrative which reflects the dates of contact, initial assessments and case plan, and contact material of worker's visits;

(7) The circumstances precipitating the decision to place a child, the agency's involvement with the parents, including services offered, delivered or rejected. If placement is court ordered, the case record shall contain the court papers, summaries, and required court reports during placement;

(8) Educational records and reports;

(9) Summary of case review conference which reflects the contacts with and status of all family members in relation to the placement plan as well as the achievements or changes in the goals;

(10) Summary of the administrative or outside case review on the progress of each child toward determined goals;

(11) Summary and narrative regarding the child's contacts with the family. The material should reflect the quality of the relationships as well as the way the child is coping with them; and

(12) Copy of interstate compact forms, if applicable.

(e) Child's records upon discharge. Upon discharge, the following shall be placed in the child's case record:

(1) Date of discharge, reason for discharge, and the name, telephone number, address, and relationship of the person or agency to whom the child was discharged;

(2) A discharge summary containing services provided during care, growth and accomplishments and assessed needs which remain to be met with the service possibilities which might meet those needs; and

(3) Aftercare plans.

(f) Reports to the division. The agency shall provide written notification to the division of change of address of legal office. The agency shall provide statistical data to the division when requested for public information, research, or planning purposes. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

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28-4-180 to 28-4-184. Reserved.

28-4-185. Definitions. (a) "Day care referral agency" means an association, organization, individual, or corporation receiving, caring for, and finding homes for children needing day care who are under 16 years of age.

(b) "Division" means the division of health of the department of health and environment.

(c) "License" means a document issued by the secretary granting authority to an association, organization, individual, or corporation to operate and maintain a day care referral agency.

(d) "Secretary" means the secretary of the health and environment. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-186. Licensing procedures. (a) Any association, organization, individual, or corporation desiring to conduct a day care referral service shall apply for a day care referral agency license on forms provided by the Kansas department of health and environment.

(b) A full license shall be issued if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 *et seq.* and amendments thereof and the rules and regulations promulgated pursuant thereto and has made full payment of the license fee required by the provisions of K.S.A. 65-505 and amendments thereof. The license and any written exceptions granted by the secretary under K.A.R. 28-4-171(c) shall be posted as required by K.S.A. 65-504.

(c) Exceptions. (1) An exception to a regulation may be allowed by the Kansas department of health and environment if:

(A) The applicant requests an exception from the Kansas department of health and environment; and

(B) The secretary determines the exception to be in the best interests of families and children served by the agency.

(2) Written notice from the Kansas department of health and environment stating the nature of the exception and its duration shall be posted with the license.

(d) A copy of the "regulations for licensing day care referral services" shall be kept on the premises at all times.

(e) The applicant or licensee shall notify the division when service is discontinued. Resumption of referral services shall require a new application for license.

(f) An applicant or licensee receiving notice of denial or revocation of license shall be notified of the right to an administrative hearing by the Kansas department of health and environment and subsequently to the right to appeal the denial or revocation to the district court. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-187. Organization and personnel. (a) Organization. Day care referral agencies shall have a clearly designated individual or governing body which shall exercise authority over and have responsibility for the operation, policy, and practices of the day care referral agency. The day care referral agency shall have a written description of the day care referral services to be offered to children and their families. The statement of services shall be available in individual copies for distribution to clients and to the public. Advertisement

shall conform to the written statement of services. The day care referral agency shall notify the division of any changes in the designated authority or of services offered. Day care referral agencies operating child care facilities shall maintain separate direct child care staff. Day care referral staff shall not be counted in determining facility child/staff ratio. Day care referral agencies shall not move children from one child care provider to another or knowingly assist in the relocation of children without establishing with the provider a means for informing each child's parent(s). If the need for substitute care is known in advance, parents shall be given prior notification of the name, address and telephone number of the substitute provider and the dates of care. Emergency permission forms and health assessment forms shall accompany the child to the substitute care. Day care referral agencies shall make referrals only to registered or licensed facilities, or to facilities which have applied for a license. Day care referral agencies shall carry liability insurance and accident insurance of not less than \$100,000.00 per occurrence.

(b) Records and reports.

(1) A personnel record shall be maintained for each day care referral service staff member. The record shall include: personnel policies; job descriptions; medical records; and a record of training and experience. The staff member shall have reasonable access to his or her file and shall be allowed to add any written statement he or she wishes to make to the file at any time.

(2) Referral service records.

(A) The following referral records shall be maintained for a period of one year:

(i) Date of inquiry;

(ii) Name of person requesting referral;

(iii) Disposition of request.

(B) Referral service records shall be available for review by licensing staff.

(c) Staff qualifications. Day care referral agencies shall have at least one staff member who meets the following requirements:

(1) Knowledge of the needs of young children;

(2) Human relations skills to relate to the providers, parents and the community; and

(3) Training or experience in administrative skills such as budgeting, bookkeeping, and record keeping.

(e) Volunteers. The agency shall, if it makes use of volunteers, develop a written plan for their orientation, training, and use. The agency shall assign a staff person to supervise volunteers. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-188. Health policies for staff. (a) Before employment, all staff who have contact with the children shall submit, on a form supplied by the division, a certificate of health signed by a licensed physician or nurse approved to perform health assessments. The certificate shall include certification that the person is free from tuberculosis as established by a chest x-ray or negative tuberculin skin test administered within 2 years of the date of employment.

(b) Substitutes and volunteers, before participating in any program operated by the day care referral agency, shall present a written statement of freedom from active tuberculosis signed by a licensed physi-

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cian or nurse approved to perform health assessments. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-189. Transportation. Any day care referral agency that provides transportation as a part of the day care referral service shall meet the following requirements:

(a) The driver (whether paid or volunteer) shall meet the health requirements for school bus drivers prescribed in K.A.R. 36-13-32E, effective May 1, 1978;

(b) The driver of the vehicle with a passenger limit of more than 10 shall obtain a class B driver's license from the Kansas state motor vehicle department;

(c) The driver of the car transporting 5 or fewer children, a station wagon transporting 8 or fewer children, or a van transporting 10 or fewer children, shall have a current class C driver's license;

(d) The vehicle employed to provide transportation shall not transport more people than the recommended capacity of the vehicle as stated by the manufacturer;

(e) Recreational vehicles shall not be used to provide transportation;

(f) A second adult shall ride in the rear seat of the vehicle when more than 3 children under 18 months of age, or more than 5 children under 5 years are being transported, or when bus routes exceed 30 minutes;

(g) The vehicle employed in providing transportation shall be covered by medical and liability insurance as required by state statutes;

(h) The transporting vehicle shall have a yearly mechanical safety check of tires, lights, windshield wipers, horn, steering, signal lights, suspension, glass, brakes, and tail lights. A record of the date of the safety check and corrections made shall be kept on file at the agency or in the vehicle;

(i) Each child shall be provided with an appropriate individual restraint as recommended by the Kansas department of transportation; and

(j) The driver shall deliver the child to a person designated by the child's parent or legal guardian, or by the person legally responsible for the care and custody of the child. (Authorized by K.S.A. 65-508; implementing K.S.A. 65-503, 65-508; effective May 1, 1982.)

28-4-190 to 28-4-199. Reserved.

Article 4.—CRIPPLED CHILDREN

28-4-400. Definitions. (a) "Annual margin" means family income minus family living allowance.

(b) "Cash assets" means money, savings accounts, checking accounts, and stocks and bonds.

(c) "Diagnostic service" means an evaluation to identify a handicapping disease or disease process.

(d) Family.

(1) "Family" means the crippled child, the child's parents or legal guardian, and all other persons who reside in the same home as the crippled child for crippled children who reside with their parents or legal guardian, or who are considered dependents of their parents or legal guardian for income tax purposes. This shall not include persons who lease or rent a portion of the residence.

(2) "Family" means the crippled child, his or her spouse, children and relatives, and all other persons who reside in the same home as the crippled child for a

crippled child who has established his or her own residence and is no longer considered a dependent of his or her parents or legal guardian for income tax purposes. This shall not include persons who lease or rent a portion of the residence.

(e) "Family income" means the total amount of adjusted gross income reported for federal income tax purposes on the most recent federal income tax return filed by each member of the family.

(f) "Family living allowance" means the amount established by the secretary as specified in K.A.R. 28-4-403(b).

(g) "Individual service plan" means documents which state a plan of treatment, authorized services, approved providers of service, time frame for provision of services, and source of payment for services.

(h) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service.

(i) "Medical treatment" means any medical or surgical services and any medical equipment, devices, or supplies provided to a crippled child who is eligible for assistance under the crippled children's program.

(j) "Resident" means a child who is living in the state with the intention of making his or her home here and not for a temporary purpose.

(k) "Secretary" means the secretary of the department of health and environment or his or her designee. (Authorized by and implementing K.S.A. 65-5a08; effective E-82-10, April 27, 1981; effective May 1, 1982.)

28-4-401. Responsibilities of applicants and recipients. (a) An individual shall supply, insofar as he or she is able, information essential to the establishment of eligibility, within thirty (30) days of request.

(b) An individual shall give written permission on forms prescribed by the secretary for release of information needed to determine medical and financial eligibility.

(c) An individual shall report changes in address, number of children living in the home, marital status, custody of children, insurance coverage, or other circumstances that affect the special health care needs of the child, within ten (10) working days of the change.

(d) An individual shall:

(1) Apply for insurance benefits, title XIX medicaid program benefits, supplemental security income benefits, or benefits from other sources, when requested;

(2) Assign the insurance benefits to hospitals and other providers of service for any medical treatment provided by the crippled children's program;

(3) Apply the benefits of any non-assignable insurance by making payments to hospitals or other providers of service for items ordered by the attending physician; and

(4) Reimburse the crippled children's program any insurance proceeds sent directly to the recipient, if the insurance payment is made for medical treatment provided by the crippled children's program. (Authorized by and implementing K.S.A. 65-5a08; effective E-82-10, April 27, 1981; effective May 1, 1982.)

28-4-402. Responsibilities of the secretary to applicants and recipients. The secretary shall: (a) Inform applicants of program requirements;

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(b) Develop an individual service plan for each child accepted into the program;

(c) Inform the parents or legal guardian of each child accepted into the program, that portion of costs for medical treatment to be paid by the parents or legal guardian, and that portion of costs to be paid by the program;

(d) Redetermine, at least once each twelve (12) months, eligibility for each child accepted into the program; and

(e) Terminate crippled children's program services for individuals who fail to meet one or more of the requirements of K.A.R. 28-4-401. Notification of termination shall be sent to the parents or legal guardian of the child and providers of service. (Authorized by and implementing K.S.A. 65-5a08; effective E-82-10, April 27, 1981; effective May 1, 1982.)

28-4-403. Financial eligibility. (a) The uniform standards for financial eligibility shall include: family income, family living allowance established by the secretary, and estimated annual cost of medical care and health insurance coverage of the family as verified to the secretary. If the annual margin is a negative factor, the child is eligible for financial assistance for medical treatment. If the annual margin is a positive factor, the child is not eligible for financial assistance for medical treatment, unless the estimated annual cost of medical care for which the family will be responsible, when subtracted from the annual margin, would reduce the annual margin to zero (0) or a negative factor.

(b) The following table shall be used to determine the family living allowance.

Persons in Family (Per Year)				
1	2	3	4	5
\$8,620	\$11,380	\$14,140	\$16,900	\$19,660

For each additional person, add two thousand seven hundred sixty dollars (\$2,760).

(c) The following table shall be used to determine the maximum cash assets allowed a family.

Persons in Family (Per Year)				
1	2	3	4	5
\$1,034	\$1,366	\$1,699	\$2,028	\$2,359

For each additional person, add three hundred thirty one dollars (\$331).

(d) Cash assets in excess of the maximum allowed a family shall be added to the family income before computing financial eligibility. (Authorized by K.S.A. 65-5a08, 65-5a12; implementing K.S.A. 65-5a12; effective E-82-10, April 27, 1981; effective May 1, 1982.)

28-4-404. Diagnostic services. (a) Diagnostic services shall be made available to any child who is a resident of this state and is believed to have a severely handicapping condition, without any requirement for the referral of the child by any individual or agency.

(b) Diagnostic services shall be authorized before the services are rendered and shall be provided in facilities and by providers approved by the secretary. (Authorized by K.S.A. 65-5a08, 65-5a10; implementing K.S.A. 65-5a10; effective May 1, 1982.)

28-4-405. Providers of service. (a) Application. All persons and corporations desiring to supply services or

sell prosthetic devices, equipment, appliances, or supplies shall file an application with the secretary. The secretary shall approve or disapprove each application and notify interested parties of the action taken and maintain a list of approved providers of service.

(b) Designation of hospitals. Hospitals approved to provide medical and surgical services for the care and treatment of crippled children shall:

(1) Be licensed as a hospital in Kansas;

(2) Be certified by the joint commission on accreditation of hospitals;

(3) Have a department of pediatrics, with qualified pediatric nurses regularly assigned to the pediatric area;

(4) Have on the hospital staff at least one pediatrician, with a designated chief of pediatrics;

(5) Have a social work department, with social work staff regularly assigned to the pediatric area;

(6) Have staff physicians certified by specialty boards in the specialty appropriate for the needs of the child;

(7) Have a separate area for children, with provisions made for parents who wish to live-in with their child, non-restrictive visiting hours for parents, and suitable recreational facilities for children;

(8) Have facilities to isolate the children with communicable diseases or other conditions requiring isolation or separation;

(9) Have available consultation in other specialty areas for the cases being treated;

(10) Have adequate operating facilities for the specialty for which the hospital is approved;

(11) Have persons qualified to give pediatric anesthesia;

(12) Have hematologic, chemistry, micro-biology, and serologic laboratory facilities appropriate for the needs of the child;

(13) Have x-ray facilities appropriate for the needs of the child;

(14) Have facilities for the application of plaster or other cast material for pediatric orthopedic cases;

(15) Have a physical therapy department with qualified personnel to treat children; and

(16) Have regularly scheduled in-service programs relating to children and pediatric conditions for all health care staff.

(c) Designation of other providers. Other providers approved to provide medical, surgical and other services for the care and treatment of crippled children shall meet the following standards:

(1) Audiologists shall have an American speech and hearing certification or its equivalent, and professional experience with children;

(2) Dentists shall be licensed by the Kansas dental board and dental specialists shall be certified by their respective specialty board;

(3) Hearing aid dealers shall be licensed by the Kansas board of examiners in fitting and dispensing of hearing aids;

(4) Nurses shall be registered with the Kansas state board of nursing;

(5) Nutritionists shall be registered with the American dietetic association;

(6) Occupational therapists shall have professional occupational therapy experience with children;

(continued)

(7) Pharmacists shall be licensed by the Kansas state board of pharmacy;

(8) Physical therapists shall be licensed by the Kansas state board of healing arts and have professional physical therapy experience with children;

(9) Physicians shall be licensed by the Kansas state board of healing arts and be certified by their respective specialty board, or be eligible, through training, for that certification;

(10) Prosthetic and orthotic appliance facilities shall have employees who are trained in the use of these appliances and have an approved physical plant; and

(11) Social workers shall have a master's degree in social work, at least two (2) years experience in case work under a qualified social work supervisor, and one (1) year social work experience in supervision, consultation, or independent case work after completion of the master's degree.

(d) Responsibilities. Providers of service shall agree:

(1) That race, color, religion, national origin, or ancestry shall not be a basis for refusing to provide service;

(2) To submit reports requested by the crippled children's program;

(3) To accept personal responsibility for the care and treatment they provide children under the crippled children's program;

(4) To accept payment in accordance with the fees established by the secretary as payment in full and not bill families for any crippled children's program covered service without permission of the secretary;

(5) To obtain prior authorization from the crippled children's program for services provided; and

(6) To notify the secretary of withdrawal from the crippled children's program.

(e) Reimbursement.

(1) Service shall not be reimbursed without prior authorization, except in the case of an emergency. In the event emergency care or emergency hospital admission is necessary, the crippled children's program shall be notified within two (2) working days after the admission or the rendering of emergency care.

(2) Insurance, title XIX, and other coverage. For children receiving funding from both the title XIX medicaid program and the crippled children's program, the medicaid program holds primary funding responsibility. The crippled children's program shall not pay for services eligible for title XIX medicaid reimbursement. Private insurance holds primary funding responsibility over the crippled children's program and every effort shall be made to utilize insurance benefits. When insurance fails to pay or pays only a portion of the total bill, the providers shall file a crippled children's program claim. If the insurance payment is less than the crippled children's program allowable rate, additional payment may be made up to the allowable rate. If the insurance payment exceeds or equals the maximum crippled children's program allowable rate, an additional payment shall not be made.

(3) Each claim submitted for reimbursement shall state the child's name, and address, and the date service was provided. The claim submitted also shall give a description of the services provided and indicate the appropriate procedure code. The claim also shall specify one of the following:

(A) The services provided were covered by a policy of insurance;

(B) A claim on a policy of insurance was made, but rejected by the insurer;

(C) A policy of insurance was not available for the services provided;

(D) The services provided were covered by a policy of insurance, but the costs of the services were not paid in full by the insurer; or

(E) A claim for the services provided was filed under the medicaid program, but was rejected. (The reason for the rejection of the claim by medicaid shall be stated, if known to the claimant.)

(f) Termination. The secretary may terminate a provider's participation in the crippled children's program for one (1) or more of the following reasons:

(1) Voluntary withdrawal of the provider from participation in the program;

(2) Non-compliance with applicable state laws or regulations;

(3) Unethical or unprofessional conduct; or

(4) Suspension or termination of license or certificate.

(g) Limitations. The secretary shall specify in the prior authorization for service the number and types of service, including days of hospitalization, for which the crippled children's program shall be responsible for payment. Services in excess of those having prior authorization shall not be reimbursed under the crippled children's program, unless a provider of service, patient, parent, or guardian requests an extension which is granted by the secretary. (Authorized by and implementing K.S.A. 65-5a08; effective May 1, 1982.)

28-4-406. Conditions eligible for treatment. For a crippled child to be eligible for financial assistance under the crippled children's program, he or she shall be afflicted with one or more of the following conditions:

(a) Myelomeningocele;

(b) Cleft palate, cleft lip and related problems;

(c) Cardiovascular conditions, including the following congenital and acquired heart disease or anomalies of the major blood vessels:

(1) Congenital heart defects, including ventricular septal defect, atrial septal defect, tetralogy of Fallot, transposition of the great arteries, complete heart block, aortic stenosis with or without regurgitation, coarctation of the aorta, patent ductus arteriosus, mitral stenosis, pulmonary stenosis, cor triatriatum, endocardial fibroelastosis, Ebstein's anomaly, tricuspid or pulmonary atresia, truncus arteriosus, pulmonary arteriovenous fistula, or hypoplastic left heart;

(2) Rheumatic fever;

(3) Congestive heart failure;

(4) Arrhythmias, including Stokes-Adams, paroxysmal atrial tachycardia, and heart block; or

(5) Conditions related to heart disease requiring hospitalization including measures to treat or prevent pneumonia or congestive failure; or

(d) Gastro intestinal problems requiring surgery, such as tracheoesophageal fistula, intestinal atresia, Hirschsprung's disease, imperforate anus, meconium ileus, diaphragmatic hernia, omphalocele and gastroschisis, gastro-esophageal reflux, or tracheo-malacia;

(continued)

(e) Genito urinary problems, such as exstrophy of bladder or urethral valves, which require surgery;

(f) Neurosurgical conditions, including spinal injury as a result of accident or hydrocephalus related to myelomeningocele;

(g) Burns requiring plastic surgery;

(h) Orthopedic conditions including:

(1) Congenital anomalies leading to physical handicaps, including club foot, congenital dislocated hips, progressive scoliosis of the severity likely to become a functional disability in the patient's lifetime, osteogenesis imperfecta, dwarfisms, phocomelia, polydactyly and syndactyly of hands and feet, arthrogryposis multiplex congenita, osteopetrosis, or cerebral palsy;

(2) Acquired conditions leading to physical handicaps, including Legg-Calve-Perthes, Scheuermann's, vitamin D resistant rickets, Osgood-Schlatter's, Pott's, neurofibromatosis, idiopathic scoliosis;

(3) Fractures, in which there is a complication in healing;

(4) Joint problems, including hemarthrosis, juvenile rheumatoid arthritis;

(5) Developmental problems, such as internal tibial torsion, femoral anteversion, knock knees, or bowlegs, the correction of which requires surgery; or

(6) Muscle problems that are of a disabling nature, including muscular dystrophies, myositis ossificans progressiva, or poliomyelitis.

(i) Genetic and metabolic conditions, including phenylketonuria, cystic fibrosis, and sickle cell disease.

(j) Hearing problems which lead to or which present a high risk for permanent hearing loss;

(k) Malignant diseases, including: leukemias, sarcomas, lymphomas, Wilm's tumor, retinoblastomas, histiocytosis, and neoplasms of nervous tissue, kidney, bone, liver, gonadal cells and gastro-intestinal tract;

(1) Severe kidney diseases including hydronephrosis and chronic nephritis;

(m) Diabetes mellitus;

(n) Seizures; or

(o) Hyaline membrane disease. (Authorized by K.S.A. 65-5a08, 65-5a14; implementing K.S.A. 65-5a14; effective May 1, 1982.)

28-4-407. System of priorities. Because assistance under the crippled children's program is constrained by the amount of funds appropriated for this assistance, children afflicted with the condition specified in K.A.R. 28-4-406(a) shall have the highest priority for assistance, while children afflicted with the condition specified in K.A.R. 28-4-406(o) shall have the lowest priority for assistance. (Authorized by K.S.A. 65-5a08, 65-5a14; implementing K.S.A. 65-5a14; effective May 1, 1982.)

Article 14.—COLLECTION AND ANALYSIS OF WATER; PUBLIC WATER SUPPLIES

28-14-2. Schedule of fees. All public water supply systems submitting samples for analysis to the environmental laboratories of the department of health and environment in conformance with requirements of K.A.R. 28-15-25 shall pay the appropriate fee in advance of July first of each year to the division of environment, Topeka, Kansas 66620.

- (a) Complete chemical analysis consisting of: \$45.00
 - (1) Calcium
 - (2) Magnesium
 - (3) Sodium
 - (4) Potassium
 - (5) Total hardness
 - (6) Carbonate hardness
 - (7) Non-carbonate hardness
 - (8) Total alkalinity
 - (9) Bicarbonate alkalinity
 - (10) Carbonate
 - (11) Bicarbonate
 - (12) Chloride
 - (13) Sulfate
 - (14) Nitrate
 - (15) Fluoride
 - (16) pH
 - (17) Turbidity
 - (18) Specific conductance
 - (19) Total dissolved solids
 - (20) Phosphate
 - (21) Silica
 - (22) Iron
 - (23) Manganese
- (b) Complete heavy metals consisting of: \$40.00
 - (1) Iron
 - (2) Manganese
 - (3) Arsenic
 - (4) Barium
 - (5) Cadmium
 - (6) Chromium
 - (7) Copper
 - (8) Lead
 - (9) Mercury
 - (10) Selenium
 - (11) Silver
 - (12) Zinc
- (c) Partial chemical analysis consisting of: \$30.00
 - (1) Calcium
 - (2) Magnesium
 - (3) Sodium
 - (4) Total alkalinity
 - (5) Chloride
 - (6) Sulfate
 - (7) Nitrate
 - (8) Fluoride
 - (9) Iron
 - (10) Manganese
 - (11) Total Hardness
- (d) Total hardness consisting of calcium and magnesium \$7.00
- (e) Complete solids consisting of: \$25.00
 - (1) Total solids
 - (2) Total fixed solids
 - (3) Total volatile solids
 - (4) Total suspended solids
 - (5) Fixed suspended solids
 - (6) Volatile suspended solids
 - (7) Total dissolved solids
 - (8) Fixed dissolved solids
 - (9) Volatile dissolved solids
- (f) Individual analysis:
 - (1) Total suspended solids (fixed and volatile) \$5.50
 - (2) Alkalinity and chloride 5.50
 - (3) Iron 6.50
 - (4) Manganese 6.50
 - (5) Sodium 5.50
 - (6) Sulfate 6.00
 - (7) Total phosphate 5.00
 - (8) Ortho-phosphate 5.00
 - (9) Nitrate 4.50
 - (10) Fluoride 4.50
 - (11) Five-day biochemical oxygen demand 15.00
 - (12) Chemical oxygen demand 7.50
 - (13) Phenol 30.00
 - (14) pH 4.00
 - (15) Ammonia nitrogen 5.00
 - (16) Mercury 10.00
 - (17) Arsenic 7.50
 - (18) Lead 7.50
 - (19) Selenium 7.50
 - (20) Other heavy metals 6.50 each
 - (21) Organic chemistry (screen for toxic levels of pesticides and herbicides) 175.00
 - (22) Total trihalomethanes, consisting of the total of chloroform, chloro dibromomethane, dichloro bromomethane and bromoform 30.00
 - (23) Coliform determination 7.00
 - (24) Radiation chemistry (screen for gross alpha and gross beta activity) 40.00
- (g) Weekly coliform, pH and turbidity tests on swimming pool water:

(continued)

- (1) Outdoor pools per season (sampling every week) 100.00
- (2) Indoor pools per season (sampling every two weeks) 200.00

(Authorized by and implementing K.S.A. 65-156, 65-166a; effective Jan. 1, 1966; amended, E-79-13, June 15, 1978; amended May 1, 1979; amended May 1, 1982.)

Article 15.—APPLICATION FOR PERMITS

28-15-1 to 28-15-10. (Authorized by K.S.A. 65-162, 65-163; effective Jan. 1, 1966; revoked May 1, 1982.)

28-15-11. Definitions. (a) "Public water supply system" means a system for delivery to the public of piped water for human consumption, if this system has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage or distribution facilities used in connection with the system.

(b) "Community water supply system" means a public water supply system which has at least ten (10) service connections used by year-round residents or regularly serves twenty-five (25) year-round residents.

(c) "Non-community water supply system" means a public water supply system which is not a community water supply system.

(d) "Department" means the Kansas department of health and environment.

(e) "Secretary" means the secretary of health and environment.

(f) "Laboratory tests" mean all bacteriological, chemical, physical or radiological tests made by either the departmental laboratory or by an approved laboratory on water samples which were submitted by the operator of a system to confirm the quality of the water.

(g) "Operating records and reports" mean the daily record of data connected with the operation of the system facilities which is compiled in a monthly report.

(h) "Sanitary survey" means an on-site appraisal of a public water supply system for the purpose of evaluating the adequacy of the water source, facilities, equipment, operation and maintenance.

(i) "Approved laboratory" means a laboratory certified and approved by the Kansas department of health and environment to analyze water samples to determine compliance with maximum contaminant levels, or to perform other required analyses.

(j) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water supply system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system.

(k) "Distribution system" means the system of conduits and the appurtenances by which a water supply is distributed to consumers.

(l) "Turbidity" means the cloudy condition of water caused by the presence of finely suspended matter such as clay, silt, plankton, and microscopic organisms, resulting in the scattering and absorption of light rays. The level of turbidity is measured by use of a nephelometer which is a laboratory instrument containing photoelectric detectors with a readout device to

indicate the intensity of scattered light. The higher the intensity of scattered light, the higher the turbidity. Turbidity is measured in nephelometric turbidity units (NTU). NTUs in the range of 1.0 to about 3.0 would appear visually clear, but above 5.0 would begin to appear visually cloudy. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-12. Reserved.

28-15-13. Standards for bacteriological, chemical, physical and radiological quality. (a) Maximum contaminant microbiological levels shall be as follows:

(1) When the membrane filter technique is used, the number of coliform bacteria shall not exceed:

(A) One (1) per one-hundred (100) milliliter as the arithmetic mean of all samples examined per sampling period;

(B) Four (4) per one-hundred (100) milliliter in more than one (1) sample when less than twenty (20) samples are examined per sampling period; or

(C) Four (4) per one-hundred (100) milliliter in more than five (5) percent of the samples when twenty (20) or more samples are examined per sampling period.

(2) When the ten (10) milliliter fermentation tube method is used, coliform bacteria shall not be present in:

(A) More than ten (10) percent of the portions in any sampling period;

(B) Three (3) or more portions in more than one (1) sample when less than twenty (20) samples are examined per sampling period; or

(C) Three (3) or more portions in more than five (5) percent of the samples when twenty (20) or more samples are examined per sampling period.

(3) When the one-hundred (100) milliliter fermentation tube method is used, coliform bacteria shall not be present in:

(A) More than sixty (60) percent of the portions in any sampling period;

(B) Five (5) portions in more than one sample when less than five (5) samples are examined per sampling period; or

(C) Five (5) portions in more than twenty (20) percent of the samples when five (5) or more samples are examined per sampling period.

(b) Maximum contaminant levels for inorganic chemicals shall be:

Constituent	Level milligrams, per liter
Arsenic	0.05
Barium	1.
Cadmium	0.010
Chromium	0.05
Lead	0.05
Mercury	0.002
Nitrate (as N)	10.
Selenium	0.01
Silver	0.05
Fluoride	1.8

(c) Maximum contaminant levels for organic chemicals shall be:

Constituent	Level milligrams, per liter
(1) Chlorinated hydrocarbons:	
(A) Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-	(continued)

(continued)

- 1,4,4a,5,6,7,8,8a-octahydro-1,4-endo, endo-5,8-dimethano naphthalene). 0.0002
- (B) Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer). 0.004
- (C) Methoxychlor (1,1,1-Trichloro-2,2-bis [p-methoxyphenyl] ethane). 0.1
- (D) Toxaphene (C₁₀H₁₀Cl₁₀-Technical chlorinated camphene, 67-69 percent chlorine). 0.005
- (2) Chlorophenoxy:
 - (A) 2,4-D, (2,4-Dichlorophenoxyacetic acid). 0.1
 - (B) 2,4,5-TP Silvex (2,4,5-Tri-chlorophenoxypropionic acid). 0.01
- (3) Total trihalomethanes consisting of the sum of trichloromethane (chloroform), bromodichloromethane, dibromochloromethane and tribromomethane (bromoform). 0.10

(d) Maximum contaminant levels for radiological contaminants shall be:

Constituent	Level pCi per liter
Combined radium-226 and radium-228	5
Gross alpha particle activity (including radium-226 but excluding radon and uranium)	15
Tritium	20,000
Strontium-90	8
Gross beta radioactivity	50

The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem per year.

(e) Maximum contaminant levels for turbidity shall apply only to systems which use surface water. The maximum contaminant levels for turbidity in drinking water, measured daily at a representative entry point(s) to the distribution system shall be:

(1) One (1) turbidity unit (NTU), as determined by a monthly average, except that five (5) or fewer turbidity units may be allowed if the supplier of water can demonstrate to the department that the higher turbidity does not:

- (A) Interfere with disinfection;
- (B) Prevent maintenance of an effective disinfectant agent throughout the distribution system; or
- (C) Interfere with microbiological determinations; and

(2) Five (5) turbidity units based on an average for two (2) consecutive days. Daily turbidity readings shall be taken and recorded. If the maximum turbidity level exceeds one (1) NTU for two consecutive days, the supplier of water shall notify the department within forty-eight (48) hours after the turbidity readings are taken. Daily turbidity readings shall be reported to the department by the tenth (10) day of the month following the month in which the readings are taken.

(f) Inorganic analyses for the following constituents shall be required from all community water supply systems with their own source of supply.

Calcium	Manganese
Magnesium	pH
Sodium	Specific conductance
Potassium	Total dissolve solids
Carbonate	Total Phosphorus
Bicarbonate	Total Alkalinity
Chloride	Sodium Bicarbonate Alkalinity
Sulfate	Total Hardness
Silica	Carbonate Hardness
Iron	Non-Carbonate Hardness

An inorganic chemical analysis for the above constitu-

ents may be required by the department from a non-community water supply system with its own source of supply. The above analyses are required to determine the potability of the source of supply and to monitor the corrosivity characteristics of the water. The corrosive indices shall be calculated in accordance with 40 CFR 141.42 Fed. Reg. 45:168 p. 57346, as in effect on October 1, 1981, which is adopted by reference.

(g) All analyses to determine compliance shall be done in an approved laboratory according to methods established by "Standard Methods for the Examination of Water and Wastewater", 14th edition, or "Methods for Chemical Analysis of Water and Wastes", Environmental Protection Agency, as specified in 40 CFR 141.22-141.25, as in effect on October 1, 1981, or the equivalents outlined in 40 CFR 141.27, as in effect on October 1, 1981. Analyses shall be made on treated water as furnished to the consumer to insure potability. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-14. Monitoring requirements for laboratory tests. (a) Monitoring requirements for microbiological determination.

(1) The sampling period for microbiological compliance shall be four (4) consecutive calendar five (5) day weeks for all public water supply systems. The sampling year shall begin with the first Monday in January.

(2) All public water supply systems which use surface water as the source of supply shall take water samples once a week unless the population served exceeds forty-one hundred (4100) in which event the sampling frequency shall be based on the sampling schedule prescribed in subsection (a)(4).

(3) Suppliers of water for community water supply systems and non-community water supply systems shall sample for coliform bacteria to determine compliance with K.A.R. 28-15-13 (1), or (2) or (3). Coliform bacteria analyses shall be conducted in accordance with the analytical recommendations set forth in "Standard Methods for the Examination of Water and Wastewater", 14th Edition, pp. 913-937. A standard sample size shall be employed. The standard sample size used in the membrane filter procedure shall be one-hundred (100) milliliters. The standard sample size used in the five (5) tube most-probable-number (MPN) procedure (fermentation tube method) shall be fifty (50) milliliters or five hundred (500) milliliters. The standard sample size for the fermentation tube method shall be ten (10) milliliters or one hundred (100) milliliters, as prescribed in K.A.R. 28-15-13 (a)(2) or (3). The water samples shall be taken at points which are representative of the conditions within the distribution system.

(4) The frequency of water samples for analysis shall not be less than prescribed in the following table:

(continued)

Populations Served	Minimum number of samples per sampling period
25 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 9,400	10
9,401 to 10,300	11
10,301 to 11,100	12
11,101 to 12,000	13
12,001 to 12,900	14
12,901 to 13,700	15
13,701 to 14,600	16
14,601 to 15,500	17
15,501 to 16,300	18
16,301 to 17,200	19
17,201 to 18,100	20
18,101 to 18,900	21
18,901 to 19,800	22
19,801 to 20,700	23
20,701 to 21,500	24
21,501 to 22,300	25
22,301 to 23,200	26
23,201 to 24,000	27
24,001 to 24,900	28
24,901 to 25,000	29
25,001 to 28,000	30
28,001 to 33,000	35
33,001 to 37,000	40
37,001 to 41,000	45
41,001 to 46,000	50
46,001 to 50,000	55
50,001 to 54,000	60
54,001 to 59,000	65
59,001 to 64,000	70
64,001 to 70,000	75
70,001 to 76,000	80
76,001 to 83,000	85
83,001 to 90,000	90
90,001 to 96,000	95
96,001 to 111,000	100
111,001 to 130,000	110
130,001 to 160,000	120
160,001 to 190,000	130
190,001 to 220,000	140
220,001 to 250,000	150
250,001 to 290,000	160
290,001 to 320,000	170
320,001 to 360,000	180
360,001 to 410,000	190

For each additional fifty-thousand (50,000) in population an additional ten (10) water sample shall be analyzed per sampling period.

(5) The supplier of water for a community water supply system with its own source of supply shall collect water samples for coliform analysis at regular time intervals, and in numbers proportionate to the population served by the system, in accordance with the schedule in subsection (a)(4).

(6) The supplier of water for a community water supply system, purchasing all its water from another public water supply system which has a permit, shall submit water samples for bacteriological analyses in each sampling period. Water samples shall be taken at regular intervals and in number proportionate to the population served, in accordance with the schedule in subsection (a)(4).

(7) A non-community water supply system, with its own source of supply, shall sample for coliform bacte-

ria in each sampling period during which the system provides water to the public in accordance with subsection (a)(4). If the secretary, on the basis of a sanitary survey, determines that some other frequency is more appropriate, than the non-community public water supply system shall be notified of the required frequency. This frequency shall be confirmed or changed on the basis of subsequent surveys.

(8) Additional water samples may be required by the department. These samples may be taken to determine the adequacy of disinfection following line installation, replacement, or repair. Water samples may also be required for the determination of the adequacy of source, storage, treatment or distribution of water to the public. These additional water samples shall not be used to determine compliance with microbiological monitoring or the maximum contaminant level requirements.

(9) If the public water supply system exceeds the maximum contaminant level for coliform bacteria, the supplier of water shall give public notice of this fact, in accordance with K.A.R. 28-15-15 (a) or (b).

(b) Monitoring requirements for chemical quality of community water supply systems. The scope of the chemical analysis shall be sufficient to demonstrate compliance with all the requirements of these rules and regulations.

(1) All public water supply systems shall monitor the water in the distribution system yearly to determine the concentration of chemical constituents listed in K.A.R. 28-15-13(f).

(2) All public water supply systems using ground water as the sole source of supply shall monitor the water in the distribution system once every three (3) years to determine compliance with the requirements of K.A.R. 28-15-13(b).

(3) All public water supply systems using surface water shall monitor the water in the distribution system yearly to determine compliance with the requirements of K.A.R. 28-15-13(b).

(4) All public water supply systems using surface water shall monitor the water in the distribution system once every three (3) years to determine compliance with K.A.R. 28-15-13(c)(1) and (c)(2). These water samples shall be collected during the portion of the year when pesticides are commonly in use in the area.

(5) All community water supply systems serving a population of ten thousand (10,000) or more shall monitor the water quarterly to determine compliance with K.A.R. 28-15-13(c)(3). Based upon the analytical results of the water samples submitted for analyses and upon the sole use of groundwater, the department may, upon the written request of the supplier of water, reduce the monitoring requirement to one (1) yearly sample. Based upon the analytical results of one (1) year of monitoring in compliance with K.A.R. 28-15-13(c)(3), and when local conditions demonstrate that the total trihalomethanes are consistently below the maximum contaminant level prescribed in K.A.R. 28-15-13(c)(3), the department may, upon the written request of the supplier of water, reduce the monitoring requirement from four (4) water samples in each quarter to one (1) water sample in each quarter, provided that the sample reflects the maximum residence time of the water in the system.

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(6) The owner or operator of a community water supply system shall verify the inorganic and organic chemical maximum contaminant levels in the system when the results of a laboratory test indicate the level of a chemical constituent exceeds the maximum contaminant level.

(A) Verification of the laboratory test results shall be made by collecting three (3) additional water samples for analysis within one (1) month, except when total trihalomethanes exceed the maximum contaminant level.

(B) A community water supply system, which has been placed upon a reduced monitoring frequency for trihalomethanes, shall take at least one (1) check sample promptly after results are received which indicate the maximum contaminant level prescribed in K.A.R. 28-15-13(c) has been exceeded. If the check sample confirms that the maximum contaminant level for trihalomethane has been exceeded, the water supply system shall immediately revert to the monitoring requirement of four (4) water samples in each quarter and this monitoring shall continue for at least one (1) year, before the frequency may be reduced.

(7) Community water supply systems, that purchase water from public water supply systems which have a permit, shall be considered extensions of the original system and shall not be required to perform chemical analysis to determine compliance with the maximum contaminant levels prescribed in K.A.R. 28-15-13(b) and (c), unless specifically required to do so by the department.

(c) Monitoring requirements for radiological quality of community water supply systems. The radiological analysis shall include all parameters necessary to determine compliance with the standards prescribed in K.A.R. 28-15-13(d).

(1) Water as served to the consumer from community water supply systems shall be analyzed every four (4) years, by analyzing four (4) consecutive quarterly samples or a composite of four (4) consecutive quarterly samples if the results exceed fifty (50) percent of the maximum contaminant level for radiological content. If the results are less than fifty (50) percent of the maximum contaminant level, compositing is not required, and one sample shall be analyzed every four (4) years. Analysis for man-made beta and photon emitters shall be required for community water supply systems using surface water sources and serving more than one-hundred thousand (100,000) persons and for other water supply systems as required by the department. The scope of the radiological analysis to be performed shall be as set forth in 40 CFR 141.25-141.26, as in effect on October 1, 1981, which is adopted by reference.

(2) Community water supply systems, that purchase water from public water supply systems which have a permit, shall be considered extensions of the original system and shall not be required to perform radiological analysis to determine compliance with the maximum contaminant levels prescribed in K.A.R. 28-15-13(d), unless specifically required to do so by the department.

(d) Monitoring requirements for turbidity. All public water supply systems using surface water in whole or in part shall monitor the water for turbidity at representative entry point(s) to the distribution system.

In performing this monitoring, the Nephelometric method found in "Standard Methods for the Examination of Water and Wastewater", 14th Edition, shall be applied. If the maximum contaminant level prescribed in K.A.R. 28-15-13(e)(1) is exceeded, a check sample shall be collected and analysed within one (1) hour. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-15. Public notification requirements. (a) If a community water supply system:

- (1) Fails to perform required monitoring;
- (2) Violates maximum contaminant levels;
- (3) Fails to use prescribed treatment techniques;
- (4) Has been granted an exemption or variance; or
- (5) Fails to comply with an exemption or variance

schedule, the supplier of water shall be required to notify the persons served by the community water supply system of the violation in a form prescribed or approved by the department with the next monthly water bill, or by written notice within thirty (30) days. This notice shall be repeated at not less than quarterly intervals as long as the violation or failure continues, or the exemption or variance remains in effect.

(b) If a non-community water supply system:

- (1) Fails to perform required monitoring;
- (2) Violates maximum contaminant levels;
- (3) Fails to use prescribed treatment techniques;
- (4) Is granted an exemption or variance; or
- (5) Fails to comply with an exemption or variance

schedule, the supplier of water shall be required to give conspicuous notice of the failure for thirty (30) days to the consumers served by the system in a form prescribed by or approved by the department.

(c) If a failure of a maximum contaminant level occurs for:

(1) Chemical, radiological or turbidity violations of maximum contaminant levels, when verified by procedures prescribed in K.A.R. 28-15-14 (b) (6) (A), (c) (1) or (d); or

(2) Coliform bacteria, the supplier of water shall give public notice. Check samples shall be collected and analyzed if a water sample shows excessive coliform bacteria. The check sampling process included in 40 CFR 141.21(d)(1), (2) and (3), as in effect on October 1, 1981, shall be used and is hereby adopted by reference. These check samples shall not be considered to be part of the routine monitoring and the results shall not be used in computing the four (4) week average. Even if the check samples show no coliform bacteria, public notification is still required. The public notice for a maximum contaminant level failure shall consist of a newspaper advertisement, a press release to applicable radio and television stations, and other appropriate means in a form prescribed by or approved by the department.

(d) A notice given in compliance with these regulations shall serve to inform the consumers. The notice shall not use unduly technical language, unduly small print or other methods which would frustrate the purpose of the notice. The notice shall be in a form prescribed or approved by the department. The department shall be supplied with an exact copy of all ways by which the consumer is notified. The supplier of water shall also provide the date or dates of the public notice and how the public notice was issued.

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This information shall be supplied to the department not later than forty-five (45) days after the date the supplier of water is required to issue the public notice. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-16. Permit requirements for public water supply systems. All public water supply systems shall be required to have a permit issued by the secretary. An application for a public water supply permit shall be submitted for review and approval before the use of a source of supply, construction of new wells, pumping stations, finished water storage facilities or water treatment plants. The following information shall be submitted as part of the application: (a) A copy of the plans and specifications for the public water supply system or extension of it;

(b) A description of the source from which the water is to be derived;

(c) The proposed manner of storage, purification or treatment of the raw water source;

(d) Sufficient data on the raw water to insure that the proposed treatment facilities will produce a potable water to meet the requirements of K.A.R. 28-15-13; and

(e) Every new source of supply, either surface or ground, that is added to a public water supply system shall be analyzed for the chemical and radiological constituents of K.A.R. 28-15-13 by the departmental laboratory. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-17. Siting requirements. A new or expanded facility shall not be initiated or constructed at a site which the department determines: (a) Is subject to a significant risk from earthquakes, floods, fires or other disasters which could cause a breakdown of the public water supply system or a portion of it;

(b) Except for intake structures, is within the floodplain of a one-hundred (100) year flood; and is lower than the recorded high water level where appropriate records exist; or

(c) Is adjacent to a major source of pollution, which the department determines has a potentially adverse influence on the water supply. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-18. Operation and maintenance requirements. (a) All public water supply systems shall be operated, maintained and supervised by certified personnel in accordance with K.S.A. 65-4501 to 65-4517 and the amendments to these statutes.

(b) The records of all laboratory tests, chlorine residuals, turbidity determinations, copies of written communications relating to sanitary surveys, or efforts to correct a violation of these regulations made by the supplier of water, by a private consultant or by any governmental agency shall be kept on file for a period of ten (10) years. These records reports and written communications shall be readily available in a convenient location for an inspection by the secretary or an authorized representative of the secretary. All records concerning an exemption or variance granted to a supplier of water shall be kept for a period of ten (10) years following the expiration of the exemption or variance.

These records shall contain the following information:

(1) The date, place and time of sampling and the name of the person collecting the sample;

(2) The appropriate identification as to whether the water sample was a routine distribution sample, a check sample or a special purpose sample;

(3) The date of the analysis;

(4) The laboratory and the person responsible for performing the analysis and the analytical technique or method used; and

(5) The results of the analysis.

(c) If these regulations are violated and the laboratory tests were performed by a laboratory other than the departmental laboratory; the public water supply system shall report the violation to the department not later than forty-eight (48) hours following the detection of the violation. All results of laboratory tests performed by an approved laboratory in compliance with K.A.R. 28-15-13 and K.A.R. 28-15-14 shall be submitted to the department not later than thirty (30) days following the completion of the analyses.

(d) All community water systems and any high risk non-community water systems as designated by the department shall immediately notify the department and responsible local officials of a situation with the water system including a major breakdown or serious loss of water service which presents or may present an imminent and substantial endangerment to health.

(e) All community water systems shall prepare an emergency operations plan to safeguard the water supply for the protection of the public if natural or man-made disasters occur. Emergency operation plans shall be submitted to the department for review and approval.

(f) Newly constructed or repaired water distribution mains and finished water storage facilities shall be flushed and disinfected before use in accordance with methods acceptable to the department.

(g) All community water systems shall be operated and maintained to provide a minimum positive pressure of 20 psi (140kN/m²) throughout the distribution system except under extraordinary conditions such as unusual peak fire flow demand or major distribution system breaks.

(h) All community water systems and any high risk non-community systems designated by the department shall have a regular program, approved by the department, for the detection and elimination of cross-connections and prevention of backflow and backsiphonage.

(i) All finished water reservoirs shall be covered by a permanent protective material and shall be adequately vented and screened.

(j) Treatment chemicals and protective coatings exposed to water intended for public consumption shall be used only if approved by the department. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-19. Disinfection of drinking water. All drinking water supplied to the public from a public water supply system shall be disinfected. When chlorination is employed, a sufficient amount of chlorine shall be added to the water to maintain a measurable chlorine residual throughout the distribution system with a residual of 0.2 mg/l of free chlorine or 1.0 mg/l of combined chlorine at the ends of the distribu-

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tion system. The operator shall make a daily determination of the chlorine residual and record it in such a manner the department can determine the requirements of this rule and regulation have been met. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-20. Exemptions and variances. (a) A supplier of water may be granted a variance or exemption from the requirements of K.A.R. 28-15-11 to 28-15-19, inclusive, under the provisions of K.S.A. 65-171p or 65-171q.

(b) The provisions set forth in the national interim primary drinking water regulations, 40 CFR 142.40-142.55, as in effect on October 1, 1981, are adopted by reference and shall be used in the consideration and issuance of exemptions and variances. (Authorized by and implementing K.S.A. 65-171m; effective May 1, 1982.)

28-15-21 to 28-15-24. Reserved.

Article 19.—AMBIENT AIR QUALITY STANDARDS

28-19-16 New source permit requirements for designated nonattainment areas. The provisions of K.A.R. 28-19-16 through K.A.R. 28-19-16m shall apply to the construction or modification of major stationary sources of air pollution emissions located within any area that has been identified as not meeting a national ambient air quality standard for the pollutant for which the source is major, under the procedures prescribed by Section 107(d) of the federal Clean Air Act (42 U.S.C. 7407(d)). (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16a. Definitions. The following words and terms, when used in K.A.R. 28-19-16 through K.A.R. 28-19-16m, shall have the following meanings:

(a) "Actual emissions" means, in regard to determining creditable previous emissions of a pollutant, the actual average rate (in tons per year) at which a unit actually emitted the pollutant during a two-year period which precedes the particular date of interest and which is representative of normal source operation. This shall apply unless the department allows the use of a different time period upon a determination that it is more representative of normal source operation. These emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. Where specific emission limitations have been established for an individual source under the provisions of K.A.R. 28-19-13, K.A.R. 28-19-16b or any permits issued under the provisions of federal regulation 40 CFR 52.21(i), as amended August 7, 1980, then actual emissions may be presumed to be equal to these limitations. For any emissions unit which has not begun normal operations on a date of interest, actual emissions shall mean the potential to emit of the unit on that date.

(b) "Allowable emissions" means the emissions rate of a stationary source calculated by using:

(1) the maximum rated capacity of the source (unless the source is subject to federally enforceable limits

which restrict the operating rate, hours of operation, or both); and

(2) limitations imposed by this or any other applicable state, federal or local governmental air pollution control regulation, including those with a future compliance date.

(c) "Begin actual construction" means the initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. These activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(d) "Building, structure, facility or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual 1972," as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

(e) "Commence, as applied to construction of a major stationary source or major modification", means:

(1) that the owner or operator has all necessary state, local, and federal approvals or permits and either has begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(f) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(g) "Contemporaneous emission increase or decrease" means emission changes from the source which have occurred since December 21, 1976 or since the most recent permit was issued under the provisions of K.A.R. 28-19-16b, whichever date is the most recent.

(h) "Creditable emission decrease" means the amount by which the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions. No emission decrease shall be creditable if the secretary has previously given credit for it in a permit issued under the provisions of this regulation that is presently in effect or the decrease has been previously credited by the secretary as a result of actions initiated under the provisions of other state, federal, or local governmental air pollution control regulations. Credit shall be allowed only for decreases in emissions which have approximately the same qualitative significance for

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public health and welfare as do those emissions that increase as a result of a particular change.

(i) "Creditable emission increase" means the amount by which a new level of actual emissions exceeds the old level of actual emissions.

(j) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to the provisions of this regulation.

(k) "Federally enforceable" means:

(1) all limitations and conditions which are enforceable by the Administrator of the U.S. Environmental Protection Agency, including those requirements developed pursuant to 40 CFR Parts 60 and 61;

(2) requirements of regulations included in the federally approved Kansas implementation plan; and

(3) any permit requirements established pursuant to these requirements.

(l) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(m) "Fugitive emissions" means those emissions which directly result from operation of a stationary source but which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(n) "Implementation plan" means any documents, including state or locally adopted regulations, submitted by a state to the U.S. Environmental Protection Agency as required by the provisions of Section 110 of the federal Clean Air Act (42 U.S.C. 7410) and any regulations promulgated by the administrator of the U.S. Environmental Protection Agency pursuant to the provisions of that section. For the purpose of this regulation a state plan shall be considered to be approved when the administrator has published the approval or conditional approval of the applicable provisions of the plan in the Federal Register.

(o) "Lowest achievable emission rate" means, for any source, an emission standard established by the secretary based on either the most stringent emissions limitation which is contained in the approved implementation plan of any state for that class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that these limitations are not achievable, or the most stringent emissions limitation which is achieved in practice by that class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event will the secretary establish a lower emission rate for a proposed new or modified stationary source which is less stringent than the amount allowable under an applicable new source standard of performance promulgated by the U.S. Environmental Protection Agency under the provisions of Section 111 of the federal Clean Air Act.

(p) "Major modification" means any modification of a major stationary source that would result in a significant net emissions increase of any pollutant subject to the provisions of this regulation.

(q) "Modification" means any physical change in, or change in the method of operation of, a stationary source that would result in an emissions increase of any pollutant subject to the provisions of this regulation. Any net emissions increase that is considered

significant for volatile organic compounds shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(1) Routine maintenance, repair and replacement;

(2) Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) Use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) Use of an alternative fuel or raw material by a stationary source which:

(A) The source was capable of accommodating before December 21, 1976, unless the secretary determines that such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 51.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(B) The source is approved to use under any permit issued under the provisions of this regulation;

(6) An increase in the hours of operation or in the production rate, unless the secretary determines that this change is prohibited under any federally enforceable permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24; or

(7) Any change in ownership at a stationary source.

(r) "Major stationary source" means any stationary source of air pollutants which emits, or has the potential to emit, one hundred (100) tons per year or more of any pollutant subject to the provisions of this regulation, or any physical change that would occur at a stationary source not qualifying as a major stationary source under the previous definition, if the change would constitute a major stationary source by itself. A major stationary source that is considered major for volatile organic compounds shall also be considered major for ozone.

(s) "Net emissions increase" means the amount by which the sum of:

(1) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change, and are otherwise creditable, exceeds zero.

(t) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in

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determining the potential to emit of a stationary source.

(u) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but would not be from the major stationary source or major modification itself.

(v) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- (1) Carbon monoxide: 100 tons per year
- (2) Nitrogen oxides: 40 tons per year
- (3) Sulfur dioxide: 40 tons per year
- (4) Particulate matter: 25 tons per year
- (5) Ozone: 40 tons per year of volatile organic compounds

(6) Lead: 0.6 tons per year

(w) "Significantly contribute" means, in reference to exceeding a national ambient air quality standard, a predicted air pollution concentration exceeding any of the following values in any location as determined by utilizing procedures specified in the "Guidelines on Air Quality Models" (QAQPS. 1.2-080, U.S. Environmental Protection Agency, April 1978):

- (1) Carbon monoxide: 575 $\mu\text{g}/\text{m}^3$, 8-hour average.
- (2) Nitrogen dioxide: 14 $\mu\text{g}/\text{m}^3$, annual average.
- (3) Total suspended particulate: 10 $\mu\text{g}/\text{m}^3$, 24-hour average.

(4) Sulfur dioxide: 13 $\mu\text{g}/\text{m}^3$, 24-hour average.

(5) Lead: 0.1 $\mu\text{g}/\text{m}^3$, 24-hour average.

(6) Ozone: No concentration specified. Any source of volatile organic compounds permitted under this regulation shall be presumed to have a significant impact throughout the designated ozone nonattainment area and any contiguous ozone nonattainment areas.

(x) "Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant subject to the provisions of this regulation. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16b. Permit required. (a) A major stationary source shall not begin actual construction, or modification unless the owner or operator of the source has been issued a permit approving this activity in accordance with the provisions of this regulation. This permit shall be signed by the secretary or an authorized representative of the secretary and shall specify the emission rate limitations allowable for the source and any special conditions to be imposed on its operation pursuant to assuring compliance with this limitations and other provisions of this regulation. Special operating conditions may include, but need not be limited to, specified periods of operation, restrictions on the amount and types of material to be combusted, stored or processed, control equipment operating and maintenance requirements, emissions monitoring requirements, and restrictions on other source operations.

(b) Application for a permit required by this regulation shall be submitted on forms provided by the secretary or his or her designated representative. The application shall include, in addition to that information required by K.A.R. 28-19-8(c), this information

that is required by the secretary in order to determine the net emissions increase that will occur at the time that the permitted activity is completed. The secretary shall review all proposed actions reported under the provisions of K.A.R. 28-19-8 to determine the possible applicability of this regulation to this proposed action and advise the source owner or operator, within fifteen (15) days of receipt of this report, of any need to submit a permit application pursuant to the provisions of this regulation. Within thirty (30) days from the receipt of this permit application, or any addition to this application, the secretary or a designated representative shall advise the applicant of any deficiency in the application or in the information submitted. If there is a deficiency, the date of receipt of a completed application shall be, for the purpose of this regulation, the date on which the department of health and environment or its designated representative received all required information. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16c. Creditable emission reductions. For the purpose of allowing credit for emissions reductions claimed in relation to the determination of reasonable further progress toward attainment of the national ambient air quality standards required under the provisions of K.A.R. 28-19-16g, the following additional requirements shall apply:

(a) If an existing fuel combustion source commits to switch, at some future date, to a fuel that emits less pollutants, emissions offset credit based upon allowable (or actual) emissions for the fuels involved shall not be allowed unless the source that has committed to the fuel switch has also committed to the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back, at some later date, to a fuel that emits more pollutants. Before the offset credits are given for these proposed fuel switches, the secretary shall ensure that adequate long term supplies of the new fuel are available.

(b) Where emission reduction credits are proposed to result from a shutdown of an existing source or permanently curtailing production or operating hours below baseline levels, these reductions shall not be credited unless the work force to be affected by this action has been notified of the proposed shutdown or curtailment. Source shutdowns or curtailments in production occurring before the completed source application is received by the department of health and environment or its designated representative may not be used for the purpose of establishing offset credits unless the applicant has demonstrated that this curtailment or shutdown occurred after August 7, 1977, and the proposed new source construction, reconstruction or modification is a replacement for the shutdown or curtailment that is proposed to be used to offset the emissions from it.

(c) Emissions reduction credit shall not be allowed for replacing one volatile organic compound with another of lesser reactivity, except for those compounds listed in Table 1 of the "Recommended Policy on Control of Volatile Organic Compounds" as published on page 35314 of the July 8, 1977 issue of the Federal

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Register. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16f. New source emission limits. A permit for major stationary source construction, or major modification shall not be issued under the provisions of K.A.R. 28-19-16b unless the emissions resulting from this permitted activity are limited to the lowest achievable emission rate that has been established for the constructed or modified source. For phased construction projects, the determination of lowest achievable emission rate shall be reviewed by the secretary, and modified as appropriate, at the latest reasonable time prior to commencement of construction of each independent phase of the proposed construction or modification. Final determination of compliance with lowest achievable emission rate requirements shall be made by the secretary. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16g. Attainment and maintenance of national ambient air quality standards. (a) A permit for major stationary source construction, or modification shall not be issued under the provisions of K.A.R. 28-19-16b if emissions from this source shall prevent the attainment and maintenance of the national ambient air quality standards by the date specified in the approved Kansas implementation plan.

(b) Attainment and maintenance of the national ambient air quality standards shall be determined according to compliance with either of the two following requirements:

(1) Reasonable further progress toward attainment of the national ambient air quality standards shall be required. This progress shall be demonstrated when, by the time the newly permitted source is to commence operation, total allowable emissions from:

(A) other existing sources in the identified nonattainment area;

(B) other new or modified sources which are not major stationary sources; and

(C) this proposed source shall be less than the total emissions allowed from sources existing before application for the permit.

(2) Emissions resulting from the proposed new or modified major stationary source shall not cause or contribute to emissions levels which exceed the allowance permitted for the pollutant in the area for all new or modified major stationary sources in the approved plan. (Authorized by and implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16h. Compliance of other sources. A permit for major stationary source construction or major modification shall not be issued under the provisions of K.A.R. 28-19-16b unless the owner or operator of this source has demonstrated to the secretary that all major stationary sources owned and operated by this person (or by an entity controlling, controlled by, or under common control of this person) in the state of Kansas are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the

federal clean air act and amendments thereto. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-16i. Operating requirements. A constructed or modified major stationary source subject to the provisions of K.A.R. 28-19-16b shall not be operated, except in compliance with the requirements established by the permit issued for the source. For the purpose of this regulation, any permitted physical change in a source that is intended to serve as a replacement unit, and which requires a shakedown period before it can be expected to operate at maximum efficiency, shall be considered operational only after completion of this period, provided that this period shall not exceed one hundred and eighty (180) days. (Authorized by K.S.A. 65-3005, 65-3008, 65-3010; implementing K.S.A. 65-3005, 65-3008, 65-3010; effective, E-81-35, Nov. 12, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-32. Exemptions—indirect heating equipment. (a) Visible contaminant emissions of an opacity exceeding that allowed in K.A.R. 28-19-31(b) shall not be considered a violation of that section provided that the person responsible for operation of the indirect heating equipment demonstrates to the satisfaction of the department that this excessive opacity is solely the result of the presence of uncombined water in the plume.

(b) Indirect heating equipment which was existing on January 1, 1972, shall be exempt from the provisions of K.A.R. 28-19-31(d) and K.A.R. 28-19-31(e).

(c) The provisions of this subsection shall be applicable only to indirect heating equipment in electric generating plants located in areas that have been identified as meeting the national primary ambient air quality standard for sulfur dioxide in the manner prescribed by the provisions of Section 107(d) of the federal Clean Air Act (42 U.S.C. § 7407). Electric generating plants that:

- (1) Are of the generating capacity specified below;
- (2) Were existing on January 1, 1972;
- (3) Were capable of being fueled by coal;
- (4) Have been demonstrated to be able to maintain the national primary ambient air quality standards; and
- (5) Emit sulphur dioxide (SO₂) at the limitations shown below shall be exempt from the provisions of K.A.R. 28-19-31(c).

Electric Generating Capacity megawatts	Emission Rate (grams SO ₂ per second)
90	542.0
155	1465.0
228	3583.0

(Authorized by K.S.A. 65-3005; implementing K.S.A. 65-3007, 65-3010; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-73-8, Dec. 27, 1972; amended Jan. 1, 1974; amended May 1, 1981; amended May 1, 1982.)

28-19-51. (Authorized by K.S.A. 1970 Supp. 65-3005, 65-3006, 65-3010; effective Jan. 1, 1971; revoked May 1, 1982.)

28-19-62. Testing procedures. (a) Sampling and testing procedures required to demonstrate compliance

(continued)

with the volatile organic compound emissions limits shall be as described in the following referenced publications:

(1) Surface coating emissions (lb./gal. coating)—appendix A, EPA-450/2-77-008, *Control of volatile organic emissions from existing stationary sources—volume II*.

(2) Gasoline storage and handling emissions (lb. volatile organic compounds)—appendix A, EPA-450/2-77-026, *Control of hydrocarbons from tank truck gasoline loading terminals*.

(3) Detection of leaks from petroleum refinery equipment—appendix B, EPA-450/2-78-036, *Control of volatile organic compound leaks from petroleum refinery equipment*.

(4) Leaks from gasoline delivery vessels and their vapor collection systems—appendix A, EPA 450/2-78-051, *Control of volatile organic compound leaks from gasoline tank trucks and vapor collection systems*.

(b) The department may approve an alternate sampling or testing procedures developed or approved by the federal air pollution control agency as an equivalent or improved procedure.

(c) The information listed in section (a) of this regulation will be provided upon written request to the department. (Authorized by K.S.A. 65-3005 and 65-3010; effective, E-81-28, Sep. 10, 1980; effective May 1, 1981; amended May 1, 1982.)

28-19-70. Leaks from gasoline delivery vessels and vapor collection systems. (a) Persons shall not load or permit the loading of gasoline from any bulk gasoline terminal into any gasoline delivery vessel unless the vessel and vapor collection system are in compliance with the requirements of this regulation.

(b) The loading of gasoline from a bulk terminal into a delivery vessel shall be carried out in compliance with the following requirements:

(1) There shall not be a reading of combustible organic vapors greater than or equal to one hundred (100) percent of the lower explosive limit, measured as propane, at two and five tenths (2.5) centimeters around the perimeter of any leak source on the delivery vessel or the connected terminal vapor collection system during the loading operation. This determination shall be made with a combustible gas detector approved for such use by the department;

(2) There shall not be any visible liquid leaks from the truck or the vapor collection system during the loading operation; and

(3) The vapor collection and vapor processing equipment provided at the bulk terminal shall be designed and operated to prevent gauge pressure in the delivery vessel from exceeding eighteen (18) inches of water and prevent vacuum from exceeding six (6) inches of water during the loading operation.

(c) Gasoline delivery vessels, including the vessel's vapor collection system, shall not sustain a pressure change of more than three (3) inches of water in five (5) minutes when pressurized to eighteen (18) inches of water or evacuated to six (6) inches of water. These determinations shall be made using the testing procedures prescribed in K.A.R. 28-19-62(a)(4).

(d) The department may require the owner or operator of any gasoline delivery vessel subject to the provisions of these regulations to certify to the depart-

ment annually and whenever the vessel has been determined to be in violation of the provisions of subsections (b)(1) and (b)(2), that the vessel is in compliance with the provisions of subsection (c). This certification shall be provided to the department within sixty (60) days of receipt of written notice from the department that it is required. The certification shall be on forms provided by the department.

(e) If the owner or operator of any gasoline delivery vessel fails to provide any certification required under subsection (d) the department shall send written notification of this fact to the owner or operator of the vessel and all bulk gasoline terminals subject to this regulation. Gasoline shall not be loaded into any vessel which has not been certified as complying with subsection (c) after this certification has been required by the department.

(f) The provisions of this regulation shall apply only to gasoline loading operations conducted at bulk gasoline terminals subject to the provisions of K.A.R. 28-19-64.

(g) The provisions of this regulation shall be effective on and after December 31, 1982. (Authorized by K.S.A. 65-3005, 65-3010; implementing 65-3005, 65-3010; effective May 1, 1982.)

Article 29.—SOLID WASTE MANAGEMENT

28-29-1. Scope and content. These regulations shall not interfere with the right of cities or counties to enact ordinances or resolutions for control of solid waste management practices which are more stringent than the requirements of these regulations, except a local agency shall not enforce a requirement, other than those in this article, which would impede interstate or intrastate transportation, or disposal of solid waste, or which would impede establishment or use of facilities for regional management of solid waste. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; amended May 1, 1982.)

28-29-2. Variances. (a) *General Procedure.* If exceptional circumstances make strict conformity with these regulations impractical or not feasible, a person may submit a written request for a variance from these regulations. The department may grant a variance from these regulations and stipulate conditions and time limitations as necessary to comply with the intent of all applicable state and federal laws. The department shall review the variance request and notify the person within ninety (90) days of receipt that the application is approved, denied, or requires modification.

(b) *Experimental operations.* Variances may be granted to facilitate experimental operations intended to develop new methods or technology. Variances for experimental operations shall be considered only where significant health, safety, environmental hazards, or nuisances will not be created, and when a detailed proposal is submitted and accepted which sets forth the objectives, procedures, controls, monitoring, reporting, time frame, and other data regarding the experiment.

(c) *Restrictions.* Variances for experimental operations shall be limited to a maximum of two (2) years;

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however, the department may renew the variance for one or more additional two-year periods upon a showing by the person that the need for a variance continues to be valid. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979, amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-3. Definitions. (a) "Agricultural waste" means solid waste resulting from the production of farm or agricultural products.

(b) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(c) "Bulky waste" means items of refuse too large to be placed in refuse storage containers including, but not limited to, appliances, furniture, tires, large auto parts, motor vehicles, trees, branches, or stumps.

(d) "By-product" means a material produced without separate commercial intent during the manufacture or processing of other materials or mixtures.

(e) "Commercial waste" means all solid waste emanating from establishments engaged in business. This category includes, but is not limited to, solid waste originating in stores, markets, office buildings, restaurants, shopping centers, and theaters.

(f) "Composting" means a controlled process of microbial degradation of organic material into a stable, nuisance-free, humus-like product.

(g) "Construction and demolition waste" means waste building materials and rubble resulting from construction, remodeling, repair, or demolition operations on houses, commercial buildings, other structures, and pavements.

(h) "Construction and demolition landfill" means a permitted solid waste disposal area used exclusively for the disposal on land of construction and demolition wastes.

(i) "Discarded material" means any material which is:

- (1) Abandoned or disposed; or
- (2) A by-product or residual when it is either in treatment or in storage, or when it is used in a manner which constitutes disposal.

(j) "Disease vector" means rodents, flies, mosquitos, or other pests capable of transmitting disease to humans.

(k) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that this solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

(l) "Garbage" means the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking, and serving of meat, produce and other foods and shall include unclean containers.

(m) "Ground water" means that part of subsurface water in the ground that is in the zone of saturation.

(n) "Incineration" means the controlled process of burning solid, liquid, and gaseous combustible wastes

for volume and weight reduction in facilities designed for that use.

(o) "Incinerator" means any device or structure used for the destruction or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations.

(p) "Incompatible waste" means unsuitable for commingling with another waste or material, where the commingling might result in: extreme heat or pressure generation, fire, explosion, or violent reaction; formation of substances which are shock-sensitive, friction-sensitive, or otherwise have the potential of reacting violently; formation of toxic dusts, mists, fumes, gases, or other chemicals; or volatilization of ignitable or toxic chemicals due to heat generation in such a manner that the likelihood of contamination of ground water or escape of the substances into the environment is increased.

(q) "Industrial solid waste" means all solid waste resulting from manufacturing and industrial processes which are not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant. Industrial solid wastes may include: Mining wastes from the extraction, beneficiation and processing of ores and minerals unless those materials are returned to the mine site; fly ash, bottom ash, slag, and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; and cement kiln dust.

(r) "Long term care" means to maintain all appurtenances and systems installed or used in the containment of solid wastes and to maintain the effective performance of leachate or gas collection, treatment, and disposal systems installed for use during the post closure care period at a solid waste disposal area or a solid waste processing facility.

(s) "Mixed refuse" means a mixture of solid wastes containing both putrescible and nonputrescible materials.

(t) "Nuisance" means anything which: is injurious to health, offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property; or adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted upon individuals may be unequal; and is caused by or is a result of the management of solid wastes in violation of K.S.A. 65-3401 *et seq.* or the regulations adopted under those statutes.

(u) "Official plan" means a comprehensive plan submitted to and approved by the secretary as provided in K.S.A. 65-3405.

(v) "On site" means on the premises where solid waste generation occurs including two (2) or more pieces of property which are divided only by public or private rights-of-way and which are otherwise contiguous.

(w) "Open burning" means the burning of any materials without the following characteristics:

- (1) Control of combustion air to maintain adequate temperature for efficient combustion; and
- (2) Containment of the combustion reaction in an

(continued)

enclosed device to provide sufficient residence time and mixing for complete combustion; and

(3) Control of emission of the gaseous combustion products.

(x) "Open dump" means any facility used for the disposal of solid wastes which is not permitted by the secretary.

(y) "Permit" means a written permit issued by the secretary which by its conditions may authorize the permittee to construct, install, modify, or operate a specified solid waste disposal area, or solid waste processing facility.

(z) "Processing of wastes" means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal.

(aa) "Putrescible wastes" means solid waste which contains organic matter capable of being decomposed by microorganisms and which are capable of attracting or providing food for birds and disease vectors.

(bb) "Resource recovery" means the recovery of material or energy from solid waste.

(cc) "Salvaging" means the controlled removal of reusable materials from solid waste.

(dd) "Sanitary landfill" means a method of disposing of solid wastes on land without creating nuisances or hazards to the public health or safety or the environment at a permitted solid waste disposal area which meets the standards prescribed in K.A.R. 28-29-23.

(ee) "Storage" means the containment of solid wastes in a manner that shall not constitute disposal or processing, under one of the following conditions:

(1) Pre-collection. Storage by the generator, on or adjacent to the premises, before initial collection. Under these regulations, pre-collection storage would not require a processing facility permit; and

(2) Post-collection. Storage by the processor or a collector, while the waste is awaiting processing or transfer to a disposal or recovery facility. Under these regulations, post-collection storage requires a processing facility permit.

(ff) "Transfer station" means any facility where solid wastes are transferred from one (1) vehicle to another or where solid wastes are stored and consolidated before being transported elsewhere, but shall not include collection boxes provided for public use as a part of a county-operated solid waste management system when these boxes are not equipped with compaction mechanisms or have volumes smaller than twenty (20) cubic yards.

(gg) "Water pollution" means contamination or other alteration of the physical, chemical or biological properties of any waters of the state which creates a nuisance or renders these waters harmful, to public health, safety or welfare; or harmful to the plant, animal, or aquatic life of the state; or unsuitable for other beneficial uses. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-4. (Authorized by K.S.A. 65-3406; effective E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-5. (Authorized by K.S.A. 65-3406; effective

Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-6. Permits and engineering plans. (a) **Application for permits.** Every person desiring to obtain a permit shall file an application for a permit for the proposed solid waste disposal area or processing facility with the department at least thirty (30) days before the date the person wishes to start construction, alteration, or operation of the disposal area or processing facility. The application shall be on forms furnished by the department.

(b) **Design plans and engineering reports.**

(1) Design and closure plans and engineering reports required under these regulations shall bear the seal and signature of a professional engineer licensed to practice in Kansas.

(2) **Waiver.** Plans, designs, and relevant data for the construction of the following solid waste disposal areas and processing facilities, need not be prepared by a professional engineer provided that a review of these plans is conducted by a professional engineer licensed to practice in Kansas:

(A) Solid waste processing facilities when the equipment is originally manufactured for those purposes and installation is supervised by the vendor, or when the equipment requires only fencing, buildings, and connection to utility lines to be operational;

(B) Construction and demolition landfills; and

(C) Solid waste disposal areas considered by the department to be located in secure geological formations, which are a part of a solid waste management system established pursuant to K.S.A. 65-3401 *et seq.*, and which are expected to receive less than one hundred (100) tons of solid waste annually.

(c) **Permit considerations.** Any permit issued by the secretary, shall, where appropriate, be reviewed with respect to all responsibilities within the department.

(d) **Transfer of permits.** Before any assignment, sale, conveyance, or transfer of all or any part of the property upon which a solid waste processing facility, or solid waste disposal area is or has been located, and before any change in the responsibility of operating a processing facility or disposal area is made, the permittee shall notify the department, in writing, of the intent to transfer title or operating responsibility, at least thirty (30) days in advance of the date of transfer. The person to whom the transfer is to be made shall not operate the solid waste processing facility or disposal area until the secretary issues a permit to that person. The person to whom the transfer is to be made shall submit the following:

(1) A permit application and plans, maps, and data as required by subsection (a) of this regulation;

(2) Plans satisfactory to the department for correcting any existing permit violations; and

(3) Substantiation in writing that the applicant has copies of all approved maps, plans, and specifications relating to the solid waste processing facility or disposal area.

(e) **Conformity with official plan.** Permits shall not be issued by the secretary until the applicant has secured, from the board of county commissioners or from the mayor of an incorporated city having an official plan, certification that the proposed facility is

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consistent with the official plan. This approval shall not be required when the official plan does not provide for management of the solid waste(s) to be processed or disposed.

(f) *Reopening closed sites or facilities.* Any person proposing to reopen, excavate, disrupt, or remove any solid waste from any solid waste disposal area where operations have been terminated shall secure a new permit as specified in paragraph (a) of this regulation. Applications for a permit shall include, where applicable, an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, location where excavated solid waste is to be deposited, the estimated time required for excavation, and a plan for restoring the site.

(g) *Emergency provisions.* In emergency situations involving solid waste which requires storage, transportation, or disposal on a one-time basis or other special cases where strict adherence to these regulations would result in undue hardships or unnecessary delays, the department can prescribe on a case-by-case basis, the procedures and conditions necessary for the safe and effective management of the wastes. The generator shall not take action in these cases except as immediately necessary for the protection of human health or the environment, until the action is approved by the department. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-7. Conditions of permit. (a) When granting a permit, the secretary shall consider and stipulate: the types of solid wastes which may be accepted or disposed, special operating conditions, procedures, and changes necessary to comply with these and other state or federal laws and regulations.

(b) When the department determines that a solid waste has or may have value as a recoverable resource, a permit may require or may be modified to require segregation of the materials, processing, separate disposal, and marking to allow future retrieval of the materials.

(c) The department may specify conditions or a date upon which each permit will expire. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-8. Modifications of permits. (a) The permittee shall notify the department in writing at least thirty (30) days before any proposed modification of operation or construction from that described in the plan of operation or permit. The permittee shall not proceed with the modification until the department provides written approval.

(b) The department may at any time modify a permit or any term or condition of a permit to include: special conditions required to comply with the requirements of these regulations; to avoid hazards to public health, or the environment or to abate a public nuisance; or to include modifications proposed by the permittee and approved by the department. Permits may be modified when:

(1) The permittee is not able to comply with the terms or conditions of the permit due to an act of God, a strike against someone other than the permittee, material shortage, or other conditions over which the permittee has little or no control; or

(2) New technology that can provide significantly better protection for health and environmental resources of the state becomes available.

(c) The permittee shall take prompt action to comply with the new special conditions, or within fifteen (15) days of receipt of notification of the new special conditions, request a hearing before the secretary in accordance with K.S.A. 65-3412. (Authorized by and implementing K.S.A. 1981 Supp. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-9. Suspension of permits. (a) A permit shall be suspended by the department when in the opinion of the secretary this action is necessary to protect the public health or welfare, or the environment. The secretary shall notify the permittee of the suspension and the effective date. At the time of giving this notice, the secretary shall identify items of noncompliance with the requirements of these regulations or with conditions of the permit and shall specify deficiencies which the permittee shall correct, actions which the permittee shall perform, and the date or dates by which the permittee shall submit a plan detailing corrective action taken or to be taken in order to achieve compliance.

(b) The suspension shall remain in effect until the deficiencies are corrected to the satisfaction of the secretary or until the secretary makes a final determination based on the outcome of a hearing requested by the permittee under the provision of K.S.A. 65-3412 or amendments of that statute. The determination may result in termination of the suspension, continuation of the suspension, or modification or revocation of the permit.

(c) Permits shall be suspended for failure to pay the permit fee required by K.S.A. 65-3407 or amendments of that statute. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-10. Denial or revocation of permits. (a) A permit may be denied or revoked for any of the following reasons:

(1) Misrepresentation or omission of a significant fact by the permittee either in the application for the permit or in information subsequently reported to the department;

(2) Improper functioning or operation of processing facility or the disposal area that causes pollution or degradation of the environment or the creation of a public health hazard or a nuisance;

(3) Violation of any provision of K.S.A. 65-3401 *et seq.*, or these rules and regulations or other restrictions set forth in the permit or in a variance;

(4) Failure to comply with the official plan; or

(5) Failure to comply with an order or a modification to a permit issued by the secretary.

(b) Any person aggrieved by the denial or revocation

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of a permit may request a hearing under the provision of K.S.A. 65-3412 or amendments of that statute. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-11. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-12. Notification of closure, closure plans, and long term care. (a) *Notification of closure.* All permittees shall notify the department in writing at least sixty (60) days before closure.

(b) *Closure plans.* Persons desiring to obtain a permit shall file a site closure plan at the time a permit application is submitted. The closure plan shall delineate the finished construction of the processing facility or disposal area after closure. Closure plans for disposal areas shall also provide for long term care when wastes are to remain at the area after closure. The plan shall be updated at the time of permit renewal or at the time notice of modification is submitted in accordance with K.A.R. 28-29-8(a), or at the time the notice of closure is submitted.

(c) If wastes are to remain at the disposal area after closure the department may require the closure plan be prepared by a professional engineer licensed to practice in Kansas. Upon completion of all the procedures provided for in the closure plan, the engineer shall certify that the disposal area was closed in accordance with the plan.

(d) *Closure plan contents.* The closure plan shall include the following where determined applicable by the secretary:

(1) Plans for the final contours, type and depth of cover material, landscaping, and access control;

(2) Final surface water drainage patterns and runoff retention basins;

(3) Plans for the construction of liners, leachate collection and treatment systems, gas migration barriers or other gas controls;

(4) Cross sections of the site that delineate the disposal or storage locations of wastes. The cross sections shall depict liners, leachate collection systems, the waste cover, and other applicable details;

(5) Plans for the post closure operation and maintenance of liners, leachate and gas collection and treatment systems, cover material, runoff retention basins, landscaping, and access control;

(6) Removal of all solid wastes from processing facilities;

(7) Plans for monitoring and surveillance activities after closure;

(8) Recording of a detailed site description, including a plot plan, with the department. The plot plan shall include the summaries of the logs or ledgers of waste in each cell, depth of fill in each cell and existing conditions;

(9) A financial plan for utilization of the surety bond or cash bond required by K.S.A. 65-3407.

(10) An estimate of the annual post closure and maintenance costs.

(e) *Long term care.* The owner of a solid waste disposal area, where the wastes are not removed as a

part of the closure plan, shall provide long term care for a period of at least ten (10) years following approval by the department of completion of the procedures specified in the closure plan. The secretary may, at the time of application for, or at the time of closure of, a solid waste disposal area permit, specify additional periods of long term care as the secretary may deem necessary to protect public health or welfare, or the environment. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-13. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-14. (Authorized by K.S.A. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-15. (Authorized by K.S.A. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-16. Inspections. (a) The secretary or any duly authorized representative of the secretary, at any reasonable hour of the day, having identified themselves and giving notice of their purpose, may:

(1) Enter a factory, plant, construction site, solid waste disposal site, solid waste processing facility, or any environment where solid wastes are generated, stored, handled, processed, or disposed, and inspect the premises and gather information of existing conditions and procedures;

(2) Obtain samples of solid waste from any person or from the property of any person, including samples from any vehicle in which solid wastes are being transported;

(3) Drill test wells on the affected property of any person holding a permit or liable for a permit under K.S.A. 65-3407 or amendments of that statute and obtain samples from the wells;

(4) Conduct tests, analyses, and evaluations of solid waste to determine whether the requirements of these regulations are otherwise applicable to, or violated by, the situation observed during the inspection;

(5) Obtain samples of any containers or labels; and

(6) Inspect and copy any records, reports, information, or test results relating to wastes generated, stored, transported, processed, or disposed.

(b) If during the inspection, unidentified or unpermitted solid waste storage or handling procedures are discovered, the department's representative may instruct the operator of the facility to retain and properly store solid or hazardous wastes, pertinent records, samples, and other items. These materials shall be retained by the operator until the identification and handling of the waste is approved by the department.

(c) When obtaining samples, the department's representative shall allow the facility operator to collect duplicate samples for separate analysis. Analytical data that might reveal trade secrets shall be treated as confidential by the department, when requested by the

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owner. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-17. (Authorized by K.S.A. 65-3406, effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-17a. Financial assurances for closure and post closure care. (a) After May 1, 1982, any person applying for or renewing a permit for a solid waste disposal area or processing facility shall file an estimate of the costs of closing the area or facility. The department will evaluate the cost estimate and either accept the estimate as made or revise it in accordance with its evaluation. When the area or facility is to be constructed in more than one phase, the initial closure estimate may be prepared separately for one or more phases. Disposal operations shall not be commenced in any part of a site until a closure estimate for that part has been accepted and financial assurances as provided for in this regulation have been made. When the facility is a solid waste processing facility the closure estimate shall be based on the cost of removal and disposal of the maximum quantity of wastes which can be contained in approved waste storage.

(b) Except as otherwise specifically provided in this rule and regulation each person desiring to obtain a permit or to renew a permit shall establish a closure trust fund designated "in trust for the closure of (name of solid waste disposal area or processing facility)". A bank or other financial institution authorized to administer trusts in the state of Kansas shall act as the trustee of the closure trust fund. The trust instrument shall include the following provision:

(1) That the trust is established to insure that upon abandonment, cessation, or interruption of the operation of the facility or area, all appropriate measures are taken to prevent present or future damage to human health or the environment;

(2) That monies in the fund shall not be assigned for the benefit of creditors, except as the permittee may incur financial obligations for work performed on an approved site closure plan; or

(3) That monies in the fund shall not be used to pay any final judgment against the permittee or site owner arising out of the operation of the site before closure;

(4) That disbursement shall be permissible only upon written approval of the secretary; and

(5) That if it is determined by the secretary that the permittee has failed or refused to perform, or has improperly performed, any measure specified in the site closure plan, the secretary shall have the right to use part or all of the closure trust fund to perform these measures and properly close the disposal area or processing facility. The trustee shall release these funds to the department upon receiving a written order from the secretary serving notice of the closure violations and providing an itemized estimate for the corrective work.

(c) Deposits in the closure trust fund shall be made one of the following ways:

(1) The permittee may make an initial cash deposit equivalent to the estimated cost of closure at the end of the first year of operation. Each year on the anniversary date of the permit, the permittee shall evaluate the adequacy of the trust fund based on accepted price

indices, changes in technology, and other factors relating to closure costs. If the closure fund is found to be inadequate; the permittee shall make necessary additions to the trust as to assure its adequacy for the current permit year. The trust fund shall not be reduced below the initial cash deposit in the fund. When this option is selected, any income accruing to the fund under the management of the trustee may be returned to the permittee; or

(2) The permittee may make an initial cash deposit equal to the accepted cost estimate for closure multiplied by a present value factor as determined by the following formula:

$$PVF = [(1/1.02)]^{SL}$$

Where PVF = present value factor
SL = site life in years

When this option is selected, all income accruing to the fund under the management of the trustee shall be added to the closure trust fund.

(d) When a permittee initiates a site closure plan as provided for in K.A.R. 28-29-12; the permittee shall submit an itemized list of the work to be performed in closing the site, together with the estimated cost. Should the monies in the closure trust fund be insufficient to complete all items of work included in the site closure plan the fund will be prorated among essential items of work to be performed. As items of work are completed by the permittee and accepted by the department the secretary will authorize the release of funds from the closure fund to reimburse the permittee for the work done. When the site closure work has been completed and accepted, the secretary shall authorize return of all unexpended monies in the fund to the permittee.

(e) Permittees who hold valid permits issued before July 1, 1982 and meet the following conditions, may furnish, for a period of up to three years ending June 30, 1985, a performance bond or other surety running to the department and the state of Kansas as obligee in lieu of establishing a closure trust fund as herein provided. In order to substitute surety for the entire closure trust fund the following conditions shall apply:

(1) The permittee shall file a cost estimate for closing the site or facility as provided in paragraph (a) of this regulation;

(2) Surety in the amount determined necessary by the secretary shall be obtained and maintained in full force and effect after July 1, 1982;

(3) On or before June 30, 1983, the permittee shall establish a closure trust fund as provided in paragraph (b) of this regulation and deposit thirty-four percent (34%) of the estimated closure fund. Thereafter an additional thirty-three percent (33%) of the closure fund shall be deposited on June 30, 1984, and June 30, 1985. On an annual basis the surety may be reduced in the dollar amount equal to the total deposit in the closure trust fund; and

(4) The surety shall be on a form prescribed by the department, payable to the department and the State of Kansas and conditioned that the permittee shall faithfully perform all requirements of the permit and these regulations. This surety shall be executed by the permittee and a corporate surety licensed to do business in the state of Kansas.

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(f) Persons operating construction and demolition landfills incidental to their business or occupation, when the landfills are operated for less than six (6) months at any locations, may file, annually a performance bond with the department in lieu of the requirements of paragraphs (a) and (b) of this regulation. The bond shall conform to the requirements of paragraph (e)(4) of this regulation and shall apply to all disposal operations of the owner or operator, permitted or otherwise. The minimum amount of bond shall be five thousand dollars (\$5,000). The minimum amount may be increased by the secretary depending on the number of permitted disposal areas and the cumulative acreage operated by the person at any one time. Nothing in this paragraph shall relieve any person of any obligation to secure necessary permits and approvals or any other duty required by any applicable provisions of these regulations. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-82-8, April 10, 1981; effective May 1, 1982.)

28-29-17b. Post closure operation and maintenance fund. (a) After May 1, 1982 or on the first permit renewal date thereafter, a permit holder of a solid waste disposal area where the solid wastes are to be not removed as a part of the planned closure and which have leachate or gas collection and treatment systems, waste containment systems and appurtenances with planned maintenance schedules, environmental monitoring systems with planned maintenance schedules and periodic sampling and analysis requirements, or requirements to maintain insurance coverage during the long-term care period, shall establish a post closure maintenance and operating fund. This fund shall be designated "in trust for the post closure operations and maintenance of (name of solid waste disposal area or processing facility)." A bank or other financial institution authorized to administer trusts in the state of Kansas shall act as trustee of the trust fund.

(b) The trust fund shall include the following provisions:

(1) The fund shall at all times exist for the mutual benefit of the site owner and the people of the State of Kansas. Monies in the fund shall not be:

(A) Assigned for the benefit of creditors except as the site owner may incur financial obligation connected with the approved post closure operation and maintenance of the site; or

(B) Used to pay any final judgment against the permittee arising out of the ownership or the operation of the site or the facility during its active life or after closure;

(2) Disbursement from the fund shall be permissible only upon written approval of the secretary, and

(3) Whenever the secretary determines the owner of the disposal area or processing facility violates any of the terms or conditions of the approved site closure plan either by failure to commence any item of work when scheduled or to diligently complete in a workmanlike manner any item of work required by the plan, the secretary shall have the right to use part or all of the fund to carry out post closure operation or maintenance. The trustee shall release these funds to the department upon receipt of a written order serving notice of violation and an itemized estimate of the cost of work to be performed by the department.

(c) The minimum amount of the annual cash payment to the fund shall be calculated by multiplying the estimated annual post closure operating and maintenance costs by a factor determined by the following formula:

$$\begin{aligned} \text{(Present value of an annuity)} &= \frac{[1 - (1 + i)^{-n}]/i}{(1 + i)^{SL} - 1} \\ \text{(Amount of an annuity)} &= \frac{[1 - (1 + i)^{-n}]/i}{(1 + i)^{SL} - 1} \end{aligned}$$

i = the mean annual interest rate = 0.02

n = the number of years for which the owner is responsible for long term care of the site under the terms of the permit.

SL = estimated site life in years.

(d) One year after closure and annually thereafter for the period specified in the permit, an owner who has carried out all necessary post closure operating and maintenance requirements of the site closure plan for the disposal area or processing facility may apply to the secretary to be reimbursed from the post closure operation and maintenance fund an amount equal to the actual costs for operation and maintenance for that year. The application for payment shall be accompanied by an itemized list of costs incurred. Upon a determination that the costs are in accordance with the approved site closure plan the secretary shall authorize the trustee to release the funds to the owner for that year. Any funds remaining in the trust at the end of the long-term care period will be released to the permittee. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective May 1, 1982.)

28-29-18. Insurance required. (a) Persons, operating solid waste processing facilities or disposal areas, shall secure and maintain liability insurance for claims arising from injuries to other parties including bodily injury or damage to property of others including coverage against non-sudden occurrences. This insurance shall be of the types and in not less than the amounts listed in paragraph (d) below. Persons wishing to secure permits shall file evidence of satisfactory insurance coverage at the time of permit application with the department.

(b) The liability insurance shall be issued by an insurance company authorized to do business in Kansas or through a licensed insurance agent operating under the authority of K.S.A. 1980 Supp. 40-246b and shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216 except as authorized by K.S.A. 1980 Supp. 40-246b.

(c) A certificate or memorandum of insurance shall be furnished to the department for its approval showing specifically the coverage and limits, together with the name of the insurance company and insurance agent. If any of the coverages set forth on these certificates or memorandums of insurance are reduced, cancelled, terminated, or non-renewed, the permittee or insurance company shall, not less than thirty (30) days before the effective date of the action, furnish the department with appropriate notices of that action. Timely proof of periodical renewal shall be furnished the department by submittal of a certificate or memorandum of insurance before the expiration date of the policy.

(d) The department shall review the permit application and all other factors to determine an appropriate amount of insurance coverage for the disposal area or

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processing facility. The determination shall be based on the types of waste disposed, and the location and area of the site. The policy shall, at a minimum, provide liability coverage including completed operations coverage, with limits of liability of three hundred thousand dollars (\$300,000) bodily injury and one hundred thousand dollars (\$100,000) property damage and with not more than five hundred dollars (\$500) deductible for each occurrence. The minimum coverage shall be applicable to the following exposures:

(1) For premises and for operations including operations of independent contractors;

(2) For contamination or pollution; and

(3) Extension of the contamination and pollution liability coverage for vehicles of the solid waste processing facility or disposal area when these vehicles are away from the permittee's premises.

(e) The permit applicant may request the department to evaluate the hazard(s) involved and request a variance under K.A.R. 28-29-2 from the specific insurance coverage amounts prescribed in this regulation when the solid waste management activity is conducted solely on the premise where:

(1) The wastes are generated;

(2) The applicant performs the waste management activity;

(3) The applicant is the owner of the property where the activity is conducted; and

(4) The applicant is able to demonstrate other financial responsibility satisfactory to the secretary. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-19. Monitoring required. As a condition for issuing a permit, the secretary may require the approval, installation, and operation of environmental quality monitoring systems before the acceptance of solid wastes for storage, processing, or disposal. Approval of the monitoring system(s) will be based on the following:

(a) The location of monitoring wells, air monitoring stations, and other required sampling points;

(b) Plans and specifications for the construction of the monitoring systems;

(c) Frequency of sampling; and

(d) Analyses to be performed. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-20. Restrictive covenants and easements. After July 1, 1982, before any permit shall be issued or renewed for a solid waste disposal area, when the wastes will remain at the disposal area after closure, the secretary may require the owner of the disposal area to do any or all of the following:

(a) Execute and file with the county register of deeds a restrictive covenant to run with the land that shall:

(1) Specify the uses which may be made of the disposal area after closure;

(2) Require that any future uses of the property after closure shall be conducted in a manner so as to pre-

serve the integrity of waste containment systems designed, installed and used during operation of the disposal areas, or installed or used during the post-closure maintenance period;

(3) Require the owner or tenant to preserve and protect all permanent survey markers and benchmarks installed at the disposal area;

(4) Require the owner or tenant to preserve and protect all environmental monitoring stations installed at the disposal area;

(5) Require subsequent property owners or tenants to consult with the department during planning of any improvement to the site and to receive approval from the department before commencing any excavation or construction of permanent structures, drainage ditches, alteration of contours, removal of waste materials stored on the site, changes in vegetation grown on areas used for waste disposal, the production use or sale of food chain crops grown on land used for waste disposal, or removal of security fencing, signs, or other devices installed or used to restrict public access to waste storage or disposal areas; and

(6) Provide terms whereby modifications to the restrictive covenant or other land uses may be initiated or proposed by property owners.

(b) Execute an easement whereby the department, its duly authorized agents or contractors employed by or on behalf of the department, may enter the premises to:

(1) Complete items of work specified in a site closure plan required to be submitted by K.A.R. 28-29-12;

(2) Perform any item of work necessary to maintain or monitor the area during the post closure period; and

(3) Sample, repair, or reconstruct environmental monitoring stations constructed as part of the site operating or post-closure requirements.

(c) Any offer or contract for the conveyance of easement, title, or other interest to real estate used for the long-term storage or disposal of solid waste shall contain a complete disclosure of all terms, conditions, and provisions for long-term care and subsequent land uses which are imposed by these regulations or the site permit authorized and issued under K.S.A. 65-3401 *et seq.* Conveyance of title, easement, or other interest in the property shall not be consummated without adequate and complete provisions for the continued maintenance of waste containment and monitoring systems.

(d) All covenants, easements, and other documents related to this regulation shall be permanent, unless extinguished by agreement between the property owner and the secretary. Recording fees shall be paid by the permittee. (Authorized by K.S.A. 1981 Supp. 65-3406; implementing K.S.A. 1981 Supp. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-20a. Laboratory certification. All monitoring analyses required under K.A.R. 28-29-19, and amendments to it, shall be conducted by a laboratory certified or approved by the department to perform these analyses. Laboratories desiring to be certified to perform these analyses shall comply with all conditions, procedures, standards, and fee requirements specified in K.A.R. 28-15-35 and 28-15-37, and

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amendments to them. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective, E-82-8, April 10, 1981; effective May 1, 1982.)

Part 2.—STANDARDS FOR MANAGEMENT OF SOLID WASTES

28-29-21. Storage of solid wastes. (a) *General.* The owner or occupant or both of any premise, business establishment, or industrial plant shall provide sanitary storage for all solid waste not classified as hazardous wastes produced on his or her property which meets standards set forth in these regulations and the official plan for the area. All solid waste shall be stored so that it: does not attract disease vectors; does not provide shelter or a breeding place for disease vectors; does not create a health or safety hazard; is not unsightly; and the production of offensive odors is minimized. Each premise shall be provided with a sufficient number of acceptable containers to accommodate all solid waste materials other than bulky wastes that accumulate on the premises between scheduled removals of these materials. On premises where the quantity of solid wastes generated is sufficient to make the use of individual storage containers impractical, bulk containers may be used for storage of refuse. The bulk container may be equipped with compaction equipment and shall be a size, design, and capacity compatible with the collection equipment. Containers shall be constructed of durable metal or plastic material, be easily cleaned, and be equipped with tight-fitting lids or doors that can be easily closed and opened.

(b) *Specific storage standards.*

(1) Garbage and putrescible wastes shall be stored in:

(A) Rigid containers that are durable, rust resistant, nonabsorbent, water tight, and rodent proof. The container shall be easily cleaned, fixed with close-fitting lids, fly-tight covers, and provided with suitable handles or bails to facilitate handling;

(B) Rigid containers equipped with disposable liners made of reinforced kraft paper or polyethylene or other similar material designed for storage of garbage;

(C) Nonrigid disposable bags designed for storage of garbage. The bag shall be provided with a wallhung or free standing holder which supports and seals the bag; prevents insects, rodents, and animals from access to the contents; and prevents rain and snow from falling into the bag; or

(D) Other types of containers meeting the requirements of 16 Code of Federal Regulations Chapter II Subchapter B, part 1301 in effect June 13, 1977, and paragraph (a) of this regulation and that are acceptable to the collection agency.

(2) Mixed refuse. When putrescible wastes and nonputrescible refuse are stored together, the container shall meet the standards and requirements of paragraph (b)(1) of this regulation.

(3) Nonputrescible bulky wastes. The wastes shall be stored temporarily in any manner that does not create a health hazard, fire hazard, rodent harborage, or permit any unsightly conditions to develop, and is in accordance with any locally adopted regulations. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-22. Standards for collection and transportation of solid wastes. (a) Frequency of collection. Solid waste, excluding bulky wastes, shall be removed from the storage containers on residential premises and places of public gathering in accordance with these regulations at least once each week.

Garbage and putrescible materials shall be removed from commercial or industrial properties as often as necessary to prevent nuisance conditions but at least once a week. Trash and other combustible materials, free of putrescible material, shall be removed from commercial and industrial properties as often as is necessary to prevent overfilling of the storage facilities or the creation of fire hazards. Bulky wastes, free of putrescible wastes, shall be removed from properties as often as necessary to prevent nuisance conditions from occurring.

(b) Collection equipment. All vehicles and equipment used for collection and transportation of solid waste shall be designed, constructed, maintained, and operated in a manner that will prevent the escape of any solid, semi-liquid, or liquid wastes from the vehicle or container. Collection vehicles shall be maintained and serviced periodically, and should receive periodic safety checks. Safety defects in a vehicle shall be repaired before the vehicle is used.

(c) Solid waste shall not be stored after collection in a collection vehicle for more than 12 hours unless the vehicle is parked in an area in which the land use is predominately industrial or light industrial. Solid wastes shall not be stored overnight in a collection vehicle parked in an area in which the land use is predominately residential.

(d) Solid wastes shall not be unloaded from any collection vehicle unless the collection vehicle is a satellite vehicle unloading into a larger vehicle or the unloading point is a permitted processing facility, transfer station or disposal area, except the unloading may be done to facilitate repairs, to extinguish a fire, or for other emergency. When a vehicle is unloaded due to a emergency situation solid waste shall be reloaded and removed promptly, after the emergency no longer exists.

(e) The person operating the collection system shall provide for prompt cleanup of all spillages caused by the collection operation.

(f) The person operating the collection system shall provide for prompt collection of any waste materials lost from the collection vehicles along the route to a disposal area or processing facility. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sep. 1, 1978; amended May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-23. Standards for solid waste processing facilities and disposal areas. All solid waste disposal areas and solid waste processing facilities shall be located, designed, operated and maintained in conformity with the following standards: (a) *Acceptable methods of disposal.* Nonhazardous solid wastes, industrial solid wastes, and residues from solid waste processing facilities shall be disposed of in a sanitary landfill. Nonputrescible rubble and demolition waste material such as brick, mortar, broken concrete, and similar materials produced in connection with the

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construction or demolition of buildings or other structures, may be disposed of at a construction and demolition landfill.

(b) *Acceptable methods for processing.* Combustible solid wastes may be burned in incinerators that conform with the provisions of the air quality control act, K.S.A. 65-3001 *et seq.* and the regulations adopted under those statutes. Solid wastes may be shredded, separated, and consolidated at shredding, separation, and transfer stations for which a permit has been issued by the secretary. Animal manures, sludges, and solid wastes with high organic content may be processed into compost at an approved composting plant for which a permit has been issued by the secretary.

(c) *Planning and design.* Planning, design, and operation of any solid waste processing facility or disposal area, including, but not limited to, sanitary landfills, incinerators, compost plants, transfer stations, and other solid waste disposal areas or processing facilities, shall conform with appropriate design and operation standards of the department.

(d) *Location.* Location of all solid waste disposal areas and solid waste processing facilities shall conform to applicable state laws, and county or city zoning regulations and ordinances. All locations for solid waste disposal areas and processing facilities shall be reviewed and approved by the department before any site development is started. Solid waste disposal areas or processing facilities shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species or cause or contribute to the taking of any endangered or threatened species as defined by K.S.A. 35-501 *et seq.* and K.A.R. 23-17-2. Sites disposing of putrescible wastes shall not be located in areas where the attraction of birds can cause a significant bird hazard to low flying aircraft. A minimum separation of twenty-five (25) feet shall be maintained between a disposal operation and any pipeline, underground utility, or electrical transmission line easement. Sanitary landfills shall not be located within the one hundred (100) year frequency floodplain unless protected by flood control levees and other appurtenances designed to prevent washout of solid waste from the site.

(e) *Access roads.* Access roads to the disposal area or processing facility shall be of all-weather construction and negotiable at all times by trucks and other vehicles. Load limits on bridges and access roads shall be sufficient to support all traffic loads which will be generated by use of the area or facility.

(f) *Reports required.* Operators of all solid waste disposal areas and processing facilities shall maintain suitable records of volumes or tonnage of solid wastes received, land area used, population served, area served, and any other information required by the conditions of the permit. All information shall be summarized and reported to the department on forms furnished by the department.

(g) *Air quality.* The operator of every solid waste disposal area or solid waste processing facility shall conform to all applicable provisions of K.S.A. 65-3001 *et seq.*, any regulations adopted under those statutes, and any local regulations pertaining to air quality.

(h) *Communication.* Two-way communications shall be available to all solid waste processing facilities or disposal areas.

(i) *Fire protection.* Arrangements shall be made for fire protection services when a fire protection district or other public fire protection service is available. When this service is not available, practical alternate arrangements shall be provided at all sites. In case of accidental fires at the site, the operator shall be responsible for initiating and continuing appropriate fire fighting methods until all smoldering, smoking, and burning ceases. All disruption of finished grades, or covered or completed surfaces, shall be covered and regraded upon completion of fire fighting activities.

(j) *Limited access.* Access to a solid waste disposal area or processing facility shall be limited to hours when an attendant or operating personnel are at the site. A gate or barrier and fencing approved by the department shall be erected to prevent access to the solid waste disposal area or processing facility during hours when the area or facility is closed. Access by unauthorized vehicles or pedestrians shall be prohibited.

(k) *Hours of operation.* Hours of operation and other limitations shall be prominently posted at the entrance of the disposal area or facility.

(l) *Salvage.* Salvage or reclamation of materials shall be permitted only when facilities specifically designed for salvaging or processing solid wastes are provided, and when the salvage materials are controlled to prevent interference with prompt, sanitary disposal of solid wastes. All salvage operations shall be conducted in a manner that will not create a nuisance.

(m) *Safety.* An operational safety program approved by the department shall be provided for employees at solid waste processing facilities and disposal areas.

(n) *Disease vector control.* Solid waste processing facilities and disposal areas shall be operated in a manner which will prevent the harborage or breeding of insects or rodents. Whenever supplemental disease vector control measures are necessary, these measures shall be promptly carried out.

(o) *Aesthetics.* Odors and particulates, including dust and litter, shall be controlled by daily application of cover material, sight screening or other means to prevent damage or nuisance. Construction and demolition landfills or other solid waste disposal areas receiving only nonputrescible waste materials may apply cover material at a less frequent rate if approved by the department.

(p) *Gas control.* The concentration of explosive gasses generated by the decomposition of solid waste disposed of on the site shall not exceed 25 percent of the lower explosive limit in on site structures (excluding gas control or recovery system components) or at facility property line. As used in this section "lower explosive limit" means the lowest percent by volume of a mixture of methane which will propagate a flame in air at 25°C and atmospheric pressure. Toxic or asphyxiating gases in concentrations harmful to humans, animals, or plant life shall not be allowed to migrate off site or accumulate in facility structures.

(q) *Water pollution.* Solid waste processing facilities and disposal areas, which include a point source of discharge of pollutants or solid wastes to off-site surface waters, shall comply with terms of a permit issued under K.S.A. 65-164 *et seq.* Facilities shall be designed to prevent nonpoint source pollution discharges vio-

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lating applicable legal requirements implementing the Kansas statewide water quality management plan in effect on November 1, 1981 approved under section 208 of Public Law 92-500 (the Clean Water Act) as amended. Solid waste disposal areas and processing facilities shall be designed and operated so as to prevent a discharge of dredge or fill material that is in violation of section 404 of PL 92-500 (the clean water act), as in effect on November 1, 1981. Solid wastes shall not be placed in unconfined waters which are subject to free movement on the surface, in the ground or within a larger body of water. If ground water which passes beneath a disposal facility is currently used as a public drinking water supply or is designated by the state of Kansas for future use as a drinking water supply, the naturally occurring ground water quality beyond the disposal site property boundary shall not be degraded. If ground water which passes beneath a disposal area or processing facility is currently used or designated by the state for purposes other than as a drinking water supply, the ground water beyond the disposal area property boundary shall be maintained at a quality as specified in the disposal area permit.

(r) *Maps required.* The operator shall maintain a log of commercial or industrial solid wastes received including sludges, liquids, or barreled wastes. The log shall indicate the source and quantity of waste and the disposal location. The areas used for disposal of these wastes and other large quantities of bulk wastes shall be clearly shown on a map and referenced to the boundaries of the tract or other permanent markings.

(s) *Disposal of sewage and industrial liquids or sludges.* Sewage or industrial solid waste liquids or sludges shall not be disposed in a sanitary landfill designed for the disposal of mixed refuse until the department has been notified and specific arrangements for handling the wastes have been approved by the department.

(t) *Disposal of hazardous waste.* Hazardous waste shall not be disposed of in a sanitary landfill. For the purposes of this subsection, "hazardous waste" means any waste determined by the secretary, under section 1 of chapter 251 of the 1981 session laws of Kansas, to be a hazardous waste and listed by the secretary as a hazardous waste in K.A.R. 28-31-3.

(u) The provisions of 40 Code of Federal Regulations Part 257.3-5 (application to land used for food chain crops), as in effect on September 23, 1981, and part 257.3-6 (disease), as in effect on September 23, 1981, are incorporated by reference. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-24. Construction and demolition landfills.

(a) A permit to construct or operate a construction and demolition landfill shall not be required for a construction and demolition landfill operated on the same tract as, and in conjunction with, a permitted sanitary landfill.

(b) If a city or a county, by ordinance or resolution, has established standards equivalent to, or more stringent than, those of the department to control construction and demolition landfills, and demonstrates that it has an enforcing agency to ensure those standards are adhered to, the department will issue a permit to the

person operating the site upon certification by the enforcement division of the city or county to the department that those standards will be followed. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-25. Standards for solid waste processing facilities. (a) Incinerators. All incinerators used for combustion of solid wastes shall be designed and operated in conformity with K.S.A. 65-3001 *et seq.* and rules and regulations adopted under those statutes. All emission control devices, disposal of incinerator residues, and treatment of wastewater shall be approved by the department.

(b) Other methods of solid waste handling, processing, and disposal. Before any disposal area or processing facility, or any method of solid waste handling, processing, or disposal, not provided for in these regulations, is practiced or placed into operation, complete plans, specifications, design data, land-use plans, and proposed operation procedures shall be submitted to the department for review and permit issuance in accordance with K.A.R. 28-29-6. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982.)

28-29-26. Used oil. (a) "Used oil" means any oil which has been refined from crude petroleum or any re-refined oil, which through use or contamination, has become unsuitable for continued service in the application for which it was originally intended. This term shall not include any solid waste determined by the secretary to be a hazardous waste under the provision of K.A.R. 28-31-3.

(b) Prohibited disposal. The disposal of used oil by discharge into sewers, storm drainage systems, surface or groundwaters, or by deposit on or under land shall be prohibited. The use of used oil as a pesticide carrier, sealant, coating, or a dust control agent for roads, parking lots, or any other similar purpose also is prohibited. The term "disposal" shall not include the utilization of used oil as a fuel in devices which operate in compliance with the Kansas air quality act.

(c) Used oil collectors. Any person, except one collecting solely from sources self-owned and self-operated, shall not transport more than five hundred (500) gallons of used oil annually over public highways or maintain any storage facility that receives more than ten thousand (10,000) gallons of used oil annually, without first registering with the department as a used oil collector. Persons shall register as a used oil collector in accordance with the provisions of K.A.R. 28-31-11(b). A registered used oil collector shall:

(1) Transfer used oil only to another registered used oil collector, a registered used oil recycler, or a person outside the state; and

(2) Maintain a log that indicates the source and disposition of all used oils. Records of all logs shall be kept for a period of three (3) years. Upon written request of the department, the used oil collector shall submit any information from the log that the department requests.

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(d) Used oil recyclers. Any person recycling more than five thousand (5,000) gallons of used oil annually from other than self-owned and self-operated sources shall obtain a permit as a used oil recycler. An application for a permit shall include a flow diagram of the plant and sources of plant wastes, methods of waste disposal, and monitoring requirements. All facilities shall be designed in accordance with a spill prevention control and countermeasures plan and a contingency plan for fires, explosions, or other emergencies.

(e) Used oil storage facilities. Every person generating five hundred (500) gallons or more of used oil annually shall provide and maintain used oil storage facilities. Used oil storage facilities shall be designed and constructed to prevent spillage, seepage, or other discharge of used oil onto or into the land, or into ground or surface waters of the state. Used oil shall be removed from storage facilities on a periodic basis consistent with the design capacity of the facility. The used oil shall be removed only by the owner or a registered used oil collector. Persons operating used oil storage facilities to store oil from other than self owned or self operated sources shall accept used oil in quantities not exceeding five (5) gallons per day from any individual, provided that the storage facility is not filled to capacity.

(f) Sellers of more than five hundred (500) gallons of lubricating oil or other oil in containers for use off the premises shall post and maintain near the point of sale durable and legible signs informing the public of the importance of collection and recycling of used oil and how and where used oil may be recycled including locations and hours of operation of conveniently located collection facilities. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective May 1, 1982.)

28-29-27. Medical services waste. "Medical services waste" means those solid waste materials which are potentially capable of causing disease or injury and which are generated in connection with human or animal care through inpatient and outpatient services. Medical services waste shall not include any solid waste which has been classified by the secretary as a hazardous waste under K.A.R. 28-31-3 or any radioactive treatment material licensed under K.S.A. 1980 Supp. 48-1607 and regulations adopted under that statute.

(b) Segregation. All medical services waste shall be segregated from other solid wastes at the point of origin.

(c) Storage. All medical services waste shall be stored in a manner and container that will prevent the transmission of disease or the causing of injury. Hypodermic needles and syringes, scalpel blades, suture needles, or other sharp objects shall be stored only in a rigid, puncture proof container which has been closed to prevent the escape of any material, including liquids or aerosols. All reuseable containers used to store infectious waste shall be cleaned and disinfected before each use.

(d) Collection. Medical services wastes shall be collected at least daily from the point of origin for transport to a storage or disposal area or a processing facility. Personnel shall take precautions to prevent accidental contact with the waste during transfer.

(e) Transportation. All medical services wastes, if

transported off-site, shall be transported in a manner which will prevent the spread of disease or the causing of injury to persons. These precautions shall include the following:

(1) Notification to the waste transporter or disposal firm of the types of waste; and

(2) All containers of medical services waste transported off-site shall be "international orange" in color.

(f) Processing. In any processing of medical services waste, dispersal of aerosols and liquids shall be prevented through the use of proper coverings, seals, and ventilation. Personnel shall be protected against contact with the waste through the use of protective clothing and equipment. Medical services waste, which has been processed, can be combined with other solid waste. Where feasible, all medical services wastes shall be processed before transportation off-site by the following methods:

(1) Sterilizing, by autoclaving or chemical treatment, to destroy the disease transmission potential; or

(2) Grinding, melting, or pulverizing sharp objects to destroy their injury producing potential.

(g) Disposal. Medical services waste shall be disposed of in a manner which minimizes the risk to health, safety, or the environment. The following shall be considered acceptable disposal methods:

(1) Discharge of liquids to a sanitary sewer which is connected to a secondary sewage treatment plant;

(2) Incineration of combustible solids, followed by disposal of the ash in a sanitary landfill. Only when incineration is not feasible shall disposal be accomplished as set forth in number 3 or 4 below; and

(3) Disposal in a hazardous waste disposal facility which has a permit issued under K.A.R. 28-31-11; or

(4) Burial in a sanitary landfill only if the waste is packaged and transported in accordance with the following:

(A) The generator shall contact the landfill operator to detail the quantity, time of delivery and methods of recognition of medical services waste delivered to the site;

(B) When feasible, medical services wastes shall be unloaded away from the active face of the landfill. The wastes shall be covered immediately with a layer of soil or other solid wastes before any compaction is commenced; and

(C) Infectious waste shall be handled separately in accordance with paragraph (B) above, if operations such as shredding or baling occur at the sanitary landfill. (Authorized by, and implementing, K.S.A. 1981 Supp. 65-3406; effective May 1, 1982.)

28-29-28 to 28-29-36. Reserved.

28-29-37 to 28-29-44. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978, effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

28-29-45. (Authorized by K.S.A. 65-3406, 65-3407; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-46. (Authorized by K.S.A. 65-3406; effective E-79-22, Sep. 1, 1978, effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

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28-29-47. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978, effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-48, 28-29-49. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

28-29-50. (Authorized by K.S.A. 65-3406; effective E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-51 to 28-29-53. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

28-29-54 to 28-29-56. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; revoked, E-82-8, April 10, 1981; revoked May 1, 1982.)

28-29-57 to 28-29-63. (Authorized by K.S.A. 65-3406; effective, E-79-22, Sep. 1, 1978; effective May 1, 1979; amended, E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

28-29-64. (Authorized by K.S.A. 65-3406; effective E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981.)

28-29-65. (Authorized by K.S.A. 65-3406; effective E-82-8, April 10, 1981; revoked E-82-20, Nov. 4, 1981; revoked May 1, 1982.)

28-29-66 to 28-29-74. Reserved.

Article 31.—HAZARDOUS WASTE MANAGEMENT STANDARDS AND REGULATIONS

28-31-1. General provisions. (a) Any reference in these rules and regulations to standards, procedures, or requirements of 40 CFR Parts 122, 124 or 260 to 267, inclusive, shall constitute a full adoption by reference of the part, subpart, and paragraph so referenced, including any notes and appendices associated therewith, unless otherwise specifically stated in these rules and regulations.

(b) When used in any provision adopted from 40 CFR Parts 122, 124 or 260 to 267, inclusive, references to "the United States" shall mean the state of Kansas, "environmental protection agency" shall mean the Kansas department of health and environment, and "administrator" or "regional administrator" shall mean the secretary of the department of health and environment. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-2. Definitions. (a) Incorporation. 40 CFR Part 260.10, as in effect on November 1, 1981, is adopted by reference.

(b) "Disposal authorization" means approval from the secretary to dispose of hazardous waste in Kansas.

(c) "Hazardous waste disposal application" means the written information which a hazardous waste generator, transporter and disposal facility shall submit to the department in order to obtain disposal authorization.

(d) "Radioactive hazardous waste storage or disposal facility" means a facility at which radioactive hazard-

ous waste management is authorized to be performed by a specific license issued by the secretary.

(e) Differences between state and federal definitions. When the same word is defined both in the Kansas statutes and in any federal regulation adopted by reference in these rules and regulations and the definitions are not identical, the definition prescribed in the Kansas statutes shall control. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-3. Identification of characteristics and listing of hazardous waste. (a) Incorporation. 40 CFR Part 261, as in effect on November 1, 1981, is adopted by reference, except for Part 261.5(b). This part shall read, "Except for those wastes identified in paragraphs (e) and (f), a small quantity generator of one-hundred (100) kilograms or more of hazardous waste in a calendar month shall be subject to all of these regulations except for 40 CFR Part 262.34, as in effect on November 1, 1981. 40 CFR Part 261.5(g), as in effect on November 1, 1981, shall only apply to small quantity generators of less than one-hundred (100) kilograms of hazardous waste in a calendar month.

(b) Delisting procedure. Any person seeking to exclude a waste at a particular generating facility from the list maintained by the secretary may petition the secretary in accordance with the provisions of 40 CFR Parts 260.20(b) and 260.22, as in effect on November 1, 1981.

(c) Small quantity exemption for radioactive hazardous wastes. Any person who in one year generates less than the applicable quantities of radioactive hazardous wastes set forth in K.A.R. 28-35-224 and 225 shall be exempt from these rules and regulations, if the wastes are disposed in accordance with K.A.R. 28-35-223(A), 28-35-224, and 28-35-225. (Authorized by and implementing K.S.A. 48-1607 and K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-4. Standards for generators of hazardous waste. 40 CFR Part 262, as in effect on November 1, 1981, is adopted by reference. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-5. Hazardous waste disposal authorization.

(a) Scope. A person shall not transport or offer for transport off-site a hazardous waste for disposal in Kansas without first obtaining disposal authorization from the department. A hazardous waste disposal facility permitted in Kansas shall not accept hazardous wastes for disposal without evidence of a disposal authorization issued by the department.

(b) Hazardous waste disposal application. A hazardous waste disposal application shall be made on a form prepared or approved by the department. Laboratory analyses required for preparation of a hazardous waste disposal application shall be conducted by a laboratory certified by the department. The department shall review the application and if all procedures and information are found to be satisfactory, a disposal authorization number shall be issued for a specified time period. If any changes occur in the character of the waste or if handling or disposal procedures are to be altered from those reported on the original hazardous

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waste disposal application, the person immediately shall submit a revised hazardous waste disposal application and obtain another disposal authorization before proceeding with any off-site transportation or disposal.

(c) Laboratory certification. All laboratories desiring to be certified to perform analyses required in subsection (b) shall comply with all conditions, procedures, standards, and fees specified in K.A.R. 28-15-35 through 28-15-37.

(d) Emergency disposal authorization. In the event of an emergency, the department may waive the written application requirement prescribed in subsection (b) and grant an emergency disposal authorization. The department shall specify the conditions, procedures, and time limitations for which the emergency disposal authorization is granted. Persons granted emergency disposal authorizations shall complete a hazardous waste disposal application and submit it to the department within fifteen (15) days after the incident.

(e) Special reports. The department may require the person who submits a hazardous waste disposal application, or who has received prior disposal authorization for ground burial of hazardous waste, to provide, within a prescribed period of time, a written report stating a reason or reasons why the waste cannot be recycled or disposed of by a method other than land burial or land treatment. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-6. Standards for transporters of hazardous waste. (a) Incorporation. 40 CFR Part 263, as in effect on November 1, 1981, is adopted by reference.

(b) Registration. In addition to the requirements of subsection (a), any person transporting hazardous waste in Kansas shall register with the department. The registration shall be on forms provided by the department. A person shall not transport hazardous waste in Kansas, without written acknowledgement that registration is complete.

(c) Minimum insurance requirements. All transporters of hazardous waste in Kansas shall secure and maintain minimum liability insurance on all vehicles transporting hazardous waste. The minimum limits of insurance shall not be less than one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per occurrence for bodily injury or death and one hundred thousand dollars (\$100,000) for all damages to the property of others. When combined bodily injury or death and property damage coverage are provided, the total limits shall not be less than four hundred thousand dollars (\$400,000). Transporters of hazardous waste who are required to maintain liability insurance as prescribed in 49 CFR Part 387, as in effect on November 1, 1981, shall be exempt from these insurance requirements. Should any of the coverages be reduced or cancelled, the transporter shall notify the department at least thirty-five (35) days before the effective date of that action. Proof of periodic renewal shall also be furnished before the expiration date of the policy. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-7. Standards for routing of hazardous waste.

(a) Standards for preferred routes. All transporters of

hazardous waste shall ensure that any vehicle containing hazardous waste is operated over routes that minimize risk to public health and safety. The transporter shall consider available information on accident rates, transit time, population density and activities, time of day, and day of week during which transportation will occur to select a preferred route. A transporter of hazardous waste may deviate from a preferred route under any of the following circumstances:

(1) Emergency conditions make continued use of the preferred route unsafe;

(2) To make necessary rest, fuel, and vehicle repair stops; or

(3) To the extent necessary to pickup, deliver, or transfer hazardous wastes.

(b) Approval of routes. It is the responsibility of the transporter to confine the carriage of hazardous wastes to preferred routes which have been approved by the secretary. Unless notice to the contrary is given to the transporter or published in the State Register, it shall be assumed that all portions of the major highway system may be used. The major highway system is considered to be all interstate routes, U.S. highways, state highways, and temporary detours designated by the Kansas department of transportation. An interstate system bypass or beltway around a city shall be used when available. The access route to the major highway system must also be approved by the secretary in advance of use. Each generator or permitted storage, treatment, or disposal facility who transport off-site or receive hazardous wastes shall file and receive the secretary's approval of an access route. The portion of the route between the major highway system and the permitted storage, treatment, or disposal facility shall be designated on the facility permit. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-8. Standards for hazardous waste storage, treatment, and disposal facilities. 40 CFR Parts 264, 265, 266 and 267, as in effect on November 1, 1981, are adopted by reference. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-9. Hazardous waste storage, treatment, and disposal facility permits. 40 CFR Part 122 Subparts A, B and Part 124 Subparts A, B, E, and F, as in effect on November 1, 1981, are adopted by reference. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-10. Hazardous waste monitoring fees. (a) Hazardous waste storage facility. All on-site hazardous waste storage facilities shall pay an annual monitoring fee of one-hundred dollars (\$100). All off-site hazardous waste storage facilities shall pay an annual monitoring fee of five-hundred dollars (\$500). This fee shall be paid at the time the annual permit fee is submitted.

(b) Hazardous waste treatment facility. All on-site hazardous waste treatment facilities shall pay an annual monitoring fee of two-hundred and fifty dollars (\$250). All off-site hazardous waste treatment facilities shall pay an annual monitoring fee of one thousand dollars (\$1000). This fee shall be paid at the time the annual permit fee is submitted.

(c) Hazardous waste disposal facility. All hazardous

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waste disposal facilities shall pay a monthly monitoring fee based on the cubic feet of hazardous wastes disposed of at the facility. The cubic feet of waste shall be determined before the time at which materials are added at the disposal facility to treat the waste. The fee shall be four cents (4¢) per cubic foot. On or before the 20th day of the month following the month in which these rules and regulations become effective, and on or before the 20th day of each month thereafter, the operator of any hazardous waste disposal facility shall pay the fee required by this subsection and submit to the department a statement giving the following information:

- (1) The name of the facility;
- (2) The permit number of the facility; and
- (3) The total cubic feet of hazardous waste disposed of at the facility during the preceding calendar month.

(d) Registered hazardous waste transporters. All transporters, transporting hazardous wastes generated in Kansas to hazardous waste storage, treatment, or disposal facilities located in Kansas, in other states or outside the continental United States, shall pay an annual monitoring fee of one-hundred dollars (\$100). This fee shall be paid at the time the transporter registers with the department in accordance with K.A.R. 28-31-6 and prior to January 1 for each year thereafter.

(e) Radioactive hazardous waste storage or disposal facilities. All licensed radioactive hazardous waste storage or disposal facilities shall pay a monitoring fee of three hundred thousand dollars (\$300,000) within ninety (90) days after the effective date of these rules and regulations. All radioactive hazardous waste storage or disposal facilities licensed after the effective date of the rules and regulations shall pay the above fee within ninety (90) days after a license is issued. The annual monitoring fee shall be forty-five thousand dollars (\$45,000) for each year thereafter. All licensed radioactive hazardous waste storage or disposal facilities which store or dispose of less than one thousand (1,000) cubic feet of radioactive hazardous waste per year shall be exempt from payment of these fees. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-11. Hazardous waste perpetual care trust fund fees. (a) Hazardous waste disposal facilities. All hazardous waste disposal facilities shall pay a monthly perpetual care trust fund fee, based on the cubic feet of hazardous waste disposed of at the facility. The cubic feet of waste shall be determined before the time at which materials are added at the disposal facility to treat the wastes. The fee shall be twenty-five cents (25¢) per cubic foot for hazardous waste disposed of in landfills and five (5¢) per cubic foot for waste disposed by other methods.

(b) Radioactive hazardous waste storage or disposal facilities. All radioactive hazardous waste storage or disposal facilities shall pay a monthly perpetual care trust fund fee, based on the cubic feet of radioactive hazardous waste accepted for storage or disposal. The fee shall be one dollar (\$1.00) per cubic foot. Facilities which store or dispose of less than one thousand (1000) cubic feet of radioactive hazardous waste per year shall be exempt from payment of this fee.

(c) Monthly reports. On or before the 20th day of the

month following the month in which these rules and regulations become effective, and on or before the 20th day of each month thereafter, the operator of any radioactive hazardous waste storage or disposal facility, or any hazardous waste disposal facility shall prepare and submit to the department a statement giving the following information:

- (1) The name of the operator;
- (2) The permit number of the facility; and
- (3) The total cubic feet of radioactive hazardous waste accepted for storage or disposal at the facility during the preceding calendar month, or the total cubic feet of hazardous waste disposed of at the facility during the preceding calendar month.

(d) Payment of fees. The operator of a radioactive hazardous waste storage or disposal facility, or a hazardous waste disposal facility, at the time of submitting the written report required under subsection (c) of this rule and regulation shall pay the fee provided for in subsection (a) or (b) of this rule and regulation. The reports and fees required under this rule and regulation shall be mailed or delivered to the department. All fees shall be designated for either the hazardous waste or radioactive hazardous waste perpetual care trust fund. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-12. Inspections. (a) The secretary or any duly authorized representative of the secretary, at any reasonable hour of the day, upon presentation of credentials and stating the purpose of the visit, may:

(1) Enter a factory, plant, construction site, hazardous waste storage, treatment, or disposal facility, or any location where hazardous wastes may be generated, stored, treated, or disposed, and inspect the premises to gather information of existing conditions and procedures;

(2) Obtain samples of hazardous waste from any person or from the property of any person, including samples from any vehicle in which hazardous wastes are being transported;

(3) Stop and inspect any vehicle, if there is reasonable cause to believe the vehicle is transporting hazardous wastes;

(4) Conduct tests, analyses, and evaluations of wastes to determine whether the wastes are hazardous wastes and whether the requirements of these rules and regulations are being met;

(5) Obtain samples from any containers or facsimiles of container labels, or take photographs of the containers or labels; and

(6) Inspect and copy any records, reports, information, or test results relating to wastes generated, stored, transported, treated, or disposed.

(b) If during the inspection, unsafe or unpermitted hazardous waste procedures are discovered, the secretary's representative may instruct the operator of the facility to retain and properly store hazardous wastes, pertinent records, samples, and other items. These materials shall be retained by the operator until the waste has been identified and the department determines the proper procedure to be used in handling the waste.

(c) When obtaining samples, the secretary's repre-

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sentative shall allow the facility operator to collect duplicate samples for separate analyses.

(d) During the inspection, the secretary's representative shall observe all reasonable security, safety, and sanitation measures employed at the facility.

(e) A written report listing any deficiencies found during the inspection and stating the measures required to correct the deficiencies, shall be prepared and sent to the operator. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

28-31-13. Variances. (a) Application. Any person may request a variance from specific provisions of these rules and regulations by submitting an application on a form furnished by the department. The person shall state the reasons and circumstances why the request is necessary and shall submit pertinent data to support the request.

(b) Review. The secretary, or a designee of the secretary, shall review the variance application, determine whether the granting of the variance would endanger human health or safety or the environment, and notify the person within sixty (60) days of receipt that the application is approved or denied, or additional information is required. If approved, the secretary may stipulate any conditions or time limitations as necessary to comply with all applicable state or federal laws or to protect human health or safety or the environment. The secretary shall prescribe a date upon which the variance shall no longer be valid.

(c) Extension of a prior or existing variance. A person may submit a request in writing to extend a prior or existing variance. The person shall show the need for a variance continues. The secretary may reissue or extend the variance for another period upon finding that the reissuance or extension of the variance would not endanger human health or safety or the environment.

(d) Termination of a variance. Any variance may be terminated if the secretary finds the person in violation of any requirement, condition, schedule, limitation, or that operation under the variance which does not meet the minimum public health requirements established by state or federal law or rules and regulations or is unreasonably threatening to the human health or safety or the environment. Written notice of termination shall be provided the person granted the variance.

(e) Emergency variances. If an incident involving hazardous waste requires immediate action to protect human health or safety or the environment, an emergency variance may be granted by the department from all or any specific requirement of these rules and regulations. The emergency variance will remain in effect until the incident no longer presents an immediate hazard to human health or safety or the environment. (Authorized by and implementing K.S.A. 1981 Supp. 65-3431; effective E-82-20, Nov. 4, 1981; effective May 1, 1982.)

Article 36.—FOOD SERVICE

28-36-30. Classifications. Food service establishments in Kansas shall be placed in the following classifications for the purpose of determining application and license fees: (a) *Classification I, restricted food service establishments.* Classification I, restricted food service establishments, shall include all those facilities

serving beverages including cereal malt beverages and other nonpotentially hazardous foods in the original container or in single service containers. This classification shall also include facilities serving potentially hazardous food if served in the original package or container. The application fee for this classification shall be \$30. The food service establishment license fee for this classification shall be \$30.

(b) *Classification II; limited food service establishments.* Classification II; limited food service establishments, shall include facilities serving potentially hazardous food with no on-site cooking facilities. The application fee for this classification shall be \$60. The food service establishment license fee for this classification shall be \$35.

(c) *Classification III; full service food service establishments.* Classification III; full service food service establishments, shall include all those facilities requiring licensing by the department of health and environment as a food service establishment not included in classification I or II of this regulation. The application fee for this classification shall be \$90. The food service establishment license fee for this classification shall be \$40. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-503; effective, E-79-16, July 1, 1978; effective May 1, 1979; amended E-82-21, Nov. 16, 1981; amended May 1, 1982.)

Article 38.—LICENSURE OF ADULT CARE HOME ADMINISTRATORS

28-38-18. Examination required. (a) Every candidate for licensure as an adult care home administrator, after meeting the requirements for qualification as set forth in K.A.R. 28-38-19, shall pass successfully a written examination which shall be related to the "core of knowledge."

The following subject areas shall be referred to as the "core of knowledge:"

- (1) Applicable standards of environmental health and safety,
- (2) Local health and safety regulations,
- (3) General administration,
- (4) Psychology of resident care,
- (5) Principles of medical care,
- (6) Personal and social care,
- (7) Therapeutic and supportive care,
- (8) Departmental organization and management, and
- (9) Community interrelationships.

(b) Every candidate for a license shall be required to pass the examinations for such license with a score of at least seventy (70) percent correct answers.

(c) The board may admit to examination for licensure a candidate who has not fully established the requisite qualifications provided that a showing of such qualifications is provided to the board within thirty (30) days following the date of examination. If the candidate does not timely submit proof of qualifications, the board shall notify the candidate of ineligibility for licensure.

(d) A candidate for licensure who has been disqualified for failure of the examination shall be given written notification by the board of such disqualification and the reasons therefor.

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(e) A candidate for licensure who has been disqualified for having failed the examination may submit a new application for examination if the requirements for examination in force at the time of such reapplication are met. (Authorized by K.S.A. 65-3503; implementing K.S.A. 1981 Supp. 65-3504; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

28-38-19. Qualification for examination. (a) A candidate for initial licensure as an adult care home administrator shall pay a fee of eighty-four dollars (\$84.00) and submit verification of having accumulated not less than sixty (60) college credit semester hours from an accredited college or university and of having completed at least one hundred twenty (120) clock hours of board-approved education within the "core of knowledge" accumulated as follows:

(1) Applicable standards of environmental health and safety—five (5) clock hours,

(2) Local health and safety regulations—five (5) clock hours,

(3) General administration—thirty (30) clock hours,

(4) Psychology of resident care—five (5) clock hours,

(5) Principles of medical care—five (5) clock hours,

(6) Personal and social care—five (5) clock hours,

(7) Therapeutic and supportive care—five (5) clock hours,

(8) Departmental organization and management—ten (10) clock hours,

(9) Community interrelationships—five (5) clock hours,

(10) Electives—forty-five (45) clock hours (may be "core of knowledge" areas or health related fields).

(b) Approved educational requirements within the "core of knowledge" applicable toward qualification for examination shall be acquired within the twenty-four (24) month period, July 1 to June 30, in which the examination is taken.

(c) Candidates holding associate, baccalaureate, or master's degrees from an accredited institution of higher learning in nursing home administration or equivalent in a related health care field with attainment of a degree shall be exempt from the one hundred twenty (120) clock hours of education required in (a) of this section.

(d) A candidate having practical full-time experience in the field of adult care home administration may substitute each year of qualified experience for twenty (20) college credit semester hours. Practical experience in adult care home administration shall include service as administrative assistant, director of nursing services, and administrative trainee in a long-term care facility.

(e) Candidates satisfactorily completing a six (6) month internship shall earn sixty (60) clock hours of board-approved educational credit. Preceptors and trainees shall obtain board approval of such programs prior to beginning the training period. A preceptor may not supervise more than two (2) trainees at a time.

(f) Fifteen (15) clock hours of educational credit shall be awarded for each college semester credit hour earned within the twenty-four (24) month period, July 1 to June 30, in which the examination is taken. Ten (10) clock hours of educational credit shall be awarded

for each board-approved continuing education unit (CEU).

(g) Should a candidate choose to attend an educational offering not submitted to the board for prior approval and accreditation for continuing education credit, educational credit may be granted subject to the following conditions: within three (3) months after attendance, the candidate shall make application on forms provided by the board and submit verification of attendance and a copy of the educational program objectives and content for approval by the board. The subject matter of the educational program shall be related to the "core of knowledge" or be health related. (Authorized by and implementing K.S.A. 1981 Supp. 65-3504; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

28-38-20. Application for examination. (a) A candidate for examination for licensure as an adult care home administrator shall make application in writing on forms provided by the board and shall furnish evidence satisfactory to the board of having met the qualifying requirements of K.A.R. 28-38-19. A candidate for examination shall include on the application four (4) references who can certify to the good moral character and suitability of the applicant.

(b) To establish suitability and fitness to qualify for a license, the candidate shall file with the board certification of sound physical and mental health and evidence of the absences of contagious and infectious diseases; such certification shall be by a physician with a license to practice medicine in either one (1) of the states in the United States or the District of Columbia.

(c) The board may designate a time and place at which a candidate may be required to be present for inquiry as to suitability as provided for herein at the discretion of the board.

(d) Applications shall be filed with the board not later than sixty (60) days prior to the date of the examination. The examination and licensure fee of eighty-four dollars (\$84.00) shall accompany the application, which may be payable by check or money order, and if so, payable to the "department of health and environment." The application shall also be accompanied by the required documentation of having met the required educational qualifications set forth in K.A.R. 28-38-19.

(e) Licensure examinations shall be held at least two (2) times each year at such times and places as the board shall designate. (Authorized by K.S.A. 65-3503; implementing K.S.A. 1981 Supp. 65-3504; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

28-38-21. Temporary license. (a) If a facility documents in writing to the board the unavailability of licensed, qualified applicants, the board shall deem this to be an emergency and may issue a temporary license to a person who:

(1) Has made application on the board-prescribed forms;

(2) Is at least eighteen (18) years of age;

(3) Is endorsed in writing by the board of directors, corporation, or ownership of the facility where the

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person is to be employed to be the most qualified applicant;

(4) Is of good moral character and suitability as determined by the board;

(5) Pays an eighty-four dollar (\$84.00) fee;

(6) Has accumulated not less than sixty (60) college credit hours; and

(7) Has accumulated not less than fifty (50) of the required one hundred twenty (120) clock hours of education set forth in K.A.R. 28-38-19.

(8) Has passed an examination on state rules and regulations with a score of at least seventy (70) percent correct answers.

(b) No person whose license has been revoked or suspended shall be issued a temporary license.

(c) No person who has failed the licensure examination for Kansas adult care home administrators shall be issued a temporary license. (Authorized by and implementing K.S.A. 65-3502; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

28-38-22. Licensure by reciprocity. (a) The board may issue a license by reciprocity upon evidence that:

(1) The applicant has been licensed in another state and such other state has entered in reciprocal relations with Kansas pursuant to K.S.A. 1976 Supp. 65-3505.

(2) The applicant shall present to the board satisfactory evidence of having met the minimum requirements for license as an adult care home administrator regarding age, education, character, and experience.

(b) Applicants will be required to pay a eighty-four dollar (\$84.00) fee. (Authorized by K.S.A. 65-3503; implementing K.S.A. 1981 Supp. 65-3505; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

28-38-23. Renewal of license. (a) Application for renewal of license shall be filed on or before June 30 of the calendar year in which the license expires. Such application shall be filed on forms provided by the board. All licenses are renewable on a biennial basis, with the day of expiration to be June 30 of the applicable year. On July 1, 1981, the board shall issue to qualified administrators whose last name begins with A-K, a license to expire on June 30, 1982. Those administrators whose last name begins with L-Z shall be issued a license to expire on June 30, 1983.

(b) Applications for renewal shall be accompanied by transcript or verification that the applicant has completed not less than sixty (60) clock hours of board-approved continuing education during the twenty-four (24) month licensure period, July 1 to June 30, immediately preceding renewal of license. These sixty (60) clock hours of continuing education shall be earned through the attendance of board-approved educational offerings pertaining to the "core of knowledge" or health related fields and shall be accumulated within subject areas as follows:

(1) Administration—twenty (20) clock hours

(A) General administration,

(B) Local health and safety regulations,

(C) Applicable standards of environmental health and safety,

(D) Departmental organization and management,

(E) Community interrelationships.

(2) Resident care—twenty (20) clock hours

(A) Psychology of resident care,

(B) Principles of medical care,

(C) Personal and social care,

(D) Therapeutic and supportive care.

(3) Electives—twenty (20) clock hours which shall be in "core of knowledge" or health related fields

(c) Fifteen (15) clock hours of educational credit shall be awarded for each college credit semester hour earned within the renewal period. Ten (10) clock hours of educational credit shall be awarded for each board-approved continuing education unit (CEU) obtained.

(d) Should an administrator choose to attend an educational offering not submitted to the board for prior approval and accreditation for continuing education, educational credit may be granted subject to the following considerations: within three (3) months after attendance the candidate shall submit verification of attendance and a copy of the educational program objectives and content for approval by the board. The subject matter of the educational program shall be related to the "core of knowledge" or be health related.

(e) An administrator who attends an educational opportunity and who also serves as a presenter shall receive the amount of educational credit awarded for attendance in addition to one (1) clock hour per hour of presentation time. Presenters may not receive additional credit for repetition of such presentations.

(f) A fifty dollar (\$50.00) renewal fee shall accompany the application. An additional twenty-five dollars (\$25.00) will be assessed for each application which is received postmarked after June 30 of the year in which license expires.

(g) The applicant shall receive a licensure certificate for the current renewal period upon approval of each application. (Authorized by K.S.A. 65-3503; implementing K.S.A. 1981 Supp. 65-3505; effective May 1, 1981; amended E-82-12, June 17, 1981; amended May 1, 1982.)

Article 39.—LICENSURE OF ADULT CARE HOMES

28-39-1 to 28-39-22. (Authorized by K.S.A. 39-932; effective February 15, 1977; revoked May 1, 1982.)

28-39-30 to 28-39-50. (Authorized by K.S.A. 39-932; effective February 15, 1977; revoked May 1, 1982.)

28-39-60 to 28-39-75. (Authorized by K.S.A. 39-932; effective February 15, 1977; revoked May 1, 1982.)

28-39-76. Definitions. (a) "Activities director" means an individual who meets 1 of the following:

(1) Is a resident activities coordinator;

(2) Has 2 years of experience in a social or recreational program within the last 5 years, 1 year of which was full-time in a resident activities program in a health care setting; or

(3) Is a nurse aide and has completed a course approved by the Kansas department of health and environment in resident activities coordination who during the first year as activities director, receives consultation from a resident activities coordinator.

(b) "Administrator" means any individual who is

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charged with the general administration of an adult care home whether or not the individual has an ownership interest in the adult care home. The administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501, *et seq.*, and any amendment to those statutes.

(c) "Alteration" means any addition, modification, or modernization in the structure or usage of a facility.

(d) "Ambulatory resident" means any resident who is physically and mentally capable of getting in and out of bed and walking in a normal path to safety in a reasonable period of time, including the ascent and descent of stairs without the aid of another person.

(e) "Audiologist" means a person who meets 1 of the following:

(1) Has completed the requirements of education and experience for a certificate of clinical competence in audiology as promulgated by the American Speech-Language Hearing Association and in effect July 1, 1981; or

(2) Has completed the educational requirements for certification prescribed in the preceding paragraph and is in the process of accumulating the experience required for certification under the requirements described in the preceding paragraph.

(f) "Basement" means the part of a building which is below grade.

(g) "Change of Ownership" means any transaction that results in a change of control over the capital assets of a facility.

(h) "Charge person" means an individual who is a registered nurse, licensed practical nurse, medication aide, or certified nurse aide, and who is directly responsible for resident care on any shift.

(i) "Controlled substance" means any drug or drugs listed in part 308 of the code of federal regulations, as in effect on July 1, 1981.

(j) "Day care" means a program in an adult care home for providing services for less than a 24 consecutive hour basis.

(k) "Day shift" means an 8 hour tour of duty within the period 6:00 a.m. to 9:00 p.m.

(l) "Dietetic service supervisor" means any person who has at least 1 of the following qualifications:

(1) Is a dietitian;

(2) Is a graduate of a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association and has consultation from a dietitian;

(3) Is a graduate of a state-approved course that provided 90 or more hours of classroom instruction in dietetic service supervision and had a minimum of 6 months' experience as a supervisor in a health care institution and has consultation from a dietitian; or

(4) Has training and experience in dietetic service supervision and management determined by the secretary of health and environment equivalent in content to the program in (2) or (3) of this subsection, and has consultation from a dietitian.

(m) "Dietitian" means a person who received a baccalaureate degree with major studies in foods and nutrition or dietetics and has completed the requirements of education and experience for registration as promulgated by the American Dietetic Association and in effect on July 1, 1981.

(n) "Director of nursing" means a person who is

licensed in Kansas as a registered professional nurse; employed, full-time, in a licensed adult care home; and has the responsibility, administrative authority, and accountability for the supervision of the functions, activities, and teaching of the nursing process.

(o) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given by injection, inhalation, ingestion, or by any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of drugs or medications. Drug administration shall entail removing an individual dose from the labeled container (including a unit dose container), verifying it with the physician's orders, giving the dose to the proper resident, and promptly recording the time and dose given.

(p) "Drug dispensing" means the delivery of 1 or more doses of drugs by a registered pharmacist or physician. The drugs shall be dispensed in a container and labeled in compliance with the state and federal laws and regulations.

(q) "Existing facility" means a facility or section of a facility licensed or approved for licensing before the effective date of these rules and regulations.

(r) "Full-time" means 32 or more hours per week.

(s) "Health services supervisor" means a person who is licensed in Kansas as a registered nurse or licensed practical nurse; employed full-time, in an adult care home; and has the responsibility, administrative authority, and accountability for the functions and activities of the nursing staff.

(t) "Licensed nurse" means a registered professional nurse or a licensed practical nurse.

(u) "Licensed practical nurse (L.P.N.)" means an individual who is licensed in Kansas as a licensed practical nurse.

(v) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary of health and environment to operate an adult care home.

(w) "Medical records practitioner (qualified consultant)" means a person who has completed the requirements of education and experience for a certificate as a registered record administrator (R.R.A.) or an accredited record technician (A.R.T.) as promulgated by the American Medical Records Association and in effect on July 1, 1981.

(x) "Medication" means any drug defined by K.S.A. 65-1626, administered to a resident of an adult care home.

(y) "Medication aide" means a person who has completed a training program in medication administration approved by the Kansas department of health and environment and is certified as a medication aide.

(z) "Nonambulatory resident" means any resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety without the aid of another person.

(aa) "Nurse aide" means a person who has completed a training program for persons who provide direct, individual care to residents approved by the Kansas department of health and environment and is certified by the Kansas department of health and environment as a nurse aide.

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(bb) "Nurse aide trainee" means a person who has been employed in an adult care home for less than 6 months and provides direct, individual care to residents but is not certified by the Kansas department of health and environment as a nurse aide.

(cc) "Nursing personnel" means the director of nursing, health services supervisor, and all registered and licensed practical nurses, medication aides, nurse aides, and nurse aide trainees under the direct supervision of the director of nursing or health services supervisor.

(dd) "Nursing unit" means a distinct area of the facility which contains not more than 60 resident beds and which includes the service areas and rooms described in K.A.R. 28-39-104(b) and K.A.R. 28-39-109(b).

(ee) "Occupational therapist (qualified consultant)" means a person who received a baccalaureate degree in a program in occupational therapy and has completed the requirements of education and experience as promulgated for registration by the American Occupational Therapy Association and in effect on July 1, 1981.

(ff) "Occupational therapy assistant" means a person who has completed the requirements of education and experience for certification as a certified occupational therapy assistant (C.O.T.A.) as promulgated by the American Occupational Therapy Association and in effect July 1, 1981.

(gg) "Physical therapist" means a person registered in Kansas as a physical therapist.

(hh) "Physical therapy assistant" means a person certified in Kansas as a physical therapy assistant.

(ii) "Registered nurse (R.N.);" means an individual who is licensed in Kansas as a registered professional nurse.

(jj) "Resident activities coordinator" means a person who meets 1 of the following:

(1) Is a therapeutic recreation specialist;
 (2) Has 2 years of experience in a social or recreational program within the last 5 years, 1 year of which was on a full-time basis in a resident activities program in a health care setting; or

(3) Is an occupational therapist or occupational therapy assistant.

(kk) "Restraint" means any apparatus, article, device, or garment, which interferes with the free movement of a resident or any drug administered to a resident for the purpose of modifying the behavior of the resident.

(ll) "Social services designee" means a person who is a:

(1) Social worker; or
 (2) College graduate and has completed a program in social work education; or
 (3) Nurse aide and has completed a course approved by the Kansas department of health and environment in social services and has consultation from a social worker.

(mm) "Social worker" means a person who is licensed in Kansas as a social worker and has 1 year of social work experience in a health care setting.

(nn) "Speech pathologist" means a person who meets 1 of the following:

(1) Has completed the requirements of education and experience for a certificate of clinical competence in speech pathology as promulgated by the American

speech and hearing association and in effect on July 1, 1981.

(2) Has completed the educational requirements for certification prescribed in the preceding paragraph and is in the process of accumulating the experience required for certification under the requirements prescribed in the preceding paragraph.

(oo) "Therapeutic recreation specialist" means a person who has completed the requirements for education and experience for a certificate of clinical competence in therapeutic recreation as promulgated by the national therapeutic recreation society and in effect on July 1, 1981. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-77. Licensing procedure. (a) Initial license; site approval. A proposed site for a facility shall be evaluated and approved in accordance with the standards prescribed in K.A.R. 28-39-109(r) by the licensing agency before submittal of design development or preliminary drawings. A request for site evaluation shall be made to the licensing agency in writing and shall include the following information:

(1) The street name and number, or the legal description of the proposed site;

(2) The name and telephone number of the individual in the locale to be contacted by evaluation personnel;

(3) Dimensions and boundaries of the site; and

(4) The name of the public utility or municipality that provides services to the site, including water, sewer, electricity, and natural gas.

(b) Initial license; new construction or conversion of an existing building. When a facility is to be newly constructed or when an existing building is to be converted for use as an adult care home, completed application forms as prescribed by the licensing agency shall be submitted with 2 sets of preliminary construction plans and outline specifications in compliance with K.A.R. 28-39-108 to K.A.R. 28-39-113, inclusive.

(1) A conference may be held in the office of the licensing agency to review preliminary plans and outline specifications;

(2) The owner shall submit 2 copies of the final plans and specifications to the licensing agency prior to commencing construction;

(3) Construction shall not commence before review of the plans and specifications by the licensing agency;

(4) If construction does not commence within 1 year of the date the plans and outline specifications are reviewed by the licensing agency, they shall be resubmitted for review;

(5) The owner shall submit to the licensing agency any changes in the information in the initial application, plans, or specifications;

(6) When the architect determines that construction is 50 percent completed, the owner shall notify the licensing agency;

(7) The owner shall notify the licensing agency 30 days in advance of the estimated completion date of the facility; and

(8) Upon completion of construction and when the facility is found to meet all applicable requirements of law and the applicant is found to qualify for a license, the licensing agency shall issue a license.

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(c) Renewal of license. The licensee shall apply for renewal of an existing license on forms prescribed by the licensing agency not less than 120 days before the existing license expires. The renewal of a license shall be contingent upon a finding by the licensing agency that the applicant meets all applicable requirements of law.

(d) Change in ownership. The licensee shall notify the licensing agency of any anticipated change in ownership information which differs from that on the current license application form. This notice shall be submitted 60 days in advance of the proposed effective date of the change. A change of ownership shall not take effect prior to the issuance of a license to the new owner by the licensing agency.

(e) Change of administrator. The licensee shall notify the licensing agency immediately when the designated administrator of the facility no longer is responsible for overall operation of the facility. The notice shall include the name, address, current valid Kansas license number of the new administrator and the fee required by K.S.A. 1980 Supp. 39-930 or any amendments of that statute. A fee shall not be charged if the change of administrator occurs at the time the facility license renewal application is filed with the licensing agency.

(f) Change of bed capacity. A proposed change in the bed capacity of the facility, whether an increase or a decrease, shall be approved by the licensing agency before the change is made.

(g) Modification of structure. Any expansion or reconstruction or any remodeling that includes structural changes in a facility shall meet physical environment standards for new facilities and shall be approved by the licensing agency before the expansion, reconstruction, or remodeling is commenced.

(h) License fees. An initial application for a license or an application for renewal of license shall be accompanied by a license fee in compliance with K.S.A. 1980 Supp. 39-930 or any amendments of that statute. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-927, 39-930; effective May 1, 1982.)

28-39-78. Resident rights; rights standard. (a) The licensee shall assure the residents their rights as persons and citizens which include:

(1) Rates and charges. The resident shall be fully informed in writing, before or at the time of admission, of the services available in the facility. The licensee shall inform the resident of any changes in daily or monthly charges or services which occur after admission, at least 30 days in advance of the effective date of the change;

(2) Medical information and treatment. The resident shall be informed by a physician of his or her medical condition, unless it is medically contraindicated as documented by the physician in the medical record. The resident shall be given the opportunity to participate in the planning of medical treatment. The resident has the right to refuse examination or treatment. The resident shall give informed, written consent to participate in experimental research;

(3) Transfer and discharge. The resident shall be transferred or discharged from the facility involuntarily only for medical reasons or for the welfare of the resident or others, or for nonpayment of the rates and charges imposed by the adult care home. Except in

emergencies, the resident or legal guardian shall be given written notice at least 15 days in advance of a transfer or discharge of the resident;

(4) Exercising rights. The resident shall be provided the opportunity to exercise rights as a resident and a citizen. The resident shall have the right to voice grievances and recommend changes in policies and services to facility staff or outside representatives of the resident's choice, without restraint, interference, coercion, discrimination, or reprisal;

(5) Financial affairs. The resident may manage his or her personal financial affairs;

(6) Freedom from abuse. The resident shall be free from mental or physical abuse;

(7) Freedom from restraints. The resident shall be free from restraints unless the restraints are authorized by a physician for a specified and limited period of time or when necessary to protect the resident from injury to self or others;

(8) Confidentiality. The resident shall be assured confidential treatment of personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of transfer to another health care institution or as required by law;

(9) Privacy. The resident shall be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and in care for personal needs. Residents shall have access to an area for reading, meditation, solitude, or privacy with visitors or other residents;

(10) Work. The resident shall not be required to perform services for the facility that are not included for therapeutic purposes in the plan of care;

(11) Correspondence. The resident shall be permitted to associate and communicate privately with persons of his or her choice and send and receive personal mail unopened, unless medically contraindicated as documented by the resident's physician in the medical record. All outgoing resident's mail shall be mailed promptly;

(12) Freedom of participation. The resident shall be permitted to participate in social, religious, and community group activities at his or her discretion, unless medically contraindicated as documented by the resident's physician in the medical record;

(13) Possessions. The resident shall be permitted to retain and use personal clothing and possessions unless doing so would infringe upon the rights of other residents or unless medically contraindicated as documented by the resident's physician in the medical record;

(14) Marital privacy. If married, the resident shall be assured privacy for visits by the spouse. If both are residents of the facility, they shall be permitted to share the same room unless medically contraindicated as documented by the resident's physician in the medical record; and

(15) Choice of pharmacy. The resident shall have the right to choose the pharmacy where prescribed medications are purchased. When the facility uses a unit dose or similar medication distribution system, the resident shall have the right to choose among pharmacies that offer or are willing to offer the same or similar system as that used in the facility.

(b) Policies and procedures. The licensee shall es-

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establish and implement written policies and procedures regarding the rights of residents. They shall:

(1) Prohibit abuse, neglect, or exploitation of residents;

(2) Assure that the resident or the legal guardian of the resident is fully informed of the rights and all rules and regulations governing resident conduct prior to signing the written admission agreement;

(3) Provide for written, signed acknowledgment of this information from the resident or the legal guardian of the resident before or at time of admission; and

(4) Assure that all staff of the facility is trained and involved in the implementation of the policies and procedures. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-79. Reserved.

28-39-80. Reserved.

28-39-81. Reserved.

28-39-82. Administration. The skilled nursing home and intermediate nursing care home shall be operated in a manner to ensure the delivery of all required administrative services including those prescribed in K.A.R. 28-39-83 to K.A.R. 28-39-85 inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-83. Administration; management standard.

(a) The licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) Policies and procedures. The licensee shall adopt and enforce written policies and procedures relative to:

(1) The health care, safety, psychosocial, and self-esteem needs of the residents;

(2) Protection of personal and property rights of residents;

(3) Review. All policies and procedures of the facility shall be revised as necessary and reviewed at least annually; and

(4) Availability. Policies and procedures shall be available, on request, to all persons during normal business hours. Notice of availability shall be posted in a conspicuous location in the facility.

(c) Administrator. The licensee shall adopt a written job description for, and shall employ, a licensed administrator full-time, who is responsible for the overall management of the facility, including:

(1) Planning, organizing, and directing the operation of the facility as authorized by the licensee;

(2) Implement operational policies and procedures for the facility; and

(3) Authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in his or her absence.

(d) Advisory committee. The facility shall have an advisory committee, including, but not limited to a physician, a nurse, and a religious advisor. The advisory committee shall:

(1) Give advice and counsel to the administrator;

(2) Review resident care policies at least annually;

(3) Meet at least once every 6 months; and

(4) Record and retain minutes of the meetings.

(e) Admission. The licensee shall have written policies regarding admission of residents which include the following requirements:

(1) The facility shall admit only those persons whose nursing care and physical needs can be met;

(2) Each resident admitted shall be under the care of a physician licensed to practice in Kansas;

(3) Upon admission or within 48 hours of admission, referral information shall be obtained by the facility. Referral forms shall include medical history, diagnosis, personal and social data, and activities permitted;

(4) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges and the resident's obligations regarding payment, including the refund policy of the facility;

(5) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident shall receive and which sets forth the obligations which the resident has toward the facility; and

(6) The facility shall not admit persons with an infection or disease in communicable stage; children under the age of 16 years; women who are pregnant or within 3 months following pregnancy; or persons in need of active treatment for alcoholism, mental condition, or drug addiction.

(f) Transfer and discharge. The facility shall have written policies regarding transfer and discharge of residents which include the following requirements:

(1) Immediate arrangements shall be made to transfer a resident when, in the written judgment of the resident's attending physician changes in the physical or mental condition of the resident necessitate care which the facility is not capable of providing;

(2) When a resident develops a communicable disease or infection that cannot be managed in the facility, immediate arrangements shall be made for the transfer of the resident to an appropriate hospital or other facility. The development of a communicable disease or infection after admission shall be reported to the local health department; and

(3) Except in an emergency, a resident shall not be transferred or discharged from the facility for medical reasons without a written order from the attending physician and prior notification to the resident or the legal guardian of the resident as prescribed in K.A.R. 28-39-78(a)(3). A summary of administrative, social, medical, and nursing information shall accompany the resident if transferred to another facility or hospital.

(g) Transfer agreement. The facility shall have on file and in effect a transfer agreement with 1 or more hospitals which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed. A hospital and the facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them, or in case the 2 institutions are under common control, by reason of a written understanding by the person or body who controls both institutions, there is reasonable assurance that:

(1) Transfer of residents will be effected between the facilities, without delay, whenever a transfer is medically appropriate as determined by the attending physician;

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(2) There will be an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities and in determining whether these individuals can be adequately cared for otherwise than in either of the facilities; and

(3) There will be arrangements made for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items when necessary.

(h) Outside resources. The facility shall provide services to residents according to their needs either by staff or by the use of qualified outside resources. These services shall be provided as follows:

(1) When a facility does not have on staff a qualified professional to provide a specific required service, it shall make arrangements to have the service provided by a qualified person or agency through direct services to residents or as a consultant to the facility;

(2) The terms of the agreement, including financial arrangements and charges, shall be delineated in writing and signed by an authorized representative of the facility and the person or agency providing the service; and

(3) The outside resource, when acting as a consultant, shall apprise the administrator of recommendations, plans for implementation, and continuing assessment through dated, signed reports which shall be retained by the facility.

(i) Resident possessions.

(1) The facility shall have written policies which ensure the security of residents' personal possessions.

(2) A written inventory of each resident's personal possessions, signed by the resident, or by the resident's legal guardian, shall be completed at the time of admission and be updated annually.

(3) If a resident deposits personal possessions with the facility for safekeeping, a written record shall be maintained and a receipt given to the resident.

(j) Resident funds.

(1) If the facility accepts a resident's funds for safekeeping or assumes responsibility for a resident's financial affairs, the resident shall agree in writing to the transfer of responsibility to the facility.

(2) The facility shall utilize an accounting system which ensures an accurate accounting of receipts and disbursements made to, or on behalf of, a resident.

(3) The facility shall designate in writing the person responsible for the accounting system.

(4) Receipts shall be signed by the resident or the legal guardian of the resident for all transactions.

(5) The facility shall make a written quarterly accounting of transactions to the resident and shall advise the resident of the current balance of the resident's funds.

(k) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(l) Reports. The administrator shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The administrator

shall submit any other reports as required by the licensing agency.

(m) Telephone. The facility shall maintain at least 1 non-coinoperated telephone accessible to residents or employees for use in emergencies. Names and telephone numbers of persons or places commonly required in emergencies shall be posted adjacent to the telephone. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-84. Administration; resident care policies and procedures standard. (a) The licensee shall have and implement written resident care policies and procedures for meeting the total medical, nursing, nutritional and psychosocial needs of residents.

(b) Scope of policies. These policies and procedures shall govern the overall care of residents, including admission procedures, the resident care plan, all areas of service and functions provided by the facility, and transfer and discharge procedures.

(c) Responsibility. The licensee shall appoint in writing a physician, or licensed nurse to be responsible to the administrator for the execution of resident care policies and procedures and resident care plans for all the residents. If the responsibility for the day-to-day execution of resident care policies and procedures has been delegated to a licensed nurse, the physician on the advisory committee shall be available to render medical guidance to the licensed nurse.

(d) Resident care plan. There shall be a written, overall care plan, individualized for each resident, which shall:

(1) State the objective of the plan which, as a minimum shall be to attain or maintain the optimal physical, intellectual, social, and vocational functioning of which the resident is presently or potentially capable;

(2) Be developed from an interdisciplinary assessment of the resident consisting of medical, nursing, dietary, activities, and psychosocial diagnoses or evaluations;

(3) Set forth an integrated program to achieve measurable resident goal(s);

(4) Identify the service responsible to assist the resident in the attainment of each goal(s); and

(5) Be reviewed at least quarterly and revised if necessary. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-85. Administration; personnel policies and staff development standard. (a) The administrator shall develop, implement and maintain written personnel policies, procedures, job descriptions, and a staff development policy and procedure for all employees to assure effective delivery of services to residents.

(b) Records. Personnel records shall be current and shall contain documentation of the employee's qualifications for the position to which the employee is assigned.

(c) Control of disease.

(1) Written policies and procedures for control of communicable disease shall be in effect to ensure that employees with symptoms or signs of communicable disease shall not be permitted to work.

(2) All employees shall have a physical examination before employment which shall consist of appropriate examinations, including a chest x-ray or tuberculosis

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skin test. Subsequent physical examinations or health assessments shall be given in accordance with facility policies.

(3) Documentation of the examination, signed by a physician, shall be maintained in the employee's personnel record.

(4) In case of an emergency where the care of residents would suffer without the immediate employment of an individual, the individual may be employed without the examination required above, provided the examination is completed within 10 days of the date of employment.

(d) Employee complaints. There shall be written policies and procedures that provide for the registration and disposition of employee complaints to the administrator or licensee or to regulatory agencies, without threat of discharge or reprisal.

(e) Staff development. There shall be an ongoing staff development program which is planned and conducted for the improvement of skills for all employees as follows:

(1) The facility shall regularly conduct and document an orientation program for new employees that includes review of facility policies;

(2) The facility shall plan and conduct an in-service staff development program for all personnel. The program shall include as a minimum:

(A) For all employees: annual training in fire prevention and safety, accident prevention, confidentiality of resident information, psychosocial needs of residents, infection control, and resident rights; and

(B) For nursing and other health care delivery personnel: annual training in restorative nursing techniques and dental care and hygiene.

(3) Unlicensed employees giving direct, individual care to residents shall participate in at least 12 hours of staff development programs per year. All other employees shall participate in at least 8 hours of staff development programs per year; and

(4) Written records shall be maintained which indicate the content of staff development programs and attendance. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-86. Health services. The skilled nursing home and intermediate nursing care home shall provide organized health services with qualified personnel to meet the health needs of the residents and shall meet the health services requirements prescribed in K.A.R. 28-39-87 to K.A.R. 28-39-92 inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-87. Health services; nursing services standard. (a) The facility shall provide programs and personnel to meet the nursing needs of the residents.

(b) Supervision.

(1) Skilled nursing home facilities. Immediate supervision of the nursing services shall be provided by a director of nursing services who is employed, full-time, on the day shift. If the director of nursing services has other institutional responsibilities, a registered nurse shall be designated to serve as the assistant to the director and shall act on behalf of the director during absences of the director.

(2) Intermediate nursing care facilities. Immediate supervision of the nursing services shall be provided

by a health services supervisor who is employed, full-time, on the day shift. If the health services supervisor has other institutional responsibilities, a licensed nurse shall be designated to serve as the assistant to the supervisor and shall act on behalf of the supervisor during absences of the supervisor. When a licensed practical nurse serves as health services supervisor in an intermediate care facility, the facility shall arrange for consultation from a registered nurse. The consultant shall assist in setting standards of nursing practice and in nursing staff development and shall provide consultation in nursing functions. Consultation shall be given in the facility a minimum of 4 hours per week, during periods when the health services supervisor is on duty.

(3) The health services supervisor or director of nursing services shall have written administrative authority, responsibility, and accountability for the functions and activities of the nursing services staff.

(c) Staffing. The facility shall employ qualified personnel to ensure that resident needs are met 24 hours a day. The following requirements shall be met:

(1) The facility shall provide a registered nurse or licensed practical nurse on the day shift 7 days a week for each nursing unit. The health services supervisor may be included to meet this requirement. In intermediate nursing care facilities, there shall be a licensed nurse on call for emergencies at any time when a licensed nurse is not on duty in the facility. In skilled nursing home facilities, there shall be a licensed nurse on each shift for each nursing unit, including the services of a registered nurse at least during the day shift, 7 days a week. If a licensed practical nurse is on duty on the evening or night shift, there shall be a registered nurse on call to assist if necessary;

(2) Nursing personnel shall be assigned duties consistent with their education and experience. All nurse aide trainees who provide direct, individual care to residents shall be under the direct on site supervision of a licensed nurse. The nurse aide trainee shall become a certified nurse aide within 6 months of employment. Nursing personnel shall not be assigned housekeeping duties;

(3) Schedules of staffing shall be maintained and kept on file in the facility for 12 months and shall include the hours actually worked and classification of nursing personnel who work in each nursing unit on each shift;

(4) Personnel shall be immediately accessible to all residents to assure prompt, necessary action in case of injury, illness, fire, or other emergency;

(5) Direct, individual resident care shall be provided by nursing personnel, activities director, and social services designee, in accordance with the following minimum requirements per resident per 24 hour period which shall be calculated as follows:

(A) Skilled nursing home facilities: 2.0 hours per resident per 24 hours on a weekly basis, and no less than 1.85 on a daily basis.

(B) Intermediate nursing care facilities: 1.75 hours per resident per 24 hours on a weekly basis and no less than 1.60 on a daily basis.

(6) Two nursing personnel, 1 of whom shall be a licensed nurse or a certified medication aide, shall be on duty at all times. The ratio of nursing personnel to

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residents at no time shall be less than 1 nursing personnel for each 30 residents or for each fraction of that number of residents.

(7) The licensing agency may require an increase in the number of nursing personnel above minimum levels under certain circumstances not necessarily limited to quality of nursing care administered. Other considerations include location of residents, locations of nurses' stations, and the knowledge that residents' needs for welfare, health, and safety are not being met.

(d) Charge person. At all times there shall be a charge person designated by the health services supervisor or director of nursing who shall be responsible for supervision of all nursing activities in the facility during the assigned shift. In skilled nursing home facilities, there shall be a charge nurse for each shift who is a registered nurse or licensed practical nurse. The health services supervisor or director of nursing may serve as a charge nurse in facilities with average daily occupancies of 60 residents or less.

(e) Restraints. There shall be a signed physician's order for any restraint, including justification, type of restraint, and duration of application. A resident shall not be restrained unless, in the written opinion of the attending physician, it is required to prevent injury to the resident or to others, and alternative measures have failed.

(f) Resident care and hygiene. The facility shall provide supportive services to maintain the residents' comfort and hygiene as follows:

(1) Residents confined to bed shall receive a complete bath every other day and more often as needed;

(2) Incontinent residents shall be checked at least every 2 hours and shall have partial baths and clean linens promptly when the bed or clothing is soiled;

(3) Pads shall be used to keep the resident dry and comfortable;

(4) Rubber, plastic, or other types of protectors shall be kept clean, completely covered, and not in direct contact with the resident;

(5) Soiled linen and clothing shall be removed immediately from the resident's room to prevent odors;

(6) There shall be available fresh water for all residents. For all non-ambulatory residents, fresh water or other fluids shall be available at the bedside at all times unless fluids are restricted by physician's order;

(7) Residents shall be assisted with oral hygiene to keep mouth, teeth, or dentures clean. Measures shall be taken to prevent dry, cracked lips; and

(8) There shall be a written ongoing program for skin care implemented as follows:

(A) Bony prominences and weight-bearing parts, such as heels, elbows, and back, shall be bathed and given care frequently to prevent discomfort and the development of pressure sores;

(B) Treatment for pressure sores shall be given according to written physician's orders;

(C) The position of residents confined to bed shall be changed at least every 2 hours during the day and night;

(D) Residents shall be positioned in good body alignment; and

(E) Precautions shall be taken to prevent foot drop in bed residents.

(g) Oxygen.

(1) Precautions shall be taken during administration

of oxygen in the facility to ensure the safety of residents and staff;

(2) Oxygen shall be administered only upon the written order of the attending physician;

(3) The health services supervisor or director of nursing shall be responsible to see that the staff administering oxygen are trained and competent to do so and that equipment is properly functioning;

(4) Oxygen shall only be administered in private or semi-private rooms;

(5) A sign shall be posted on the corridor side of the door which reads "Oxygen—No Smoking;"

(6) Before the use of oxygen, all smoking materials, matches, lighters, or any item which could cause a spark or flame shall be removed from the room; and

(7) Oxygen containers shall be anchored to prevent them from tipping or falling over.

(h) Supervision of resident nutrition.

(1) Nursing personnel shall monitor food and fluid intake of residents and shall assist when necessary in the feeding of residents;

(2) Procedures shall be established to inform the dietetic services department of physicians' diet orders and of residents' dietetic problems; and

(3) Food and fluid intake of residents shall be observed, recorded, and reported to the charge person.

(i) Restorative nursing care.

(1) The facility shall have a written program of restorative nursing care which shall be an integral part of nursing services and shall be directed toward assisting the resident to achieve and maintain an optimal level of self-care and independence;

(2) There shall be evidence of a regular staff development in restorative nursing techniques for all nursing personnel to promote ambulation, aid in activities of daily living, assist in activities, assist in bladder and bowel retraining, self-help, maintenance of normal range of motion, and chair and bed positioning, and prevent or reduce incontinence; and

(3) Written records shall be maintained of all restorative nursing services performed. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-88. Health services; physician services standard. (a) The facility shall have policies and procedures which state that the resident is admitted to the facility on the written order of a physician, and remains under a physician's care during the residency at the facility.

(b) Admission documents. The facility shall obtain from the resident's physician, before or at the time of admission, orders for the immediate care of the resident. Within 48 hours of admission, the facility shall obtain from the resident's physician additional resident information including current medical findings, diagnoses, rehabilitation potential, and summary of prior treatment.

(c) Physician supervision. The health care of the resident shall be under the supervision of a physician. The facility shall obtain from each resident's physician a plan for the care of the resident. The facility shall ensure, to the fullest extent possible, that the following requirements are met:

(1) The resident's physician sees the resident whenever necessary;

(2) A written progress note is prepared and signed by

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the physician at the time of visits, and all orders are signed by the physician; and

(3) Annually, there is a physical examination for each resident including tests as deemed necessary by the attending physician. The results shall be entered in the medical record.

(d) Emergency physician. At the nurses station, written procedures shall be available which provide for having a physician to furnish necessary medical care in case of emergency.

(e) Procedure in the event of death. A body shall not be removed from the facility until a physician has given permission.

(f) Medical director.

(1) In skilled nursing home facilities, there shall be a written agreement with a physician to serve as medical director on a part-time or full-time basis, depending on the needs of the facility;

(2) The medical director shall be a physician duly licensed to practice medicine or osteopathy in Kansas. The medical director may be designated for a single facility or multiple facilities through arrangements with a group of physicians, the local medical society, a hospital medical staff, or other qualified source;

(3) The medical director shall be responsible for the overall coordination of medical care in the facility;

(4) The medical director shall participate in the development of policies and procedures for medical care, including delineation of the responsibilities of attending physicians, and shall be responsible for the execution of resident care policies; and

(5) The medical director shall review records of accidents that occur on the premises to identify hazards to health and safety. He or she shall give necessary information to the administrator to help ensure a safe and sanitary environment for residents, personnel, and visitors. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-89. Health services; pharmacy services standard. (a) The facility shall ensure safe and accurate ordering, storage, distribution, administration, review, and recording of all medications and biologicals and shall have written policies and procedures for pharmacy services.

(b) Pharmacist supervision. A pharmacist shall be responsible for developing, coordinating, and supervising all pharmacy services as follows:

(1) The facility shall have a written agreement with a pharmacist for general supervision of pharmacy services;

(2) The services provided shall include written documentation of at least monthly review of methods, procedures, storage, administration, disposal, record keeping of drugs and biologicals, and other areas of importance;

(3) The pharmacist shall devote a sufficient number of regularly scheduled hours to carry out the responsibilities above; and

(4) A monthly, written report shall be prepared by the pharmacist and submitted to the administrator.

(c) Ordering and labeling.

(1) All medications shall be obtained pursuant to a written order issued by the resident's attending physician;

(2) Each prescription medication container shall be

labeled by the dispensing pharmacist in accordance with K.A.R. 68-7-14;

(3) Over-the-counter medications may be obtained. The medication shall be delivered to the facility in the original, unbroken manufacturer's package. The medication shall have the full name of the resident placed on the container by the pharmacist, director of nursing or health services supervisor, or charge nurse. If over-the-counter medications are removed from the original, unbroken manufacturer's package, the medication shall be labeled as required for prescription medications; and

(4) Verbal orders for medications may be made. Physician's verbal orders for medications shall be given to a licensed nurse, pharmacist, or physician. Verbal orders for medications shall be immediately recorded in the medical record and shall be signed by the person receiving them, and shall be countersigned by the attending physician within 5 days.

(d) Automatic stop orders. Medications not specifically limited as to time or number of doses when ordered shall be controlled by automatic stop orders or other methods in accordance with written policies of the facility. The attending physician shall be notified of an automatic stop order before administering the last dose so that the physician may decide if additional medication is to be obtained.

(e) Storage. The pharmacist shall ensure that all medications are stored according to state and federal laws. In all areas of the facility, all medications and biologicals shall be securely stored and maintained in a locked room. Only persons authorized to administer medications shall have access to the keys to the medication room. Separately locked, permanently affixed compartments shall be provided for the storage of controlled substances listed in schedule II in the comprehensive drug abuse prevention and control act of 1970 as in effect on July 1, 1981, and other drugs, which in the opinion of the pharmacist, are subject to abuse.

(f) Administration of medications. The facility shall ensure that all medications are administered to residents in a safe and accurate manner and in accordance with a physician order and requirements of law. The following requirements shall be met:

(1) All medications shall be administered by physicians, licensed nursing personnel, or by other personnel who have completed a state-approved training program in medication administration. Injectables shall be administered only by physicians or licensed nurses;

(2) Self-administration of medication by residents shall be permitted only with the written permission of the resident's attending physician;

(3) Medications shall be prepared and immediately administered by the same person; and

(4) Medications shall be checked against physician's orders, the resident shall be identified prior to administration, and the dose of the medication administered to the resident shall be recorded on the resident's individual medication record by the person who administers the medication.

(g) Accountability and disposition. Medications shall be controlled and disposed of in a manner that ensures resident safety as follows:

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(1) Records of receipt and disposition of all controlled substances shall be maintained in sufficient detail to enable an accurate reconciliation. The pharmacist shall determine that medication records are in order and that an account of all controlled substances is maintained and reconciled;

(2) During the scheduled monthly review, the pharmacist shall identify for destruction all deteriorated or discontinued medications and those unused medications remaining from a discharged or deceased resident. The pharmacist shall destroy these medications at the facility and in the presence of 1 witness who is a licensed staff person. A record of the date, drug name, and quantity destroyed shall be kept on file at the facility; and

(3) Medications, which have been recalled, shall be returned to the dispensing pharmacy and documentation shall be kept in the facility.

(h) Medication review. In skilled nursing home facilities, the pharmacist shall review the drug regimen of each resident at least monthly and report any irregularities to the medical director, the administrator, and the pharmacy services committee. The pharmacist shall document the review in the residents' medical record. Every 90 days, in intermediate nursing care facilities, the pharmacist shall conduct a drug regimen review of all residents and report any irregularities to the attending physician and to the pharmacy services committee and document the review in the medical record. The physician shall be notified when, in the opinion of the pharmacist, changes are appropriate. In intermediate nursing care facilities, the registered nurse shall review all residents' medications monthly to determine that the drugs ordered by the physician are actually given. Any deviation between drugs ordered and given shall be reported to the pharmacy services committee. The attending physician shall review medications quarterly in intermediate nursing care facilities.

(i) Experimental medications. Medications intended solely for study or experimental use shall not be administered unless authorized by and in compliance with the regulations of the United States food and drug administration as in effect on July 1, 1981, and then only with the written informed consent of the resident involved.

(j) Pharmacy services committee. All adult care homes shall have a pharmacy services committee comprised of at least the pharmacist, a licensed nurse, the administrator, and a physician. The committee shall assist in the development of all policies and procedures relating to medication control and accountability. The committee shall oversee pharmacy services and training in drug administration in the facility, make recommendations for improvement and monitor the service to ensure its accuracy and adequacy. The committee shall meet at least quarterly and shall document its activities, findings, and recommendations.

(k) Emergency medication kits. Each skilled nursing home facility shall have an emergency medication kit and each intermediate nursing care home facility may have an emergency medication kit. The pharmacy services committee shall determine the need for an emergency medication kit in an intermediate nursing care home facility. The determination shall be made in writing and be signed by committee members and

dated. The basis of the committee's determination shall be stated. The emergency medication kit shall be in compliance with K.A.R. 68-7-10(D). (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-90. Health services; special services standard. (a) The facility shall ensure that residents have available special health services, including diagnostic, dental, and specialized rehabilitation services as follows:

(b) Diagnostic services.

(1) The facility shall have written policies, procedures, and contracts as necessary to ensure the availability of diagnostic and dental services to residents; and

(2) The facility shall have the following provisions for promptly obtaining required laboratory, x-ray, and other diagnostic services:

(A) If the facility provides its own clinical laboratory and x-ray services, these shall meet the applicable statutory and regulatory requirements for the operation of the services;

(b) If the facility itself does not provide the services, written arrangements shall be made for obtaining the services from a physician's office, a participating hospital or other facility, or a portable x-ray supplier or independent laboratory approved by an appropriate agency to provide the services;

(C) All services shall be provided only on the written orders of the attending physician;

(D) The physician shall be promptly notified of the findings. The signed and dated clinical reports shall be filed in the resident's medical record; and

(E) The facility shall assist the resident, if necessary, in arranging for transportation to and from the source of the service.

(c) Dental care.

(1) The facility shall have arrangements to assist residents to obtain routine and emergency dental care;

(2) The facility shall have a cooperative written agreement with a dental service, and shall maintain a list of dentists in the community for residents who do not have a dentist;

(3) An advisory dentist shall participate yearly in the staff development program for nursing and other involved personnel and shall recommend oral hygiene policies and procedures for the care of residents; and

(4) The facility shall assist the resident, if necessary, in arranging for transportation to and from the dentist's office.

(d) Specialized rehabilitation services.

(1) In addition to restorative nursing services, the facility shall provide or arrange for specialized rehabilitative services by qualified personnel as needed by residents to improve and maintain functioning;

(2) Rehabilitative needs shall be met either through services provided directly by the facility or by arrangements with qualified outside resources;

(3) Services shall be provided by qualified persons in at least the areas of physical therapy, speech pathology, audiology, and occupational therapy;

(4) Services shall be provided upon the written order of the resident's physician;

(5) Safe and adequate space and equipment shall be available commensurate with the services offered;

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(6) Rehabilitative services performed shall be recorded in the resident's record and shall be signed and dated by the person providing the service;

(7) Written policies and procedures shall be developed for specialized rehabilitative services with input from qualified therapists and representatives of the medical, administrative, and nursing staffs; and

(8) Rehabilitative services shall be provided under a written plan of care initiated by the attending physician and developed in consultation with the therapist(s) involved and with nursing service. A report of the resident's progress shall be communicated to the attending physician within 2 weeks of the initiation of the service. Thereafter, the resident's progress shall be reviewed and revised not less than quarterly. In skilled nursing home facilities, the plan shall be reviewed not less than every 30 days following the initial report. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

Revisor's Note:

Former regulation 28-39-90 was revoked May 1, 1982 and the number reassigned.

28-39-91. Health services; medical records standard. (a) The facility shall maintain an organized resident medical record system in accordance with this rule and regulation and accepted professional standards and practices.

(b) General requirements.

(1) Records shall be maintained on all residents;

(2) The facility shall have written policies and procedures governing the record system, which cover access to, duplication of, and dissemination of information from the residents' records. The policies shall include a provision to make the records available to professional and other staff directly involved with the resident and to authorized representatives of federal, and state governments;

(3) Resident records shall be the property of the facility;

(4) Information contained in the resident's record shall be privileged and confidential. Written consent of the resident or a legal agent acting on the resident's behalf shall be required for release of information, except in case of transfer to another facility or as required by law. Relatives of the resident shall not have access to the resident's record, except under the above condition of written consent;

(5) The facility shall maintain equipment and storage space to provide security against destruction, fire, theft, loss, or unauthorized use;

(6) Records shall be maintained for a minimum of 5 years following a resident's discharge or death;

(7) Medical records of current residents and those of discharged residents shall be completed promptly. All clinical information pertaining to a resident's stay shall be centralized in the resident's medical record; and

(8) When a facility closes, resident medical records shall be transferred with the resident if the resident is transferred to another facility. Otherwise, the licensee shall make provisions for the safekeeping and confidentiality of all medical records.

(c) Content. As a minimum, the resident record shall include: physician's orders, observation and progress notes, nurses' notes, medical and nursing history, physical examination reports, identification informa-

tion, admission data, documented evidence of assessment of resident's needs, establishment of treatment plan, plans of care and services provided, hospital diagnoses authentication (discharge summary, report from attending physician, or transfer form), diagnostic and therapeutic orders, reports of treatments, clinical findings, medication records, and discharge summary, including final diagnosis and prognosis, or cause of death. The information shall be accurately documented and sufficient to identify the resident and shall state clearly the basis for the diagnosis and treatment. All incidents, symptoms, and other indications of accident, illness or injury, including the date, time and action taken, shall be recorded.

(d) Physician documentation. Only physicians shall enter or authenticate in medical records any opinions that require medical judgment. Physicians shall sign their own entries or entries instructed by them to be written in the medical record.

(e) Nurses' notes. The nurses' notes in a resident's medical record shall meet the following requirements:

(1) Medications or treatments administered to residents shall be recorded;

(2) Observations made concerning the condition of critically or acutely ill residents shall be recorded daily on each shift;

(3) Observations made concerning the condition of residents who are not critically or acutely ill shall be recorded, in summary form, at least once per month for each shift;

(4) Nurses' notes shall be written in chronological order and shall be signed and dated by the person making the entry;

(5) Nurses' notes shall include, but not be limited to, observations made concerning general condition of the resident, any change in physical or mental condition, any incident or accident, and significant items of care; and

(6) Erasures or white-outs shall not be used. Errors shall be lined through and the word "error" added. Errors shall be signed and dated by the person making the correction. Entries shall not be recopied.

(f) Staffing. Overall supervisory responsibility for preparing and maintaining residents' medical records shall be assigned to a full-time employee of the facility. The facility shall provide sufficient supportive personnel competent to carry out the functions of the medical record service. If the medical record supervisor is not a qualified medical record practitioner, consultation shall be provided through written agreement with a person so qualified.

(g) Indexing. In skilled nursing home facilities, residents' medical records shall be indexed according to name of resident and final diagnosis in order to facilitate acquisition of statistical medical information and retrieval of records for research or administrative action. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-92. Health services; dietetic services standard. (a) The facility shall provide a hygienic dietetic services system that meets the daily nutritional needs of residents, ensures that special dietetic needs are met, and provides palatable and attractive meals. A facility that has a contract with an outside food management

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company may be found to be in compliance, provided the company meets the requirements listed below.

(b) Policies and procedures. There shall be written policies and procedures which include all functions of the dietetic services department. The policies and procedures shall be available for use in the department.

(c) Supervision. Overall supervisory responsibility for the dietetic services shall be assigned to a dietetic services supervisor who shall be a dietitian or who has consultation from a dietitian. Sufficient support personnel shall be provided to assure adequate time for supervision.

(d) Nutrition and menu planning.

(1) Menus shall be planned and followed to meet the nutritional needs of residents in accordance with physicians' orders, the residents' nutritional care plans, and to the extent medically possible, the current recommended daily allowances of the food and nutrition board of the national research council, national academy of sciences, as in effect on July 1, 1981;

(2) Menus shall be written at least 2 weeks in advance;

(3) Records of the meals served shall be kept on file for 30 days and shall be available for review;

(4) When substitutions are necessary, they shall be of similar nutritive value, recorded, and available for review; and

(5) Records which show the amounts and kinds of food purchased shall be retained for 3 months.

(e) Diets.

(1) All diets shall be prescribed by the attending physician;

(2) A current diet manual, approved by the dietitian, shall be readily available to attending physicians, nurses, and dietetic service personnel. The manual shall be used as a guide for writing menus for therapeutic diets;

(3) The facility shall provide food or nourishments as needed for prescribed diets; and

(4) Tube feedings shall be prepared and served according to the individual diet order for each resident. Tube feeding formula and equipment shall be handled in a sanitary manner and the formula used within 24 hours. Formula shall be labeled with the resident's name and the date it is prepared.

(f) Meal schedules.

(1) At least 3 meals per day or their equivalent shall be served at regular hours;

(2) There shall not be more than a 14 hour span between substantial evening meal and the first substantial meal served on the following day;

(3) If a 4 or 5 meal plan is used, the nutritional value provided shall meet the recommended daily allowances specified in this rule and regulation. The evening meal shall include foods that are good sources of protein, 20 percent of the total calories for the day and 3 items other than beverage; and

(4) To the extent medically possible, bedtime nourishments shall be available and offered routinely to all residents.

(g) Preparation and service.

(1) Foods shall be prepared by methods that conserve the nutritive value, flavor, and appearance and shall be attractively served at the proper temperature;

(2) Standardized recipes adjusted to the number served shall be used;

(3) Ice shall be available for meal and room service;

(4) The facility shall provide self-help eating devices as needed;

(5) Dining room service shall be available for all residents;

(6) The dietetic services department shall be provided with current written information from nursing services regarding residents' diet orders and other pertinent information;

(7) A current record of all diet orders, food preferences, and limitations for each resident shall be maintained in the dietetic services department;

(8) A method shall be developed and followed to identify trays and plates by resident's name, location, and diet order; and

(9) Nourishments shall be available between scheduled meals. Ice shall be provided for resident service and handled in a sanitary manner to prevent contamination. If ice is accessible to the residents, it shall be provided by ice-dispenser units.

(h) Storage.

(1) Food shall be stored, prepared, displayed, transported, and served under sanitary conditions;

(2) Food transported for room service and to dining rooms not adjacent to the dietetic services department shall be covered;

(3) Potentially hazardous foods shall be kept at a temperature of 45° F. (7° C.) or lower or at a temperature of 140° F. (60° C.) or higher during dishing and service;

(4) The preparation or serving of food from damaged or unlabeled containers shall be prohibited;

(5) Only pasteurized, fresh milk shall be used for beverage and shall be served to a glass directly from the milk dispenser or container as delivered from the dairy;

(6) Dry or staple foods shall be stored at least 6 inches (15 centimeters) above the floor on clean surfaces in a way that permits cleaning the storage area and that protects the food from contamination;

(7) Cold food storage equipment shall be provided with a numerically scaled indicating thermometer, accurate to 3° F. (-16° C.) and located to measure the air temperature in the warmest part of the equipment; and

(8) Containers of poisonous compounds or cleaning supplies shall be kept in areas separate from those used for food storage, preparation, or serving.

(i) Sanitation.

(1) Dietetic services personnel shall practice hygienic food handling techniques;

(2) A lavatory with hot and cold running water, soap, and single service towels or mechanical hand drying device, shall be provided in the dietetic services department and shall be used only by the dietetic services personnel;

(3) Only authorized persons shall be allowed in the dietetic services area;

(4) The food preparation area shall not be used as a dining area;

(5) Cleaning procedures shall be established for all work areas, serving areas, and equipment;

(6) Mechanical cleaning and sanitizing of equipment shall be done by immersion, by spray-type, or by low-temperature (chemical) dishwashing machines according to manufacturer's directions. Rinse tempera-

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ture in hot water machines at a minimum shall be 180° F. (82° C.) for 12 seconds at manifold level;

(7) All tableware, kitchenware, and equipment shall be air dried;

(8) Mops and mop pails shall be provided for exclusive use in the dietetic services area; and

(9) Waste shall be disposed of in a sanitary manner. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-93. Other resident services. The skilled nursing home and intermediate nursing care home shall provide other organized resident services to meet the psychosocial needs of residents including those prescribed in K.A.R. 28-39-94 and K.A.R. 28-39-95. The facility may provide services as prescribed in K.A.R. 28-39-96. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-94. Other resident services; social services standard. (a) The facility shall have methods for identifying the medically-related psychosocial needs of the resident. The medically-related psychosocial needs of the resident shall be identified by qualified staff of the facility or by referral to a qualified outside resource through established procedures.

(b) If the facility offers social services, a member of the staff shall serve as social services designee. If the social services designee is not a social worker, a written agreement shall be made with a social worker or recognized social agency for consultation, on a scheduled basis, regarding these services. If the facility does not offer social services, it shall have written procedures for referring residents to qualified outside resources.

(c) The facility, as part of the resident care plan, shall assist each resident to adjust to the social and emotional aspects of the resident's illness, treatment, and stay in the facility. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-95. Other resident services; activities services standard. (a) The facility shall provide activities services designed to meet the needs and interests of the residents.

(b) Staffing. The facility shall have an activities director and such other staff as is necessary to properly implement the activities services.

(c) Provision of services. The activities director shall develop a schedule for group and independent activities. There shall be opportunities for residents to participate in activities of interest inside and outside the facility through educational, social, recreational, and religious resources. Necessary supplies and equipment shall be available for these activities. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-96. Other resident services; day care service standard. (a) The facility may provide adult day care services which shall be in accordance with adopted policies and procedures. The facility shall have written policies and procedures which describe the day care program objectives and govern provision of services.

(b) The facility shall notify the licensing agency in writing if day care services are provided. The information shall include:

(1) Identification of specific day care services provided;

(2) Maximum number of persons to be served; and

(3) Hours of operation.

(c) The licensing agency shall be notified when there is any change in the program. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-97. Environmental sanitation and safety. The skilled nursing home and intermediate nursing care home shall provide staff and services to ensure a clean, safe, and comfortable environment for residents and shall meet the environmental sanitation and safety requirements prescribed in K.A.R. 28-39-98 to K.A.R. 28-39-102, inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-98. Environmental sanitation and safety; infection control standard. (a) The facility shall provide a sanitary environment and shall follow proper techniques of asepsis, sterilization, and isolation.

(b) The facility shall have written policies and procedures for aseptic and isolation techniques. The policies and procedures shall be followed by all employees. If the facility does not have the capability of caring for a resident with an infectious disease, the written policies shall include provisions for handling the case until arrangements can be made to transfer the resident to an appropriate facility.

(c) The facility shall have written procedures to insure safe disposal of infectious waste and materials.

(d) The facility shall have written procedures to maintain surveillance of the health status of all employees.

(e) Ice storage containers shall be kept clean and ice shall be handled in a sanitary manner to prevent contamination. Ice scoops shall be handled in a sanitary manner. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-99. Environmental sanitation and safety; housekeeping standard. (a) Housekeeping services shall be provided to maintain a safe, sanitary, and comfortable environment for residents, and to help prevent the development or transmission of infections.

(b) The facility shall have written policies and procedures for the functions and responsibilities of the housekeeping staff.

(c) The facility shall be kept free of insects, rodents, and vermin.

(d) The grounds shall be free from accumulation of rubbish and other health or safety hazards.

(e) The interior and exterior of the building shall be maintained in a clean, safe, and orderly manner.

(f) Provisions shall be made for the disposal of soiled dressings and any biologically contaminated items in a safe and sanitary manner.

(g) Wastebaskets shall be located at all handwashing facilities and the refuse container in the dietary department shall have a tight fitting cover when not in continuous use. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-100. Environmental sanitation and safety; laundry standard. (a) Laundry services shall be provided for institutional linens and residents' personal laundry.

(continued)

(b) Laundry services shall be provided in the facility or by contract with an outside laundry service.

(c) Measures shall be taken to ensure that residents' personal laundry is marked or otherwise identifiable.

(d) If laundry is processed on site, there shall be staff to ensure clean laundry sufficient to meet the resident's needs available at all times.

(e) Minimum water temperature of 160° F. (71° C.), measured in the washing machine, shall be supplied so that temperature may be maintained over the entire wash and rinse period.

(f) If laundry services are provided by an outside service, clean laundry supply on hand shall be at least 3 times the resident census. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-101. Environmental sanitation and safety; maintenance standard. (a) The facility shall establish a written preventive maintenance program to ensure that equipment is operative and that the interior and exterior of the building are safe, clean, and orderly.

(b) All buildings shall be maintained in good repair and free from hazards.

(c) All electrical and mechanical equipment shall be maintained in good repair and in safe operating condition.

(d) Resident care equipment for personal care and treatments shall be maintained in a safe and sanitary condition.

(e) Building and equipment supplies shall be stored in areas not accessible to residents. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-102. Environmental sanitation and safety; disaster preparedness standard. (a) The facility shall have a written plan with procedures to be followed if a disaster, such as fire, tornado, explosion, or flood, occurs inside or outside the facility. The facility shall ensure that the staff are prepared for a disaster.

(b) The disaster plan shall be available and posted for residents and staff.

(c) The plan shall include evacuation routes and procedures to be followed in case of fire, tornado, explosion, flood, or other disaster. The plan shall include procedures for the transfer of residents, casualties, medical records, medications, and notification of next-of-kin and other persons.

(d) The plan shall be coordinated with area government plans and agencies.

(e) A minimum of 1 tornado or general disaster drill shall be held annually involving residents and staff.

(f) The plan shall be reviewed with staff at least annually. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-103. Physical environment; existing facilities. The skilled nursing home and intermediate nursing care home shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and which meets the requirements prescribed in K.A.R. 28-39-104 to K.A.R. 28-39-107 inclusive. Facilities licensed before the effective date of these regulations shall have 12 months from the effective date of this regulation to comply with the physical environment requirements. Any existing facility which is in compliance with the rules and regulations for adult care homes that became effective January 1, 1963, or the rules and regulations for adult

care homes that became effective February 15, 1977, shall continue to comply with those rules and regulations regardless of the minimums established under these regulations. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-104. Physical environment; existing facilities; general requirements standard. (a) The facility shall contain the following units, areas, and rooms prescribed by this rule and regulation. If minimum space requirements are not specified for a required unit, area, or room, the unit, area, or room shall be sufficient in size to accommodate or accomplish the function or activity to be performed in the unit, area, or room.

(b) Nursing unit. A nursing unit shall contain the following rooms and areas.

(1) Resident rooms. At least 1 resident room shall be a private room equipped with a private toilet and bathing facilities. Each resident room shall:

(A) Accommodate a maximum of no more than 4 residents;

(B) Have a minimum square footage, exclusive of toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, of 100 square feet (9.29 square meters) in 1-bed rooms and 80 square feet (7.43 square meters) per bed in multi-bed rooms. Notwithstanding the other requirements of this section, facilities licensed prior to January, 1963, shall provide a minimum floor area per bed as follows: 1-bed rooms, 90 square feet (8.5 square meters) per bed; 2-bed rooms, 80 square feet (7.43 square meters) per bed; 3 to 4-bed rooms, 70 square feet (6.4 meters) per bed;

(C) Provide the resident access to toilet and bathing facilities from the general corridor or direct access from the resident room to toilet and bathing facilities;

(D) Provide a fixed closet or wardrobe with a shelf and hanging rod; and

(E) Provide visual privacy for each resident in multi-bed rooms, with cubicle curtains suspended on a ceiling-mounted track or on a wall-mounted telescoping device. Visual screening shall be provided between each bed and between the corridor door viewpoint and each bed. Curtain material shall be launderable and shall be flame retardant.

(2) Service areas or rooms. The service areas or rooms required in this rule and regulation shall be located in each nursing unit and shall be accessible directly from the general corridor without passage through an intervening room or area, except medicine preparation rooms. A service area or room shall not serve more than 1 nursing unit, except as otherwise indicated. The service areas and rooms specified below shall provide space and equipment as prescribed in this rule and regulation.

(A) A nurses' station shall provide space for charting, records, a telephone, and a nurses' call system signal register.

(B) A medicine preparation room shall be provided, with work counter, lavatory or countertop sink, refrigerator, and shelf space for separate storage and maintenance of residents' medications. The door to the medication preparation room shall be under the visual control of the nurses' station, except in facilities licensed before January, 1963, and shall be equipped with locking hardware and automatic closure. A sepa-

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rate locked compartment shall be provided within the room for controlled drug and narcotic storage with the exception of the unit dose system. One medicine preparation room may serve more than 1 nursing unit.

(C) A clean workroom shall be provided for preparation, handling, storage, and distribution of clean or sterile materials and supplies. The room shall contain a work counter with sink or separate handwashing lavatory and adequate shelving and cabinets for storage. A sterilizer shall be provided unless sterile disposables are used or unless a contractual agreement exists between the facility and another licensed facility for sterilization services. One sterilizer may serve more than 1 nursing unit.

(D) A soiled workroom shall be provided for disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils. This soiled workroom shall contain a flushing rim clinic sink with bedpan rinsing device, a work counter, a sink, a storage cabinet with lock for sanitizing solutions and cleaning supplies, a waste receptacle, and a soiled linen receptacle. Clean supplies and material shall not be stored in this room.

(E) An area for the storage of clean linen shall be provided, with adequate shelving, cabinets or cart space, and may be located in the clean workroom required by subsection (b)(2)(C) of this rule and regulation.

(F) Resident bathing facilities shall be provided at the rate of 1 for each 15 beds which are not otherwise served by bathing facilities within resident rooms. Bathing facilities shall include showers, tubs, or approved mechanical bathing systems. Bathing facilities shall be located in rooms or areas which have direct access to a toilet and lavatory, without entering the general corridor system. The toilet and lavatory shall be accessible to and usable by the physically handicapped and may serve handicapped visitors. Each bathing facility and toilet shall be located within a visually enclosed area for privacy. Showers shall be designed to permit use by a wheelchair resident. A cabinet, with a lock, shall be provided in the bathing area for storage of supplies.

(c) Living, dining, and recreation areas. Living, dining, and recreation areas shall be provided for residents. Space for living, dining, and recreation areas shall be provided at a rate of 20 square feet (1.8 square meters) per resident capacity of the facility. At least half of this space shall be utilized as dining area.

(d) Physical therapy room. A room for the administration and implementation of a physical therapy program shall be provided in each facility. One physical therapy room may serve more than 1 nursing unit. Provision shall be made for a lavatory and enclosed storage area for therapeutic devices.

(e) Activities room. An activities room or area shall be provided for crafts and occupational therapy. One activities room or area may serve more than 1 nursing unit. The room or area shall be provided with a work counter and storage cabinet. A handwashing facility shall be accessible to residents who use this room or area.

(f) Personal care room. A separate room or area shall be provided for hair care and grooming of residents. At least 1 shampoo sink, space for 1 hair dryer, and work space shall be provided.

(g) Administration and public areas. The facility shall provide the following administration and public areas:

(1) Entrance at grade level able to accommodate the handicapped in wheelchairs;

(2) 1 public toilet and lavatory;

(3) 1 toilet and lavatory accessible and usable by physically handicapped visitors;

(4) Public telephone accessible to wheelchair use; and

(5) General office for administration.

(h) General storage. A general storage room or rooms shall be provided for resident care equipment, bulk supplies and resident belongings.

(i) Outside storage. If tools, supplies, and equipment used for yard and exterior maintenance are stored at the facility, a room shall be provided which opens to the outside or which is located in a detached building.

(j) Dietary areas. Dietary areas shall be provided which are adequate to the needs of the residents and non-residents served by the facility. A facility shall provide the following elements in size and location appropriate for the food service system employed:

(1) A control area for receiving food supplies;

(2) Storage space adequate for 4 days' food supply, including cold storage;

(3) A food preparation area, which includes space and equipment for preparing, cooking, baking, and serving;

(4) A sink for vegetable preparation;

(5) Handwashing facilities in the food preparation area;

(6) Space for resident meal service, tray assembly and distribution;

(7) Warewashing facilities located to prevent contamination of food preparation and serving areas. The area shall include commercial-type dishwashing equipment. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the areas for use or storage;

(8) A 3 compartment sink for potwashing;

(9) Waste storage area in a separate room or an outside area which is readily accessible for direct pickup or disposal;

(10) Office or workspace for the dietetic service supervisor; and

(11) Toilet and lavatory accessible to the dietary staff.

(k) Laundry facilities. The facility shall provide or provide for laundry areas and equipment appropriate to the needs of residents and non-residents served by the facility as follows:

(1) On site laundry. If laundry is to be processed on the site, the following shall be provided:

(A) Laundry processing room with space for receiving, holding, and sorting soiled laundry, with equipment capable of processing 7 days' laundry needs within a regularly scheduled work week. Functional separation shall be provided between soiled and clean laundry;

(B) Space for holding soiled laundry shall be exhausted to the outside;

(C) Handwashing facilities shall be provided within the area; and

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- (D) Clean laundry holding and storage rooms.
- (2) Off site laundry. If laundry is to be processed off the site, the following shall be provided:
- (A) Soiled laundry holding room, exhausted to the outside; and
- (B) Clean laundry processing and storage rooms;
- (1) Janitors' closets. A janitors' closet shall contain a floor receptor or service sink, and storage space for janitorial equipment and supplies.
- (m) Waste processing services. Space and equipment shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-105. Physical environment; existing facilities; details and finishes standard. (a) The facility shall contain details and finishes which minimize the risk of accidents.

- (b) Details.
- (1) If rooms containing bathing facilities, toilets, or lavatories are furnished with doors having locking hardware, the doors shall be capable of being opened from the outside;
- (2) The minimum width of all doors to resident rooms shall permit passage of occupied beds. Doors to resident use areas shall be of sufficient width to permit passage of occupied wheelchairs;
- (3) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type;
- (4) A maximum of 5 percent of doors from resident bedrooms to the corridor may be "dutch door" cut for physician-prescribed-restraint of residents. A manual bolt lock shall be mounted on the corridor side of the lower section and shall be operable without a key. A positive latch shall be provided to connect both top and bottom sections to function as a single section. The joint between the 2 sections shall be equipped with a steel astragal of a minimum 12 gauge thickness;
- (5) Windows and outer doors which may be left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be provided with security screens;
- (6) Doors shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width, except doors to spaces such as small closets which are not subject to occupancy. Large walk-in closets shall be considered as occupiable spaces;
- (7) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches (46 centimeters) of the floor shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. If glazing in any area does not meet the above requirement, protective barriers or railings shall be provided. Safety glass or plastic glazing materials as described above shall be used for shower doors and bath enclosures;
- (8) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bars shall have 1½ inch (3.8 centimeters) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds (113.4 kilograms);

(9) Handrails shall be provided on both sides of corridors used by residents. A clear distance of 1½ inches (3.8 centimeters) shall be provided between the handrail and the wall. Ends of handrails and grab bars shall be returned to the wall at each termination. Handrails shall not be considered an obstruction in measuring the clear width of corridors;

(10) Paper towel dispensers or mechanical hand drying devices shall be provided at all handwashing facilities except those located in resident care areas;

(11) Suspended tracks, rails, and pipes located in the path of normal traffic shall be not less than 6 feet 8 inches (2.03 meters) above the floor; and

(12) Rooms containing heat producing equipment (such as boiler or heater rooms and laundries) shall be insulated and ventilated to prevent any floor surface above the area from exceeding a temperature of 10° F. (6° C.) above the ambient room temperature.

(c) Finishes.

(1) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be tightly sealed, and constructed without voids that can harbor insects;

(2) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects;

(3) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed; and

(4) Ceilings in the dietary, food preparation and food storage areas shall be washable and shall have a finished ceiling covering all overhead pipes and duct work. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-106. Physical environment; existing facilities; mechanical requirements standard. (a) The facility shall meet mechanical requirements which insure the safety and comfort of residents and other occupants.

(b) Thermal and acoustical insulation. Thermal or acoustical insulation shall be provided in areas and on equipment as follows:

(1) Thermal insulation shall be provided on all ducts, pipes, and equipment having outside surface temperatures below ambient dew point when in use;

(2) Insulation shall be installed on all hot water and steam condensate piping that are subject to contact by residents; and

(3) Insulation or cold surfaces shall include an exterior vapor barrier.

(c) Steam and hot water systems.

(1) Boilers shall have the capacity, based upon the net ratings. "Boiler Ratings and Efficiencies", May 1, 1981, published by the hydronics institute;

(2) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall provide for normal and standby service; and

(3) Supply and return mains of cooling, heating, and process systems shall be valved as required to isolate major sections of each system. Pieces of equipment shall be provided with isolation valves to allow re-

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removal of equipment without interfering with the operation of the remainder of the system.

(d) Heating, air-conditioning, and ventilating systems. Heating, air-conditioning, and ventilation system design conditions shall be as follows:

(1) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70° F. (21° C.) to 85° F. (29° C.) with a relative humidity range of 30 to 60 percent. The winter outside design temperature of the facility shall be -10° F. (-23° C.) dry bulb and the summer outside design temperature of the facility shall be 100° F. (38° C.) dry bulb;

(2) All central ventilation or air-conditioning systems shall be equipped with filters having a minimum efficiency of 25 percent; and

(3) Hoods over cooking ranges shall be equipped with grease filters and fire extinguishing systems.

(e) Plumbing and piping systems. Plumbing and piping systems shall meet the following requirements:

(1) Shower bases and tubs shall provide non-slip surfaces;

(2) Backflow prevention devices (vacuum breakers) shall be installed on bedpan flushing attachments and on fixtures to which hoses or tubing can be attached;

(3) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. Temperature of hot water shall range between 98° F. (36° C.) and 115° F. (46° C.) at shower, bathing, and handwashing facilities throughout the system;

(4) Hot water heating equipment shall have sufficient capacity to supply hot water at the temperatures indicated below. Water temperature shall be taken at the hot water point of use or inlet to processing equipment;

	Clinical	Dietary	Laundry
Temperature (° F.)	115 (Maximum)	140 (Minimum)	160 (Minimum)
Temperature (° C.)	46	60	71

(5) Building sewers shall discharge into a community sewerage system or a sewerage system having a permit from the department of health and environment; and

(6) If used, nonflammable medical gas system installations and storage shall be in accordance with the requirements of National Fire Protection Association (NFPA) standards 56 A and 56 F as in effect on July 1, 1981. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-107. Physical environment; existing facilities; electrical requirements standard. (a) The facility shall meet electrical requirements which insure the safety, comfort, and convenience of residents and other occupants.

(b) Lighting. Lighting in the facility shall meet the following requirements:

(1) All spaces occupied by persons, machinery, equipment with the buildings, approaches to buildings, and parking lots shall have lighting;

(2) Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident;

(3) Minimum lighting intensity levels shall be as required in Table 1;

(4) Portable lamps shall not be accepted for light source except as specifically permitted in Table 1;

(5) Corridors and stairways shall remain lighted at all times; and

(6) All lights shall be equipped with shades, globes, grids, or glass panels that prevent direct glare to the residents' eyes.

TABLE 1. ARTIFICIAL LIGHT REQUIREMENTS

Place	Light Measured in Foot Candles	Where Measured
Kitchen and other food preparation and serving areas	30	Counter level
Dining room	25	Table level
Living room and/or recreation room		
General	15	Three feet above floor
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurse's station and office		
General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Central bath and showers	30	Three feet above floor
Resident's room		
General	10	Three feet above floor
Bed	30	Mattress top level
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room		
General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(c) *Receptacles.* Resident rooms shall have at least one (1) duplex-grounding type receptacle.

(d) *Equipment installation in hydrotherapy areas.* The electrical circuit(s) to fixed or portable equipment in hydrotherapy units shall be provided with 5 milliamperere ground fault interrupters.

(d) *Nurses' calling system.* The facility shall provide a nurses' calling system which meets the following requirements:

(1) Each resident bed shall be provided with nurses' call button which shall register at the nurses' station with an audible signal and a visual signal. A visual signal also shall be located at the resident room corridor door. Visual signals shall be provided in clean workrooms, soiled workrooms, and in medicine preparation rooms;

(2) An emergency nurses' call button shall be provided in resident toilets, bath and shower rooms, and other toilet rooms accessible to residents; and

(3) Nurses' calling systems may include 2 way voice communication. When a 2 way system is used, it shall include all functions required in (1) and (2) above and shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the valve circuit is operating.

(f) *Emergency electric service.* The facility shall provide an emergency source of electrical power to operate the following:

(1) Lighting for all means of egress, exit signs, and exit directional signs;

(2) Equipment to maintain fire detection, alarm, and extinguishing systems; and

(3) If available, life support systems (this source shall be provided only by a generator set located on the premises.)

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(g) *Exterior door monitor.* All exterior doors from the building accessible to residents shall be equipped with a signal system or devices to alert personnel at the nurses' station of the operation of the exterior door. A system may be switched to permit total or selective disabling of the monitors during peak staffing periods or other special circumstances. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-108. Physical environment; new facilities and modifications. The skilled nursing home and intermediate nursing care home shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and shall meet the requirements prescribed in K.A.R. 28-39-109 to K.A.R. 28-39-113 inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-109. Physical environment; new facilities and modifications; general requirements standard. (a) The facility shall consist of at least the following units, areas, and rooms, all within a single building under 1 roof. The only allowable exception will be detached boiler and equipment room, laundry, and storage spaces for yard and maintenance equipment and supplies, and flammables.

(b) Nursing unit. A nursing unit shall contain the following units, areas, and rooms. At least 80 percent of the beds shall be located in rooms designed for 1 or 2 beds. At least 5 percent of the beds shall be located in 1-bed rooms, each equipped with private toilet and at least 2 equipped with bathing facilities.

(1) Resident room. A resident room shall meet the following requirements:

(A) Maximum room capacity shall be 4 residents;

(B) Minimum room area, exclusive of toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 100 square feet (9.29 square meters) in 1 bed rooms and 80 square feet (7.43 square meters) per bed in multi-bed rooms;

(C) A room shall have a window which can be opened without a tool. Window area shall not be less than 12 percent of gross floor area of the resident room. Interior window stool height shall not exceed 3 feet (91.4 centimeters) above the floor and shall be at least 2 feet 6 inches (76.2 centimeters) above exterior grade;

(D) Room configuration shall be adequate to permit the beds to align parallel to the exterior wall with a minimum of 3 feet (91.4 centimeters) clearance from sides and foot of the beds to the nearest obstruction. Beds shall not be located more than 2 deep from the exterior window wall;

(E) A resident room shall have access to a toilet room without entering a general corridor area. A toilet room shall not serve more than 4 beds. A toilet room shall contain a water closet and a lavatory, unless a lavatory is provided in each resident room. The minimum dimensions of a toilet room serving a resident room shall be 5 feet (1.52 meters) by 6 feet (1.83 meters);

(F) An individual space in a fixed closet or wardrobe with doors shall be provided for each bed. Closets shall have, for each bed, minimum floor area of 5 square feet (46.45 square centimeters), minimum depth of 1 foot 10 inches (55.9 centimeters) and separated shelf and hanging rod of not less than 2 feet 6 inches (76.2 centimeters). At least 1 foot 3 inches (38.1 centi-

meters) of the hanging rod shall have sufficient clearance for full length garments;

(G) Full visual privacy shall be provided for each resident in multi-bed rooms with cubicle curtains suspended on a ceiling mounted track or on a wall mounted telescoping device. Curtain material shall be launderable and shall be flame retardant; and

(H) A resident room shall not be located more than 150 feet (45.72 meters) from any 1 of the service areas or rooms required by K.A.R. 28-39-109(b)(2). Distance shall be measured from 1 foot (30.48 centimeters) outside resident room door along the shortest line in the general corridor within 1 foot (30.48 centimeters) of the door to each service area or the nurses' station.

(2) Service areas and rooms. The service areas and rooms required below shall be located in each nursing unit. Service areas or rooms shall have doors opening from the general corridor allowing direct access without passage through an intervening use area, except medication preparation rooms.

(A) A nurses' station shall be provided with space for nurses' charting and physicians' charting, a work counter, desk, telephone, and nurses' call system signal register. The nurses' station shall be located so that the corridors outside the doors of resident rooms are visible from that location. A nurses' station shall serve not more than 60 beds.

(B) A medicine preparation room shall be provided, with work counter, lavatory or countertop sink, refrigerator, and shelf space for separate storage and maintenance of residents' medications. The door to the medication preparation room shall be visible from the nurses' station and shall be equipped with locking hardware. A separate, locked compartment shall be provided within the room for controlled drug and narcotic storage. A medicine preparation room shall serve not more than 60 beds, except in facilities using a unit dose or similar system.

(C) A clean workroom shall be provided for preparation, handling, storage, and distribution of clean or sterile materials and supplies. The room shall contain a work counter with sink or separate handwashing lavatory and adequate shelving and cabinets for storage. A sterilizer shall be provided unless sterile disposables are used or unless a contractual agreement exists between the facility and another licensed medical facility for sterilization services. One sterilizer may serve more than 1 nursing unit. Food or beverage storage or preparation shall not be permitted in the clean workroom. Clean linen supplies may be stored in this room if sufficient shelving, cabinets, or cart parking space is provided. Minimum room area shall be 80 square feet (7.43 square meters), with a minimum length or width of 6 feet (1.83 meters). Additional rooms for the storage of clean materials or supplies may be provided. These additional rooms shall not be required to have a counter or handwashing facilities.

(D) A soiled workroom shall be provided for disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils. The soiled workroom shall contain a flushing rim clinic sink with bedpan rinsing device, a work counter, a 2 compartment sink, a storage cabinet with lock for sanitizing solutions and cleaning supplies, a waste receptacle, and a soiled linen receptacle. Minimum room

(continued)

area shall be 80 square feet (7.43 square meters) with a minimum length or width of 6 feet (1.83 meters). Clean supplies and material shall not be stored in the soiled workroom.

(E) Clean linen storage shall be provided, with adequate shelving, cabinets or cart space, and may be located in the room required by the provisions of subsection (b)(2)(C) of this rule and regulation.

(F) A nourishment area shall be provided, and shall contain a sink equipped for handwashing, equipment for serving nourishments between scheduled meals, and a refrigerator and storage cabinets. Ice shall be provided for resident service and handled in a sanitary manner to prevent contamination. If ice is physically accessible to the residents, it shall be provided only by dispenser units. The nourishment area function may be provided by a station adjacent to the dietetic service area. One nourishment area may serve more than 1 nursing unit.

(G) An equipment storage room shall be provided for the storage of equipment, such as intravenous stands, inhalators, air mattresses, walkers, and other resident care equipment for intermittent use. This room shall have a minimum space of 120 square feet (1.86 square meters) plus 1 square foot (929 square centimeters) for each resident bed in the nursing unit.

(H) Wheelchair parking space shall be provided within the nursing unit and shall be out of the path of normal traffic. This space shall not be included in determining the minimum required corridor width.

(I) Resident bathing facilities shall be provided at the rate of 1 for each 15 beds which are not otherwise served by bathing facilities within resident rooms. Bathing facilities shall include showers, tubs, or approved mechanical bathing systems. At least 1 tub and 1 shower shall be provided in each nursing unit. Bathing facilities shall be located in room or areas with access to a water closet and handwashing lavatory without entering the general corridor system. The water closet and lavatory shall be accessible to and usable by the physically handicapped and may serve handicapped visitors. Each bath or toilet shall be located within a visually enclosed area for privacy in use. Bathing facilities shall be located within enclosures which provide privacy of use of the fixtures, for drying, and for dressing with an attendant and wheelchair. Showers within central bathing facilities shall be at least 4 feet (1.22 meters) by 4 feet, without curbs, and designed to permit use by a wheelchair resident. A cabinet shall be provided in the bathing facility for storage of supplies.

(J) A training toilet shall be provided for toilet training, which is accessible from the nursing unit corridor. Clearance of 3 feet (91 centimeters) from the front and both sides of the water closet shall be provided. The room in which the training toilet is located shall contain a lavatory. The training toilet function may be provided by a toilet located in a central bathing room if required clearances exist.

(K) A janitor's closet shall be provided, with floor receptor or service sink, hot and cold water, shelf and mop-hanging provision.

(L) Drinking fountains accessible to the handicapped.

(M) Nurses' toilet room with water closet and lavatory.

(c) Living, dining, and recreation areas.

(1) Space for living, dining, and recreation areas shall be provided at a rate of 27 square feet (2.51 square meters) per resident. At least 14 square feet (1.3 square meters) of this space shall be utilized for dining area.

(2) Window area shall be provided for living and dining areas at a minimum of 12 percent of gross floor area of the living and dining area. Window sill height shall not exceed 3 feet (91.4 centimeters) above the floor for at least 1 half of the total window area.

(d) Quiet room. A quiet room, with a minimum floor area of 80 square feet (7.43 square meters), shall be provided for each facility, unless all rooms in the facility are 1 bed rooms. Residents shall have access to the quiet room for reading, meditation, solitude, or privacy with family or other residents.

(e) Examination room. An examination room shall be provided unless all resident rooms are 1 bed rooms. One examination room may serve more than 1 nursing unit. Room area shall be a minimum of 120 square feet (11.15 square meters) with a minimum length and width of 10 feet (3.05 meters). The room shall contain a lavatory or counter and sink equipped for handwashing, an examination table, and a desk or shelf for writing. The examination room function may be served in the physical therapy room by provision of cubicle curtains around the space and facilities listed above.

(f) Physical therapy room. A room for the administration and implementation of a physical therapy program shall be provided in each facility. One physical therapy room may serve more than 1 nursing unit. Provision shall be made for a handwashing lavatory and enclosed storage area for therapeutic devices. The physical therapy room shall be a minimum of 200 square feet (19 square meters) for facilities of 60 beds or less. Facilities over 60 beds shall provide 200 square feet plus 2 square feet for each additional bed over 60 to a maximum of 655 square feet.

(g) Activities room. An activities room shall be provided for crafts and occupational therapy. One activities room may serve more than 1 nursing unit. The room shall be provided with a work counter with sink equipped for handwashing, and with storage cabinet area for supplies and projects. The activities room shall be a minimum of 200 square feet (19 square meters) for facilities of 60 beds or less. Facilities over 60 beds shall provide 200 square feet plus 2 square feet for each additional bed over 60.

(h) Personal care room or beauty shop. A separate room shall be provided for hair care and grooming of residents. Size of the room shall be appropriate to the number of residents served and with schedule limitations of services. At least 1 shampoo sink, space for 1 hair dryer, and work space shall be provided. Room air shall be exhausted to the outside.

(i) Administration and public areas. The facility shall provide the following administration and public areas:

(1) Entrance at grade level, sheltered from the weather and able to accommodate the handicapped in wheelchairs;

(2) Lobby with communication to reception area, information desk, or similar provision;

(3) At least 1 public toilet shall be provided for facilities of 60 beds or less. Facilities of more than 60 beds shall provide 1 female and 1 male public toilet;

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- (4) Public telephone accessible to wheelchair use;
- (5) General office for business transactions, resident records, and facility records;
- (6) Administrator's office; and
- (7) Storage for supplies and office equipment.
- (j) General storage. General storage room or rooms shall be provided with not less than 5 square feet (9.29 square centimeters) per bed. Storage shall be concentrated generally in 1 area.
- (k) Outside storage. A room shall be provided, which opens to the outside or which is located in a detached building, for storage of tools, supplies, and equipment used for yard and exterior maintenance.
- (l) Dietary service area. Dietary service areas shall be provided which are adequate to the needs of the size of the facility. New construction, equipment, and installation shall comply with the standards specified in health, education and welfare (HEW) publication No. FDA 78-2081, "Food Service Sanitation Manual." Food service facilities shall be designed and equipped to meet the requirements of the narrative program. The program may consist of a conventional food preparation system, a convenience food service system, or an appropriate combination of the 2. A facility shall provide the following elements in a size appropriate to the implementation of the type of food service system employed:
 - (1) Control station for receiving food supplies;
 - (2) Storage space adequate for 4 days' supply, including cold storage;
 - (3) Food preparation facilities as required by the program. Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving. Convenience food service systems, such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services, shall include space and equipment for thawing, portioning, cooking, and baking;
 - (4) 2 compartment sink for vegetable preparation;
 - (5) Handwashing facilities in the food preparation area;
 - (6) Space for resident meal service, tray assembly, and distribution;
 - (7) Dining area for residents, including those in wheelchairs, staff, and visitors;
 - (8) Warewashing area apart from, and located to prevent contamination of, food preparation and serving areas. The area shall include commercial-type dishwashing equipment. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available;
 - (9) A 3 compartment deep sink for potwashing;
 - (10) Sanitizing provision for cans, carts, and mobile tray conveyors;
 - (11) Waste storage area in a separate room or an outside area which is readily accessible for direct pickup or disposal;
 - (12) Office or suitable workspace for the dietitian or the dietetic service supervisor;
 - (13) Toilet and lavatory accessible to the dietary staff; and
 - (14) Janitor's closet located within the dietary department, which shall contain a floor receptor or ser-

vice sink, and storage space for housekeeping equipment and supplies.

(m) Laundry facilities. The facility shall provide laundry areas and equipment appropriate to the needs of the residents and non-residents served by the facility as follows:

(1) On site laundry. If laundry is to be processed on the site, the following shall be provided:

(A) Laundry rooms shall not open onto the nursing unit;

(B) Soiled laundry receiving, holding, and sorting room accessible from the corridor or from the outside and furnished with containers with tight fitting lids for soiled laundry;

(C) Laundry processing room with commercial-type equipment with the capability to process laundry sufficient to meet the residents' needs at all times. Hand-washing equipment shall be provided in the processing area. Physical separation shall be provided between the processing room, soiled, and clean laundry room;

(D) Storage for laundry supplies;

(E) Clean laundry handling, storage, issuing, mending, and holding room with egress which does not require passing through the processing or soiled laundry room; and

(F) Janitor's closet containing a floor receptor or service sink, and storage space for housekeeping equipment and supplies within the laundry area.

(G) Exhaust ventilation shall conform to K.A.R. 28-39-112(e), Table C.

(2) Off site laundry. If laundry is to be processed off the site, the following shall be provided:

(A) Soiled laundry holding room and containers with tight fitting lids for soiled laundry; and

(B) Clean laundry receiving, holding, inspection, and storage room.

(n) Employees' service areas. In addition to employees' service areas, such as locker rooms, lounges, toilets, or showers called for in certain departments, a sufficient number of these areas and services shall be provided to accommodate the needs of all personnel and volunteers.

(o) Janitors' closets. In addition to the janitors' closets required in certain departments, sufficient janitors' closets shall be provided throughout the facility to maintain a clean and sanitary environment. A janitors' closet shall contain a floor receptor or service sink, and storage space for housekeeping equipment and supplies.

(p) Engineering service and equipment areas. The facility shall be equipped with the following areas:

(1) Equipment room or separate building for boilers, mechanical equipment, and electrical equipment;

(2) Maintenance shop; and

(3) Storage room for building maintenance supplies. The storage room may be a part of the maintenance shop in facilities of 120 beds or less.

(q) Waste processing services. Space and equipment shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques.

(r) Site requirements. The location and development of a site upon which a facility is to be constructed, or

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an existing facility expanded, or an existing building converted for use as an adult care home shall meet the following physical requirements:

(1) Site location. The general location of the site shall be:

(A) Served by all-weather roads or streets;

(B) Accessible to physician services, fire, and other emergency services, medical facilities, churches, and population centers where employees can be recruited and retained;

(C) Sufficiently remote from noise sources which would cause maximum day/night average sound level to exceed 65 decibels. The average day/night sound level is the A-weighted energy equivalent sound level for a 24 hour period with an additional 10 decibel weighting imposed on the equivalent sound level occurring during the night-time hours of the following day (10:00 p.m. to 7:00 a.m.). The term decibel is a unit for measuring the volume of a sound equal to 20 times the logarithm to the base 10 of the ratio of the pressure of sound measured to the reference pressure which is 20 micropascals. Fast time averaging and A-measurements shall be made 4 feet 11 inches (1.5 meters) above ground level at a site location, 6 feet 7 inches (2 meters) from the exterior wall of the existing or proposed building, on that side nearest the predominant noise source. Where the proposed building location is unknown, measurements shall be made at a point 6 feet 7 inches (2 meters) beyond the building setback line in the direction of the predominant noise source. Noise measurements submitted for review shall have been performed at the site within 180 days immediately before the date of application for site approval. Consideration shall be given to the presence of time varying or seasonal noise sources during the selection of measurement periods so as to provide an accurate assessment of the noise environment of the site. The 24 hour measurement periods shall be selected to be representative of the maximum noise source activities likely to be encountered during any weekly period;

(D) Free from noxious or hazardous fumes;

(E) A minimum of 3,000 feet (914 meters) from concentrated livestock operations, such as feedlots, shipping areas, or holding pens;

(F) Free of flooding for a 20 year period; and

(G) Sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, recreational area, and community zoning restrictions.

(2) Site development. Development of the site shall conform to the following:

(A) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas;

(B) Off-street parking shall be provided at a rate of 6 parking spaces for the first 3,000 square feet (279 square meters) of gross floor area of the facility, plus 1 additional parking space for each additional 1,000 square feet (93 square meters) of gross floor area of the facility. Parking spaces, sized and signed as reserved for the physically handicapped, conforming to American National Standards Institute (ANSI) A117.1, Section 4.2, as in effect July 1, 1981, shall be provided at the rate of 1 parking space for each 50 beds of capacity or fraction of it;

(C) All drives and parking areas shall be surfaced with concrete, asphalt, or equivalent, smooth all-

weather finish. Unsealed gravel surfaces shall not be used; and

(D) Except for lawn or shrubbery which may be used in landscape screening, an unencumbered outdoor area of at least 50 square feet (4.65 square meters) per bed shall be provided for recreational use and shall be so designated on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar provisions for facilities located in high density urban areas. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-110. Physical environment; new facilities and modifications; details and finishes standard. (a) The facility shall provide a high degree of safety for the occupants, and shall contain details and finishes which minimize the incidence of accidents.

(b) Details.

(1) All rooms containing bathtubs, sitz baths, showers, and water closets, subject to occupancy by residents, shall be equipped with doors and hardware which will permit access from outside the room in any emergency. The doors to all rooms shall be capable of opening outward or be designed to allow ingress to the room without the need to push against a resident who may have collapsed in the room.

(2) The minimum width of all doors to rooms needing access for beds or stretchers shall be 3 feet 8 inches (111.7 centimeters). Doors to resident toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of 3 feet (91.4 centimeters).

(3) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type.

(4) A maximum of 5 percent of doors from resident bedrooms to the corridor may be "dutch door" cut for physician-prescribed control of disoriented residents. The doors shall have the joint or meeting rails located between 4 feet 8 inches (1.4 meters) and 5 feet (1.52 meters) above the floor. A manual bolt lock shall be mounted on the corridor side of the lower leaf, 8 inches (20.3 centimeters) above the floor, and shall be readily operable without a key. A positive latch shall be provided to connect both top and bottom leaves to function as a single leaf. The joint between the 2 sections shall be equipped with a steel astragal of a minimum 12 gauge thickness, to prevent smoke and fire penetration.

(5) The minimum clear width of corridors in all resident use areas shall be 8 feet (2.44 meters). The minimum clear width of corridors in service use areas shall be 6 feet (1.82 meters).

(6) Windows and outer doors which may be left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be provided with security screens.

(7) Doors shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width, except doors to spaces such as small closets which are not subject to occupancy. Large walk-in closets shall be considered as occupiable spaces.

(8) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches (46 centimeters) of the floor, thereby creating the possibility of accidental breakage by pedestrian traffic, shall be

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glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless required otherwise for fire safety. Safety glass or plastic glazing materials as described above shall be used for shower doors and bath enclosures.

(9) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bars shall have 1½ inch (3.8 centimeters) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds (113.4 kilograms).

(10) Recessed soap dishes shall be provided in showers and bathrooms.

(11) Handrails shall be provided on both sides of corridors used by residents. A clear distance of 1½ inches (3.8 centimeters) shall be provided between the handrail and the wall. Ends of handrails and grab bars shall be returned to the wall at each termination. Handrails shall not be considered an obstruction in measuring the clear width of corridors.

(12) Paper towel dispensers or mechanical hand drying devices shall be provided at all handwashing fixtures except those located in resident care areas.

(13) Ceiling heights shall be as follows:

(A) Boiler rooms shall have ceiling clearances not less than 2 feet 6 inches (76 centimeters) above the main boiler header and connecting piping;

(B) Rooms containing ceiling-mounted equipment shall be of sufficient height to accommodate the proper functioning, repair, and servicing of the equipment; and

(C) All other rooms shall have a ceiling height of not less than 8 feet (2.44 meters), except that corridors, storage rooms, toilet rooms, and other minor rooms may not be less than 7 feet 8 inches (2.34 meters) in height. Suspended tracks, rails, and pipes located in the path of normal traffic shall be not less than 6 feet 8 inches (2.03 meters) above the floor.

(14) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed areas, unless special provisions are made to minimize these noises.

(15) Rooms containing heat producing equipment (such as boiler or heater rooms and laundries) shall be insulated and ventilated to prevent any floor surface above the area from exceeding a temperature of 10° F. (6° C.) above the ambient room temperature.

(16) Noise reduction criteria for partitions, floors, and ceiling construction in resident areas shall meet the requirements as prescribed in "Minimum Requirements of Construction and Equipment For Hospitals and Medical Facilities" published by United States Department of Health, Education and Welfare, Publication No. (HRA) 79-14500, Section 8.16, Table 6, as in effect on July 1, 1981:

(c) Finishes.

(1) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water resistant and grease proof. Joints in tile and similar material in food areas shall be resistant to food acids. In all areas subject to frequent wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solu-

tions. Floors that are subject to traffic while wet (such as showers and bath areas, kitchens, and similar work areas) shall have a non-slip surface.

(2) Wall bases in kitchens, soiled workrooms, and other areas which are subject to frequent wet cleaning methods shall be made integral and coved with the floor, tightly sealed, and constructed without voids that can harbor insects.

(3) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(4) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(5) Ceilings shall be easily cleanable. Ceilings in the dietary, food preparation and food storage areas shall be washable and shall have a finished ceiling covering all overhead pipes and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces unless required for fire protection purposes.

(6) Acoustical ceilings shall be provided for corridors in resident areas, nurses' stations, day room, recreation rooms, dining areas, and waiting areas. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-111. Physical environment; new facilities and modifications; construction requirements standard. (a) The facility shall be constructed in such a way as to insure the safety and comfort of residents and other occupants.

(b) Codes and standards. Nothing stated here shall relieve the facility from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions. Where these codes, ordinances, and regulations are not in effect, the owner shall consult one of the national building codes generally used in the area for all components of the building type which are not specifically covered by these minimum requirements, provided that the requirements of the national code are consistent with the minimum requirements set forth here as determined by the licensing agency. New construction, modifications, and equipment shall conform with the following codes and standards:

(1) American National Standards Institute specifications for making buildings and facilities accessible to and usable by physically handicapped people (ANSI) A117.1, 1980 edition, published by: American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018; and

(2) "Food Service Sanitation Manual," health, education and welfare (HEW) publication No. FDA 78-2081, as in effect on July 1, 1981, published by: Superintendent of Documents, U.S. government printing office, Washington, D.C. 20402.

(c) Interior finishes. Interior finish materials shall comply with the flame-spread limitations and the smoke production limitations prescribed by the National Fire Protection Association (NFPA) No. 101, "Life Safety Code," 1973 edition. If a separate under-

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layment is used with any floor finish materials, the underlayment and the finish material shall be tested as a unit or equivalent provisions shall be made to determine the effect of the underlayment on the flammability characteristics of the floor finish material.

(d) Insulation materials. Building insulation materials, unless sealed on all sides and edges, shall have a maximum flame spread rating as prescribed by the National Fire Protection Association (NFPA) No. 101, "Life Safety Code" 1973 Edition.

(e) Freestanding buildings. Separate freestanding buildings housing the boiler plant, laundry, shops, or general storage may be of unprotected non-combustible construction, protected non-combustible construction, or fire-resistive construction.

(f) Elevators. Buildings which have residents' services (such as bedrooms, dining rooms, or recreation areas) or critical or treatment services (such as diagnostic or therapy) located on other than the main entrance floor shall have electric or electrohydraulic elevators as prescribed below:

(1) The number of elevators shall be determined as follows:

(A) At least 1 hospital-type elevator shall be installed where 1 to 60 resident beds are located on any floor other than the main entrance floor;

(B) At least 2 elevators (1 of which shall be hospital-type) shall be installed where 61 to 200 resident beds are located on floors other than the main entrance floor or where the major inpatient services are located on a floor other than those containing resident beds. Elevator service may be reduced for those floors which provide only partial resident services;

(C) At least 3 elevators (1 of which shall be hospital-type) shall be installed where 201 to 350 resident beds are located on floors other than the main entrance floor or where the major resident services are located on a floor other than those containing resident beds. Elevator service may be reduced for those floors which provide only partial resident services; and

(D) For facilities with more than 350 resident beds, the number of elevators shall be determined by the licensing agency from a study of the facility plan and the estimated vertical transportation requirements.

(2) Cars of hospital-type elevators shall have inside dimensions that will accommodate a resident bed and 2 attendants and shall be at least 5 feet (1.52 meters) wide by 7 feet 6 inches (2.29 meters) deep. The car door shall have a clear opening of not less than 3 feet 8 inches (1.12 meters);

(3) Elevators shall be equipped with an automatic leveling device of the 2 way automatic maintaining type with an accuracy of $\frac{1}{2}$ inch (1.3 centimeters);

(4) Elevators, except freight elevators, shall be equipped with a 2 way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor;

(5) Elevator controls, alarm buttons, and telephones shall be accessible to wheelchair occupants;

(6) Elevator call buttons, controls, and door safety stops shall be of a type that will not be activated by heat or smoke; and

(7) Inspections and tests shall be made and the owner shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

(g) Architectural responsibility. All construction, including new work, addition, alteration, or remodeling which costs in excess of \$10,000 or involves primary structural elements of cost, shall be executed with construction documents and inspection of the work under the immediate supervision of a registered architect currently licensed to practice in the state of Kansas. All project documents including design development drawings, working drawings, specifications, and certificate of completion in accordance with the construction documents, shall bear the official seal or stamp of the responsible architect. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-112. Physical environment; new facilities and modifications; mechanical requirements standard. (a) The facility shall meet mechanical requirements which insure the safety, comfort, and convenience of residents and other occupants.

(b) Testing and documentation. Before completion and acceptance of the facility, all mechanical systems shall be tested, balanced, and operated to demonstrate to the owner or his representative that the installation and performance of the systems conform to the requirements of the plans and specifications. Upon completion of the contract, the owner shall be furnished with a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions, parts list with numbers, and description for each piece of equipment. The owner shall be provided with instructions in the use of systems and equipment.

(c) Thermal and acoustical insulation. Thermal or acoustical insulation shall be provided in areas and on equipment as follows:

(1) Thermal insulation shall be provided for the following within the building:

(A) Boilers, smoke breeching, and stacks;

(B) Steam supply and condensate return piping;

(C) Hot water piping 120° F. (49° C.) or above and all hot water heaters, generators, and converters;

(D) Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

(E) Water supply and drainage piping on which condensation may occur; and

(F) Air ducts and casings with outside surface temperatures below ambient dew point.

(2) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents.

(3) Insulation or cold surfaces shall include an exterior vapor barrier;

(4) Insulation, including finishes and adhesives on the exterior and interior surfaces of ducts and on pipes and equipment, shall have a maximum flame-spread rating as prescribed by the National Fire Protection Association (NFPA) No. 101, "Life Safety Code" 1973 Edition; and

(5) Linings in air ducts and equipment shall meet erosion test methods prescribed in underwriters' laboratories publication No. 181 "Factory Made Air Duct Material and Air Duct Connectors".

(d) Steam and hot water systems.

(1) Boilers shall have the capacity to supply the normal requirements of all systems and equipment based upon the net ratings, "Boiler Ratings and Effi-

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ciencies," May 1, 1981, published by the hydronics institute.

(2) The number and arrangement of boilers shall be such that when 1 boiler breaks down or routine maintenance requires that 1 boiler be temporarily taken out of service, the capacity of the remaining boiler or boilers shall be at least 70 percent of the total required capacity, except that in areas with a design temperature of 20° F. (-7° C.) or more, the remaining boiler or boilers shall not be required to include boiler capacity for space heating;

(3) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service; and

(4) Supply and return mains of cooling, heating, and process systems shall be valved as required to isolate major sections of each system. Pieces of equipment shall be provided with isolation valves to allow removal of equipment without interfering with the operation of the remainder of the system.

(e) Heating, air-conditioning, and ventilation system design conditions shall be as follows:

(1) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70° F. (21° C.) to 85° F. (29° C.) with a relative humidity range of 30 to 60 percent. The winter outside design temperature of the facility shall be -10° F. (-23° C.) dry bulb and the summer outside design temperature of the facility shall be 100° F. (38° C.) dry bulb; and

(2) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table C shall be the minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates. The system shall meet the following requirements:

(A) Outdoor air intakes shall be located as far as practical and not less than 25 feet (7.62 meters), from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular exhaust or other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical, and not less than 6 feet (1.83 meters) above ground level, or if installed above the roof, not less than 3 feet (91 centimeters) above roof level;

(B) The ventilation system shall be designed to provide the pressure relationship shown in Table C;

(C) The bottoms of ventilation openings shall not be less than 3 inches (7.6 centimeters) above the floor of any room;

(D) Corridors shall not be used to supply air to, or exhaust air from, any room except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets and small electrical or telephone closets opening directly on corridors;

(E) All central ventilation or air-conditioning systems shall be equipped with filters having minimum

efficiencies of 25 percent. All filter efficiencies shall be average dust spot efficiencies tested in accordance with "American Society Of Heating, Refrigerating, And Air-conditioning Engineers", (ASHRAE), standard 52-76, as in effect on July 1, 1981. Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

(F) Air handling duct systems shall meet the requirements of National Fire Protection Association (NFPA) standard 90 A, as in effect on September 1, 1981. Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of National Fire Protection Association (NFPA) standard 90 A, as in effect on September 1, 1981, except that all systems, regardless of size, which serve more than 1 smoke or fire zone, shall be equipped with smoke detectors which shut down fans automatically as delineated in paragraph 1003 of that standard. Access for maintenance shall be provided at all dampers. Supply and exhaust ducts which pass through a required smoke barrier and through which smoke can be transferred to another area shall be provided with dampers at the barrier, controlled to close automatically to prevent flow of air or smoke in either direction when the fan which moves the air through the duct stops. Dampers shall be equipped with remote control reset devices except that manual reopening shall be permitted if dampers are conveniently located;

(G) A return air duct which passes through a required smoke barrier shall be provided with a damper at the barrier which is actuated by a detector of smoke or products of combustion other than heat. The damper shall also be operated by detectors used to actuate door closing devices in the smoke partition or by detectors located to sense smoke in the return air duct from the smoke zone;

(H) Exhaust hoods in food preparation areas shall have a minimum exhaust rate of 50 cfm per square foot (.025 cubic meters per second per square meter) of face area. Face area shall be the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces. Hoods over cooking ranges shall be equipped with grease filters and fire extinguishing systems. Clean-out openings shall be provided every 20 feet (6.10 meters) or less in horizontal exhaust duct systems serving these hoods;

(I) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to not more than 97° F. (36° C.) effective temperature (E.T.); and

(J) Air handling units shall be located to permit access for service and filter maintenance. Mechanically operated air handling units shall not be located in attics, interstitial space above ceilings, or other difficult access areas. Motor or fan devices shall not be installed in attic spaces.

(continued)

TABLE C. PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN AREAS
LONG-TERM CARE FACILITIES

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Resident Room	Equal	2	2	Optional	Optional
Resident Area Corridor	Equal	Optional	2	Optional	Optional
Examination and Treatment Room	Equal	2	6	Optional	Optional
Physical Therapy	Negative	2	6	Optional	Optional
Activities Room	Negative	2	6	Optional	Optional
Soiled Workroom	Negative	2	10	Yes	No
Medicine Preparation and Clean Workroom	Positive	2	4	Optional	Optional
Toilet Room	Negative	Optional	10	Yes	No
Bathroom	Negative	Optional	10	Yes	No
Janitors' Closets	Negative	Optional	10	Yes	No
Linen and Trash Chute Rooms	Negative	Optional	10	Yes	No
Food Preparation Center	Equal	2	10	Yes	No
Warewashing Room	Negative	Optional	10	Yes	No
Dietary Dry Storage	Equal	Optional	2	Yes	No
Laundry, Processing Room	Equal	2	10	Yes	No
Soiled Linen Sorting and Storage	Negative	Optional	10	Yes	No
Clean Linen Storage	Positive	Optional	2	Optional	Optional
Personal Care Room	Negative	2	6	Yes	No

(f) Plumbing and piping systems shall meet the following requirements:

(1) The material used for plumbing fixtures shall be of nonabsorptive, acid-resistant material;

(2) The water supply spout for lavatories and sinks required in resident care areas shall be mounted so that the discharge point is a minimum distance of 5 inches (12.7 centimeters) above the rim of the fixture. Fixtures used by medical and nursing staff shall be trimmed with valves which can be operated without the use of hands. Where blade handles are used, the blades shall not exceed 6 inches (15.2 centimeters) on clinical sinks and 4½ inches (11.4 centimeters) in all other areas;

(3) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface;

(4) Shower bases and tubs shall provide non-slip surfaces; and

(5) Water supply systems shall meet the following requirements:

(A) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods;

(B) Water service mains, branch mains, risers, and branches to groups of fixtures shall be valved. Stop valves shall be provided at fixtures;

(C) Backflow prevention devices (vacuum breakers) shall be installed on hose bibbs, janitors' sinks, bedpan flushing attachments, and on fixtures to which hoses or tubing can be attached;

(D) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers; and

(E) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. Maximum variation of 95°F. (35°C.) to 115°F. (46°C.) is acceptable at shower, bathing, and handwashing facilities in resident use areas.

(6) Hot water heating equipment shall have sufficient capacity to supply hot water at the temperatures

and amounts indicated below. Water temperature shall be taken at the hot water point of use or inlet to processing equipment;

	Clinical	Dietary	Laundry
Gallons per hour per bed	6.5	4	4.5
Temperature (°F.)	115 (Maximum)	140 (Minimum)	160 (Minimum)
Temperature (°C.)	46	60	71

(7) Building sewers shall discharge into a community sewerage system or a sewerage system having a permit from the department of health and environment; and

(8) If used, nonflammable medical gas system installations and storage shall be in accordance with the requirements of National Fire Protection Association (NFPA) standards 56 A and 56 F, as in effect on July 1, 1981. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-113. Physical environment; new facilities and modifications; electrical requirements standard.

(a) The facility shall meet electrical requirements which insure the safety, comfort, and convenience of residents and other occupants.

(b) *Materials.* All materials including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the characteristics and capacity to supply the electrical equipment shown in the specifications or indicated on the plans. All materials shall be listed as complying with available standards of underwriters' laboratories, inc., or other similarly established standards.

(c) *Switchboards and power panels.* Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure. Switchboards, power panels, safety switches, panelboards, and other electrical distribution equipment shall be located in spaces accessible only to

(continued)

authorized persons or shall have locking fronts. Switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions.

(d) *Panelboards.* Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.

(e) *Lighting.*

(1) All spaces occupied by persons, machinery, equipment within the buildings, approaches to buildings, and parking lots shall have lighting.

(2) Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident. At least 1 light fixture for night lighting shall be switched at the entrance to the residents' room. All switches for control of lighting in resident areas shall be of the quiet operating type.

(3) Minimum lighting intensity levels shall be as required in Table D.

(4) Portable lamps shall not be accepted for light source except as specifically permitted in Table D.

(5) Corridors and stairways shall remain lighted at all times.

(6) All lights shall be equipped with shades, globes, grids, or glass panels that prevent direct glare to the residents' eyes.

TABLE D. ARTIFICIAL LIGHT REQUIREMENTS

Place	Light Measured in Foot Candles	Where Measured
Kitchen and other food preparation and serving areas	30	Counter level
Dining room	25	Table level
Living room and/or recreation room	15	Three feet above floor
General		
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurse's station and office	20	Three feet above floor
General		
Desk and charts		
Clean workroom	30	Counter level
Central bath and showers	30	Three feet above floor
Resident's room	10	Three feet above floor
General		
Bed	30	Mattress top level
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room	5	Three feet above floor
General		
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(f) *Receptacles.*

(1) Each resident room, at a minimum, shall have duplex-grounding type receptacles (convenience outlets) as follows: 1 receptacle at each side of the head of each bed, 1 receptacle for television, and 1 receptacle on another wall.

(2) Duplex receptacles for general use shall be installed approximately 50 feet (15.24 meters) apart in all

corridors and a maximum of 25 feet (7.62 meters) from the ends of corridors.

(g) *Equipment installation in hydrotherapy areas.* The electrical circuit(s) to fixed or portable equipment in hydrotherapy units shall be provided with 5 milliamperes ground fault interrupters.

(h) *Nurses' calling system.*

(1) Each resident bed shall be provided with nurses' call button which shall register at the nurses' station with a common audible signal and a visual signal indicating the resident room number. A visual signal shall be located at the resident room corridor door. Visual and audible signals shall be provided in clean and soiled workrooms and in the medicine preparation room. In multi-corridor units, additional visible signals shall be installed at corridor intersections.

(2) A nurses' call emergency button shall be installed next to each toilet, shower, and bathtub used by and accessible to the residents. The system shall be of the type operated by a cord pull which, when activated, turns on a red lamp over the door at the site of the emergency and a white, rapidly flashing light, and a repeating audible signal at the nurses' station, in clean workrooms, soiled workrooms, and in medication preparation rooms. The signal produced shall be obviously different from that produced by the nurses' regular call. The system continues to operate until it is manually reset at the site of origin by a nurse who answers the call.

(3) Nurses' calling systems may include 2 way voice communication. When a 2 way system is used, it shall include all functions required in 1 and 2 above and shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the value circuit is operating.

(i) *Emergency electric service.*

(1) An emergency source of electricity shall be provided and connected to certain circuits for lighting and power, to provide electricity during interruption of the normal electric supply.

(2) The source of the emergency electric service shall be 1 or both of the following:

(A) An emergency generator set, when normal service is supplied by 1 or more central station transmission lines; or

(b) Battery supplies within the limitation of National Fire Protection Association (NFPA) No. 101, "Life Safety Code," 1973 edition.

(3) Emergency electric service shall be provided to the distribution systems of the following:

(A) Illumination for means of egress as required in National Fire Protection Association (NFPA) No. 101, "Life Safety Code", 1973 Edition;

(B) Illumination for exit signs and exit directional signs as required in National Fire Protection Association (NFPA) No. 101, "Life Safety Code," 1973 Edition;

(C) Nurses' calling system;

(D) Equipment necessary for maintaining telephone service;

(E) Elevator service capable of reaching all resident floors when resident rooms are located on other than the ground floor. Throwover capability shall be provided to allow temporary operation of elevators for release of persons trapped between floors;

(continued)

- (F) Fire pump, if installed;
 - (G) General illumination and selected receptacles in the vicinity of the generator set;
 - (H) Paging or speaker systems if intended for communication during emergency;
 - (I) Alarm systems including fire alarms activated at manual stations, water flow alarm devices or sprinkler system if electrically operated, fire and smoke detecting systems, and alarms required for nonflammable medical gas systems if installed; and
 - (J) Equipment for heating resident rooms, except where the facility is served by 2 or more electrical services supplied from separate generators or a utility distribution network having multiple power input sources and arranges to provide mechanical and electrical separations that a fault between the facility and the generating sources will not likely cause an interruption of its service feeders.
- (4) Emergency lighting shall be in operation within 10 seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be delayed automatic or manually connected. Receptacles connected to emergency power shall be distinctly marked. Fuel storage for the generating unit shall be provided unless the unit is operated by fuel which is normally piped underground to the site from a utility distribution system.

(j) *Exterior door monitor.* All exterior doors from the building accessible to residents shall be equipped with a signal system or devices to alert personnel at the nurses' station of the operation of the exterior door. A system may be switched to permit total or selective disabling of the monitors during peak staffing periods or other special circumstances. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-114. Administration. The personal care home shall be operated in a manner to ensure the delivery of all required administrative services including those prescribed in K.A.R. 28-39-115 to K.A.R. 28-39-116 inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-115. Administration; management standard. (a) The licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) Policies and procedures. The licensee shall adopt and enforce written policies and procedures relative to:

- (1) The health care, safety, psychosocial, and self-esteem needs of the residents;
- (2) Protection of personal and property rights of residents;
- (3) Review. All policies and procedures of the facility shall be revised as necessary and reviewed at least annually; and
- (4) Availability. Policies and procedures shall be available, on request, to all persons during normal business hours. Notice of availability shall be posted in a conspicuous location in the facility.

(c) Administrator. The licensee shall adopt a written job description for, and shall employ, a licensed administrator, full-time, who is responsible for the overall management of the facility, including:

- (1) Planning, organizing, and directing the operation of the facility as authorized by the licensee;

(2) Implement operational policies and procedures for the facility; and

(3) Authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in his or her absence.

(d) Admission. The licensee shall have written policies regarding admission of residents which include the following requirements:

(1) The facility shall admit only those persons whose nursing care and physical needs can be met;

(2) Each resident admitted shall be under the care of a physician licensed to practice in Kansas;

(3) Upon admission or within 48 hours of admission, referral information shall be obtained by the facility. Referral forms shall include medical history, diagnosis, personal and social data, and activities permitted;

(4) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges and the resident's obligations regarding payment, including the refund policy of the facility;

(5) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident shall receive and which sets forth the obligations which the resident has toward the facility; and

(6) The facility shall not admit persons with an infection or disease in communicable stage; children under the age of 16 years; women who are pregnant or within 3 months following pregnancy; or persons in need of active treatment for alcoholism, mental condition, or drug addiction.

(e) Transfer and discharge. The facility shall have written policies regarding transfer and discharge of residents which include the following requirements:

(1) Immediate arrangements shall be made to transfer a resident when in the written judgment of the resident's attending physician changes in the physical or mental condition of the resident necessitate care which the facility is not capable of providing.

(2) When a resident develops a communicable disease or infection that cannot be managed in the facility, immediate arrangements shall be made for the transfer of the resident to an appropriate hospital or other facility. The development of a communicable disease or infection after admission shall be reported to the local health department; and

(3) Except in an emergency, a resident shall not be transferred or discharged from the facility for medical reasons without a written order from the attending physician and prior notification to the resident or the legal guardian of the resident as prescribed in K.A.R. 28-39-78(a)(3). A summary of administrative, social, medical, and nursing information shall accompany the resident if transferred to another facility or hospital.

(f) Resident possessions.

(1) The facility shall have written policies which ensure the security of residents' personal possessions.

(2) A written inventory of each resident's personal possessions, signed by the resident, or the legal guardian of the resident, shall be completed at the time of admission and be updated annually.

(3) If a resident deposits personal possessions with

(continued)

the facility for safekeeping, a written record shall be maintained and a receipt given to the resident.

(g) Resident funds.

(1) If the facility accepts a resident's funds for safekeeping or assumes responsibility for a resident's financial affairs, the resident shall agree in writing to the transfer of responsibility to the facility.

(2) The facility shall utilize an accounting system which ensures an accurate accounting of receipts and disbursements made to, or on behalf of, a resident.

(3) The facility shall designate in writing the person responsible for the accounting system.

(4) Receipts shall be signed by the resident or the legal guardian of the resident for all transactions.

(5) The facility shall make a written quarterly accounting of transactions to the resident and shall advise the resident of the current balance of the resident's funds.

(h) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(i) Reports. The administrator shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(j) Telephone. The facility shall maintain at least 1 noncoinoperated telephone accessible to residents or employees for use in emergencies. Names and telephone numbers of persons or places commonly required in emergencies shall be posted adjacent to the telephone. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-116. Administration; personnel policies and staff development standard. (a) The administrator shall develop, implement and maintain written personnel policies, procedures, job descriptions, and a staff development policy and procedure for all employees to assure effective delivery of services to residents.

(b) Records. Personnel records shall be current and shall contain documentation of the employee's qualifications for the position to which the employee is assigned.

(c) Control of disease.

(1) Written policies and procedures for control of communicable disease shall be in effect to ensure that employees with symptoms or signs of communicable disease shall not be permitted to work.

(2) All employees shall have a physical examination prior to employment which shall consist of appropriate examinations, including a chest x-ray or tuberculosis skin test. Subsequent physical examinations or health assessments shall be given in accordance with facility policies.

(3) Documentation of the examination, signed by a physician, shall be maintained in the employee's personnel record.

(4) In case of an emergency where the care of residents would suffer without the immediate employment of an individual, the individual may be employed

without the examination required above, provided the examination is completed within 10 days of the date of employment.

(d) Employee complaints. There shall be written policies and procedures that provide for the registration and disposition of employee complaints to the administrator or licensee or to regulatory agencies, without threat of discharge or reprisal.

(e) Staff development. There shall be an ongoing staff development program which is planned and conducted for the improvement of skills for all employees as follows:

(1) The facility shall regularly conduct and document an orientation program for new employees that includes review of facility policies;

(2) The facility shall plan and conduct an in-service staff development program for all personnel. The program shall include, as a minimum, annual training in fire prevention and safety, accident prevention, confidentiality of resident information, psychosocial needs of residents, infection control, and resident rights; and

(3) Written records shall be maintained which indicate the content of staff development programs and attendance. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-117. Health services. The personal care home shall provide organized health services with qualified personnel to meet the health needs of the residents, including those health services prescribed in K.A.R. 28-39-118 to K.A.R. 28-39-122 inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-118. Health services; medical and dental services standard. Residents shall provide for their own medical services through personal physicians and for dental service by their personal dentists. In emergencies, the facility shall arrange for or provide transportation for residents to and from medical or dental facilities. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-119. Health services; supportive services standard. (a) The facility shall provide or assist the resident in obtaining support services necessary to meet his or her needs.

(b) The facility shall provide sufficient nurse aides to meet the needs of residents. Nursing personnel shall provide direct individual care to residents.

(c) Personnel shall be available immediately to all residents to assure prompt necessary action in case of injury, illness, fire or other emergency.

(d) At all times, there shall be a minimum of 2 nursing personnel on duty who are awake and clothed.

(e) The facility shall make arrangements with local health departments to provide professional consultation on matters of personal and environmental health.

(f) The facility shall arrange home health care services or services of a licensed nurse for residents where available and when requested by the resident's attending physician.

(g) The facility shall arrange for social services to be provided to residents when requested by the resident's attending physician. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

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28-39-120. Health services; medications standard.

(a) The facility shall ensure that all medications are administered to residents in a safe and accurate manner and in accordance with a physician's order and requirements of law.

(b) Prescription medications shall be obtained from a licensed pharmacy and shall be labeled in compliance with K.A.R. 68-7-14.

(c) Administration of medications.

(1) Residents shall be allowed to self-administer medications unless otherwise indicated in writing by the attending physician.

(2) All medications which are not self-administered shall be administered by physicians, licensed nursing personnel, or by other personnel who have completed a state-approved training program in medication administration. Injectables shall be administered only by physicians or licensed nurses;

(3) Medications shall be prepared and immediately administered by the same person; and

(4) Medications shall be checked against physician's orders, the resident shall be identified prior to administration, and the dose of the medication administered to the resident shall be recorded on the resident's individual medication record by the person who administers the medication.

(d) The facility shall provide locked storage area for medications dispensed by the facility and for medications of residents who self-administer and who choose to keep their medications in the locked area.

(e) Medications shall be controlled and disposed of in a manner that ensures resident safety. Medications shall be disposed of or destroyed when:

(1) The label is mutilated or indistinct;

(2) It has exceeded the expiration date; and

(3) Unused portions remain after the death or discharge of the resident, or discontinuance of the medication is ordered by the resident's physician. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-121. Health services; records standard.

(a) Resident's records shall be maintained with pertinent information regarding care of the resident.

(b) Resident records shall include name, date of admission, birthdate, nearest relative, attending physician, whom to notify in case of illness or accident, religious preference, medical history and social information as needed to assist the resident. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-122. Health services; dietetic services standard.

(a) The facility shall provide a hygienic dietetic services system that meets the daily nutritional needs of residents, ensures that special dietetic needs are met, and provides palatable and attractive meals. A facility that has a contract with an outside food management company may be found to be in compliance, provided the company meets the requirements listed below.

(b) Policies and procedures. There shall be written policies and procedures which include all functions of the dietetic services department. The policies and procedures shall be available for use in the department.

(c) Supervision. A dietetic services supervisor shall have overall responsibility for supervision of dietetic services.

(d) Nutrition and menu planning.

(1) Menus shall be planned and followed to meet the nutritional needs of residents in accordance with physicians' orders, and the current recommended daily allowances of the food and nutrition board of the national research council, national academy of sciences as in effect on July 1, 1981.

(2) Menus shall be written at least 2 weeks in advance.

(3) Records of meals, as served, shall be kept on file for 30 days and shall be available for review.

(4) When substitutions are necessary, they shall be of similar nutritive value, recorded, and available for review.

(5) Records which show the amounts and kinds of food purchased shall be retained for 3 months.

(e) Diets. All diets shall be prescribed by the attending physician. A current diet manual, approved by the dietitian, shall be readily available to attending physicians and dietetic service personnel. The manual shall be used as a guide for writing menus for therapeutic diets.

(f) Meal schedules. At least 3 meals per day or their equivalent shall be served at regular hours. There shall not be more than a 14 hour span between substantial evening meal and the first substantial meal on the following day.

(g) Preparation and service.

(1) Foods shall be prepared by methods that conserve the nutritive value, flavor, and appearance and shall be attractively served at the proper temperature.

(2) Standardized recipes adjusted to the number served shall be used.

(3) Dining room service shall be available for all residents.

(4) A current record of all diet orders, food preferences, and limitations for each resident shall be maintained in the dietetic services department.

(h) Storage. The facility shall meet the requirements of K.A.R. 28-39-92(h).

(i) Sanitation. The facility shall meet the requirements of K.A.R. 28-39-92(i). (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-123. Other resident services; resident activities standard. The personal care home facility shall provide activities services designed to meet the needs and interests of the residents. A schedule for group and independent activities shall be developed. There shall be opportunities for residents to participate in activities of interest, inside and outside, the facility through educational, social, recreational, and religious resources. Necessary supplies and equipment shall be available for scheduled activities. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-124. Other resident services; day care service standard. (a) The personal care home facility may provide adult day care services which shall be in accordance with adopted policies and procedures. The facility shall have written policies and procedures which describe the day care program objectives and govern provision of services.

(b) The facility shall notify the licensing agency in writing if day care services are provided. The information shall include:

(continued)

- (1) Identification of specific day care services provided;
- (2) Maximum number of persons to be served; and
- (3) Hours of operation.

(c) The licensing agency shall be notified when there is any change in the program. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-125. Environmental sanitation and safety. The personal care home shall provide staff and services to ensure a clean, safe, and comfortable environment for residents and shall meet the environmental sanitation and safety requirements prescribed in K.A.R. 28-39-126 to K.A.R. 28-39-129, inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-126. Environmental sanitation and safety; housekeeping standard. (a) Housekeeping services shall be provided to maintain a safe, sanitary, and comfortable environment for residents, and to help prevent the development or transmission of infections.

(b) The facility shall have written policies and procedures for the functions and responsibilities of the housekeeping staff.

(c) The facility shall be kept free of insects, rodents, and vermin.

(d) The grounds shall be free from accumulation of rubbish and other health and safety hazards.

(e) The interior and exterior of the building shall be maintained in a clean, safe, and orderly manner.

(f) Provisions shall be made for the disposal of soiled dressings and any biologically contaminated items in a safe and sanitary manner.

(g) Wastebaskets shall be located at all handwashing facilities and the refuse container in the dietary department shall have a tight fitting cover when not in continuous use. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-127. Environmental sanitation and safety; laundry standard. (a) Laundry services shall be provided for institutional linens and residents' personal laundry.

(b) Laundry services shall be provided in the facility or by contract with an outside laundry service.

(c) Measures shall be taken to ensure that residents' personal laundry is marked or otherwise identifiable.

(d) If laundry is processed on site, there shall be staff to ensure clean laundry sufficient to meet the residents' needs available at all times.

(e) Minimum water temperature of 160° F. (71° C.) measured in the washing machine shall be supplied so that temperature may be maintained over the entire wash and rinse period.

(f) If laundry is provided by an outside service, clean laundry supply on hand shall be at least 3 times the resident census. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-128. Environmental sanitation and safety; maintenance standard. (a) The facility shall establish a written preventive maintenance program to ensure that equipment is operative and that the interior and exterior of the building are safe, clean, and orderly.

(b) All buildings shall be maintained in good repair and free from hazards.

(c) All electrical and mechanical equipment shall be

maintained in good repair and in safe operating condition.

(d) Resident care equipment for personal care and treatments shall be maintained in a safe and sanitary condition.

(e) Building and equipment supplies shall be stored in areas not accessible to residents. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-129. Environmental sanitation and safety; disaster preparedness standard. (a) The facility shall have a written plan with procedures to be followed if a disaster, such as fire, tornado, explosion, or flood, occurs inside or outside the facility. The facility shall ensure that the staff are prepared for a disaster.

(b) The disaster plan shall be available and posted for residents and staff.

(c) The plan shall include evacuation routes and procedures to be followed in case of fire, tornado, explosion, flood, or other disaster. The plan shall include procedures for the transfer of residents, casualties, medical records, medications, and notification of next-of-kin and other persons.

(d) The plan shall be coordinated with area government plans and agencies.

(e) A minimum of 1 tornado or general disaster drill shall be held annually involving residents and staff.

(f) The plan shall be reviewed with staff at least annually. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-130. Physical environment; existing facilities. The personal care home shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and which meets the physical environment requirements prescribed in K.A.R. 28-39-86 to K.A.R. 28-39-102, inclusive, with the exception of K.A.R. 28-39-104(d). (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-131. Physical environment; new facilities and modifications. The personal care home facility shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and which meets the physical environment requirements prescribed in K.A.R. 28-39-109 to K.A.R. 28-39-113, inclusive, with the exception of K.A.R. 28-39-109(b)(2)(J) and K.A.R. 28-39-109(e) and (f). (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-132. One and two bed adult care home; licensure procedure. (a) A completed application form as prescribed by the licensing agency shall be submitted to the licensing agency.

(b) The capabilities of the facility to provide a class of care shall be based on information in the application and an on-site evaluation.

(c) The applicant and all employees shall have a physical examination which shall consist of appropriate examinations, including a chest x-ray or tuberculosis skin test. Documentation of the examination, signed by a physician, shall be on file in the facility. Subsequent physical examination or health assessments shall be given at least every three years.

(d) The licensee shall apply for renewal of an existing license on forms prescribed by the licensing

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agency not less than 120 days before the existing license expires.

(e) The renewal of a license shall be contingent upon evidence of substantial compliance with all applicable statutes, rules and regulations.

(f) Initial application for license and renewal applications shall be accompanied by a license fee as required by K.S.A. 1980 Supp. 39-930, or amendments of this statute. (Authorized by and implementing K.S.A. 39-932; implementing K.S.A. 39-927, 39-930; effective May 1, 1982.)

28-39-133. Administration. The one and two bed adult care home shall be operated in a manner to ensure the delivery of all services which meet the health needs of the residents and shall meet the requirements prescribed in K.A.R. 28-39-133 to K.A.R. 28-39-137, inclusive. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-134. Administration; management. (a) The licensee shall have full authority and responsibility for the operation of the one bed and two bed adult care home and for compliance with licensing requirements.

(b) The licensee shall admit only those persons whose health needs can be met.

(c) The facility shall provide services in compliance with the requirements of K.S.A. 39-923 for the class of care prescribed by the attending physician.

(d) A resident shall have a physical examination report and diagnosis available and on file in the home prior to admissions.

(e) The facility shall not admit persons with an infection or disease in communicable stage.

(f) When a resident develops a communicable disease or infection that cannot be managed in the facility, immediate arrangements shall be made for the transfer of the resident to an appropriate hospital or other facility. The development of a communicable disease or infection after admission shall be reported to the local health department.

(g) A written inventory of each resident's personal possessions, signed by the resident, or by the resident's legal guardian, shall be completed at the time of admission and be updated annually.

(h) If the resident deposits personal possessions with the facility for safekeeping, a written record shall be maintained and a receipt given to the resident.

(i) If the facility accepts a residents' funds for safekeeping or assumes responsibility for a resident's financial affairs, the resident shall agree in writing to transfer the responsibility to the facility. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-135. Resident care. (a) Residents admitted shall be under the care of a physician licensed to practice in Kansas.

(b) Resident records shall be maintained with pertinent information regarding care of the resident. The record shall include as a minimum name, date of admission, birthdate, nearest relative, attending physician, whom to notify in case of illness or accident, and physical examination report.

(c) Personnel shall be available to residents to assure prompt, necessary action in case of injury, illness, fire, or other emergency.

(d) The facility shall provide a responsible person on duty awake and clothed during the night when there is a nonambulatory resident.

(e) Residents shall be allowed to self-administer medications unless otherwise indicated in writing by the attending physician.

(f) The licensee shall ensure that all medications are administered to residents in a safe and accurate manner.

(g) All medications shall be obtained pursuant to a written order issued by the resident's attending physician.

(h) Prescription medications shall be obtained from a licensed pharmacist and shall be labeled in compliance with K.A.R. 68-7-14.

(i) When medication is administered to a resident, an individual medication record shall be maintained. The record shall include date and time of administration, the name and dose of the medication, and the name of the person who gave the medication.

(j) The facility shall provide locked storage area for medications dispensed by the facility and for medications of residents who self-administer and who choose to keep their medication in the locked area.

(k) Medications shall be disposed of or destroyed when the label is mutilated or indistinct, it has exceeded the expiration date, or unused portions remain due to death, discharge, or discontinuance.

(l) Residents shall be assisted with baths, oral hygiene, hair care, manicure, pedicure, and shaving to maintain comfort, and personal hygiene.

(m) Restraints. There shall be a signed physician's order for any restraint including justification, type of restraint, and duration of application. A resident shall not be restrained unless in the written opinion of the attending physician it is required to prevent injury to resident or to others, and alternative measures have failed.

(n) Restraints shall not be used or applied in such a manner as to cause injury to the resident.

(o) The resident's physician, family, or guardian shall be immediately notified of any change in the resident's condition or in the event of an accident. If the resident cannot be managed, immediate arrangements shall be made by the physician for the transfer of the resident to an appropriate facility.

(p) The facility shall make arrangement with the local health department to provide professional consultations on matters of personal and environmental health.

(q) The facility shall arrange home health care service or services of a licensed nurse for residents when available and when requested by the resident's physician.

(r) Residents shall be encouraged to participate in community activities, and personal relationships of their choice. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-136. Dietary. (a) Menus shall be planned and followed to meet the nutritional needs of residents in accordance with physician's orders, and to the extent medically possible, the current recommended daily allowances of the food and nutrition board of the national nutrition council, national academy of sciences as in effect on July 1, 1981.

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(b) Menus for therapeutic diets shall be planned by a dietitian.

(c) Menus shall be written at least 1 week in advance. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-137. Environmental sanitation and safety.

(a) The facility shall provide a physical environment that promotes the health, safety, and well-being of residents.

(b) Housekeeping and maintenance services shall be provided to maintain a sanitary, safe, and comfortable environment.

(c) Laundry services shall be provided for residents' personal laundry. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982.)

28-39-138 to 28-39-199. Reserved.

28-39-224. (Authorized by K.S.A. 39-932; effective May 1, 1979; amended, E-81-29, Sept. 10, 1980; amended May 1, 1981; revoked May 1, 1982.)

28-39-225. Physical environment and complete construction; 15 beds or fewer. (a) *General provisions.* The following provisions describe the physical environment and complete construction requirements for facilities (or residential components of facilities) in which not more than 15 residents are housed in 1 building. The facility (or residential component of facilities) shall provide for a safe, sanitary environment and for the safety and comfort of the residents. All residents shall be currently certified by a physician or psychologist as ambulatory, engaged in active treatment, and capable of following directions and taking appropriate action for self-preservation under emergency conditions. The facility shall meet the provisions of the "Life Safety Code" of the National Fire Protection Association (NFPA), 21st edition, 1967, Chapter II, Section 11-5, which apply to the lodging or rooming houses.

(b) A residential building shall consist of at least the following units, areas, and rooms all within a single building under 1 roof.

(1) A bedroom unit which shall consist of not more than 15 beds. All beds shall be located in rooms designed for not more than 4 beds. At least 1 single-bed room shall be provided. Resident bedroom shall meet the following requirements:

(A) Minimum room areas, excluding toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 80 square feet in single-bed rooms and 60 square feet per bed in multi-bed rooms;

(B) Toilet rooms shall contain at least a water closet and a lavatory but not more than 2 water closets. The lavatory may be omitted if the toilet adjoins bedrooms containing a lavatory. There shall be not less than 1 water closet for each 5 residents;

(C) Resident rooms shall be provided with a fixed closet or free-standing wardrobe with doors. A shelf and hanging rod shall be provided;

(D) Bedrooms shall be equipped with furnishings required to meet the developmental needs of the residents; and

(E) The bedroom shall not be located more than 75 feet from a toilet room and not more than 150 feet from any one of the other resident use areas contained

within the residential building (except other bedrooms). Distance shall be measured from 1 foot outside resident room door along the shortest line in the general corridor within 1 foot of corners to 1 foot of the door to each service area.

(2) Service areas required below shall be located in all residential buildings. All service areas shall have doors opening from the general corridor system for direct access without passing through any intervening use area. Exceptions include adjoining use areas which have closely related functions (e.g., pantry and kitchen). Large open or central living areas, such as lounges, living rooms, and dens, may be considered as corridors;

(A) An administrative area with space for charting, records, and telephone;

(B) A room with water closet and lavatory for staff and visitors, accessible without passing through a resident bedroom;

(C) A locked medication storage area with space for separate storage of each residents' medication. A separate locked compartment shall be provided within the area for controlled drugs and narcotic storage;

(D) Space for storage of clean linen separate from the soiled linen area;

(E) Space for holding of soiled laundry with provisions to prevent odors, contamination of clean linen or spread of disease. In residential buildings where laundry processing is done, commercial or household type washing and drying machines shall be provided to process soiled laundry in the workroom area. The workroom shall contain a flushing rim clinic sink, a work counter, and a storage cabinet for supplies. In residential buildings for 8 or less residents, the flushing rim clinic sink shall not be required. Clean supplies and materials shall not be stored in this area;

(F) Space for storage of equipment for the facility's use. This space may be part of the janitor's closet.

(G) Bathing units at the rate of 1 bathtub or shower per 5 residents. There shall be separate bathing units for each sex. Bathing units shall be located in rooms or areas with access to a water closet and handwashing lavatory without entering the general corridor. Bathing units shall be located within enclosures which provide for privacy;

(H) Janitor's closet with a utility sink, hot and cold water, shelf, and mop hanging provision. In residential buildings for 8 or less residents, the janitor's closet shall not be required if other provisions are made for sanitary storage of housekeeping equipment;

(I) Living, dining, and recreational areas at the rate of 27 square feet per bed. At least 14 square feet of this space shall be utilized for dining space;

(J) A separate quiet area unless all single-bed rooms are provided. Residents shall have access to this area for reading, meditation, private consultation with family, guests, or other residents;

(K) Public areas which include:

(i) An entrance at grade level which is designed to accommodate the handicapped in wheelchairs;

(ii) At least 1 public toilet accessible to and usable by the physically handicapped; and

(iii) A public telephone accessible for use from a wheelchair.

(L) Dietary (kitchen and pantry) areas in the size

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required to implement appropriate food service which include;

(i) Storage space for 4 days' supply of food, including cold storage;

(ii) Food preparation facilities to include equipment for thawing, portioning, cooking, and baking;

(iii) Two-compartment sink for vegetable preparation; and

(iv) A commercial or domestic type dishwasher with a sanitizing cycle for warewashing.

(M) Provision for disposal of waste by incineration, mechanical destruction, compaction, removal, or by a combination of these techniques. Stored waste shall be in water tight, closed containers;

(N) Equipment room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment, and storage for building maintenance supplies; and

(O) If tools, supplies, or equipment used for yard or exterior maintenance are stored at the facility, a room which opens to the outside or which is located in a detached building.

(c) Details and finishes.

(1) Details.

(A) Rooms containing bathtubs, sitz baths, showers and toilets subject to occupancy by residents, shall be equipped with doors and hardware which will permit access from outside the room.

(B) Windows and outer doors left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be provided with security screens.

(C) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches (46 centimeters) of the floor shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. If glazing in any area does not meet the above requirement, protective barriers or railings shall be provided. Safety glass or plastic glazing materials as described above shall be used for shower doors and bath enclosures.

(D) Grab bars shall be provided at all residents' toilets, showers, tubs, and sitz baths. The bars shall have 1½ inch (3.8 centimeters) clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 250 pounds (113.4 kilograms).

(E) Shower bases and tubs shall have a non-slip surface.

(2) Finishes.

(A) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be tightly sealed, and constructed without voids that can harbor insects.

(B) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(C) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(D) Ceilings in the dietary and food preparation areas shall be washable and shall have a finished ceiling covering all overhead pipes and duct work.

(d) Mechanical requirements.

(1) Heating, air-conditioning, and ventilating systems.

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70° F. (21° C.) to 85° F. (29° C.) with a relative humidity range of 30 to 60 percent. The winter outside design temperature of the facility shall be -10° F. (-23° C.) dry bulb and the summer outside design temperature of the facility shall be 100° F. (38° C.) dry bulb.

(B) All central ventilation or air-conditioning systems shall be equipped with filters having a minimum efficiency of 25 percent.

(2) Plumbing and piping systems.

(A) Backflow prevention devices (vacuum breakers) shall be installed on bedpan flushing attachments and on fixtures to which hoses or tubing can be attached.

(B) Hot water shall be provided to meet the needs of the residents.

(e) Electrical requirements.

(1) All spaces occupied by persons, machinery, equipment within the buildings approaches to buildings and parking lots shall have lighting.

(2) Minimum lighting intensity levels shall be as required in Table 1.

(3) Portable lamps shall not be accepted for light source, except as specifically permitted in Table 1.

(4) Corridors and stairways shall remain lighted at all times.

(5) All lights shall be equipped with shades, globes, grids, or glass panels that prevent direct glare to the residents' eyes.

TABLE 1. ARTIFICIAL LIGHT REQUIREMENTS

Place	Light Measured in Foot Candles	Where Measured
Kitchen and other food preparation and serving areas	30	Counter level
Dining room	25	Table level
Living room and/or recreation room		
General	15	Three feet above floor
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurse's station and office		
General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Central bath and showers	30	Three feet above floor
Resident's room		
General	10	Three feet above floor
Bed	30	Mattress top level
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room		
General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(f) Site location requirements. The facility shall be:

(1) Served by all-weather roads or streets.

(2) Free from noxious or hazardous smoke or fumes.

(3) A minimum of 3,000 feet (914 meters) from concentrated livestock operations, such as feedlots, shipping or holding pens.

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(4) Free of flooding for a 20 year period.

(5) Sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, and a recreation area.

(g) Site development requirements:

(1) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(2) All drives and parking areas shall be surfaced with concrete, asphalt, or equivalent, smooth all-weather finish. Unsealed gravel surfaces shall not be used.

(3) Except for lawn or shrubbery which may be used in landscape screening, an unencumbered outdoor open area of at least 50 square feet per resident shall be provided for recreational use and so designated on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar provisions for homes located in high density urban areas. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-932; effective May 1, 1982.)

Article 46.—UNDERGROUND INJECTION CONTROL

28-46-1. General provisions. (a) Any reference in these rules and regulations to standards, procedures, or requirements of 40 CFR Parts 122, 123, 124, or 146, or to 40 CFR Part 261, shall constitute a full adoption by reference of the part, subpart and paragraph so referenced, including any notes, charts and appendices, unless otherwise specifically stated in these rules and regulations. The materials referenced are available at the Kansas department of health and environment, Topeka, Kansas.

(b) When used in any provision adopted from 40 CFR Parts 122, 123, 124, or 146, or from 40 CFR Part 261, references to "the United States" shall mean the state of Kansas, "environmental protection agency" shall mean the Kansas department of health and environment, and "administrator", "regional administrator", or "director" shall mean the secretary of the department of health and environment.

(c) If the United States environmental protection agency approves the Kansas application to regulate underground injection of fluids in connection with the production of oil and natural gas under Section 1425 of Public Law 93-523, the safe drinking water act, that section shall be adopted by reference on the date of that approval.

(d) When existing Kansas statutory and regulatory authority is more stringent than the regulations adopted in (a), the Kansas requirements shall prevail. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-2. Definitions. (a) 40 CFR Part 122.3; 40 CFR Part 124.21 and 40 CFR Part 146.3, as in effect on July 1, 1981, are adopted by reference.

(b) "Fracture pressure" means that wellhead pressure which may cause vertical or horizontal fracturing of rock along a well bore.

(c) "Injection well" means a well designed for the purpose of the subsurface emplacement of fluids.

(d) "Injection well facility" means all land, structures, appurtenances or improvements on which one or

more injection wells are located, and within the same well field or project.

(e) "Major facility" means a facility capable of producing hazardous waste identified or listed by the secretary under K.A.R. 28-31-3.

(f) "Major permit" means a permit for the underground injection of wastes produced by or stored on a major facility.

(g) "Maximum allowable injection pressure" means the maximum wellhead pressure not to be exceeded as a permit condition, as opposed to fracture pressure.

(h) "Secretary" means the secretary of the Kansas department of health and environment or duly authorized designee. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-3. Classification of injection wells. 40 CFR Part 122.32 and 40 CFR Part 146.5, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-4. Injection of hazardous or radioactive wastes into or above an underground source of drinking water. Injection of hazardous or radioactive wastes into or above an underground source of drinking water shall be prohibited. Any similar injection taking place before the effective date of these rules and regulations shall be stopped immediately on the effective date of these rules and regulations. The secretary may issue such orders or take such actions as may be appropriate to enforce the provisions of this section. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-5. Application for injection well permits. 40 CFR Part 122.4 and 40 CFR Part 122.38, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-6. Conditions applicable to all permits. 40 CFR Part 122.7 and 40 CFR Part 122.41, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-7. Draft permits. 40 CFR Part 124.6, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-8. Fact sheets. 40 CFR Part 124.8, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-9. Establishing permit conditions. 40 CFR Part 122.8 and 40 CFR Part 122.42, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-10. Term of permits. (a) Class I and class V permits shall be effective for a fixed term not to exceed 10 years.

(b) Class II and class III permits shall be issued for a period up to the operating life of the facility.

(c) The secretary shall review each permit at least once every five (5) years to determine whether it should be modified, revoked and reissued, or terminated.

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(d) Modification of permits shall not include extension of the maximum duration specified in (a). At the end of the permit term, application shall be filed for a new permit. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-11. Schedules of compliance. 40 CFR Part 122.10, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-12. Requirements for recording and reporting of monitoring results. 40 CFR Part 122.11, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-13. Effect of a permit. 40 CFR Part 122.13, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-14. Transfer of permits. 40 CFR Part 122.14, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-15. Modification or revocation and reissuance of permits. 40 CFR Part 122.15, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-16. Termination of permits. 40 CFR Part 122.16, as in effect on July 1, 1981, is adopted by reference. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-165; effective May 1, 1982.)

28-46-17. Minor modifications of permits. 40 CFR Part 122.17, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-18. Area permits. 40 CFR Part 122.39, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-19. Emergency permits. 40 CFR Part 122.40, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-20. Corrective action. 40 CFR Part 122.44, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-21. Public notice of permit actions and public comment period; public comments and request for hearings; public hearings; response to comments. (a) 40 CFR Part 123.7; 40 CFR Part 124.10 through 40 CFR Part 124.12; and 40 CFR Part 124.17, as in effect on July 1, 1981, are adopted by reference.

(b) Any provisions of Kansas law which provide additional opportunity for public comment or public hearing shall control over the provisions of the federal regulations. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-22. Signatories to permit applications and reports. 40 CFR Part 122.6; 40 CFR Part 122.38; and 40 CFR Part 123.7, as in effect on July 1, 1981, are

adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-23. Claims of confidentiality. (a) Applicants for injection permits may claim confidentiality of information to protect trade secrets. These claims shall be submitted in writing at the time application is made for a permit. Upon agreement between the applicant and the secretary, the confidential information shall be stamped "confidential", and these documents shall not be released to the public by the secretary without the prior written consent of the applicant, to the extent provided by law.

(b) Claims of confidentiality shall not apply to release of confidential materials to governmental agencies with responsibilities in water pollution control or to the release of that material due to a court order.

(c) Prohibition of confidentiality. Claims of confidentiality shall not include the name and address of the applicant or permittee or information dealing with the existence, absence, or level of contaminants in drinking water. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982.)

28-46-24. Requirements for wells injecting hazardous wastes. 40 CFR Part 122.45, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-25. Prohibition of unauthorized injection. On and after the effective date of these regulations, injection wells shall not be constructed, nor shall underground injection take place, unless authorized by permit, or by rule as provided in K.A.R. 28-46-26. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-26. Authorization of injection by rule. Class V injection wells may be authorized to operate by rule until the time that regulations concerning that class of injection wells are adopted. Rules shall be promulgated by the secretary within one (1) year of the effective date of these regulations. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-27. Prohibition of movement of fluid into underground sources of drinking water. 40 CFR Part 122.34 and 40 CFR Part 123.7, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-28. Establishing maximum injection pressure. The secretary shall establish a maximum allowable injection pressures for each injection well as a permit condition. The maximum operating pressure shall not be allowed, in any case, to exceed fracture pressure, except during the development of horizontal fractures for well stimulation operations, or during the development of solution-mined wells as defined in K.A.R. 28-43-2(c) and K.A.R. 28-45-2. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-29. Construction requirements. 40 CFR Part 146.12, governing Class I wells; 40 CFR Part 146.22, governing Class II wells; and 40 CFR Part 146.32, governing Class III wells, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

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28-46-30. Operating, monitoring and reporting requirements. 40 CFR Part 146.13, regulating Class I wells; 40 CFR Part 146.23, regulating Class II wells; and 40 CFR Part 146.33, regulating Class III wells, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-31. Information to be considered by the secretary. 40 CFR Part 146.14, for Class I wells; 40 CFR Part 146.24, for Class II wells; and 40 CFR Part 146.34, for Class III wells, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-32. Area of review. The area of review for all injection wells requiring permits shall be one-half (½) mile, except for wells solutioned into rock salt, for which the area of review shall be one hundred fifty (150) feet or the property line of the permittee's premises. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-33. Mechanical integrity testing. (a) A downhole mechanical integrity test shall be required of each permittee on at least one (1) injection well located on each injection well facility every five (5) years. The test shall be conducted in accordance with 40 CFR Part 146.08, as in effect on July 1, 1981.

(b) The secretary shall notify the permittee thirty (30) days in advance that a mechanical integrity test must be performed; or a permittee may notify the secretary that a voluntary mechanical integrity test will be performed at least fourteen (14) days in advance of the test. The secretary shall select which well is to be tested where more than one (1) well is located on an injection facility.

(c) When the secretary believes that, due to an apparent downhole problem, the continued use of an injection well constitutes a threat to human health or to waters of the state, the permittee shall be required to cease injection operations immediately and to conduct a mechanical integrity test. Injection operations shall not be resumed until such a test is conducted.

(d) The secretary shall provide for a qualified state inspector to witness at least twenty-five (25) percent of the mechanical integrity tests performed.

(e) The permittee shall submit results of all mechanical integrity tests to the secretary, in writing, within thirty (30) days after conducting the test. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-34. Plugging and abandonment. 40 CFR Part 122.41(e); 40 CFR Part 122.42(f), and 40 CFR Part 146.10, as in effect on July 1, 1981, are adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-35. State inspection and right of entry. (a) The secretary shall provide qualified state inspectors to inspect and monitor injection well facilities.

(b) Duly authorized representatives of the secretary shall have access to injection facilities for all activities required by these regulations. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-170b; effective May 1, 1982.)

28-46-36. Waiver of requirements by secretary. 40 CFR Part 122.43, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-37. Non-compliance reporting by the secretary. 40 CFR Part 122.18, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-38. Inventory and assessment of Class V injection wells. 40 CFR Part 146.52, as in effect on July 1, 1981, is adopted by reference. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-39. Mid-course evaluation reports. The secretary shall submit reports to the regional administrator of the United States environmental protection agency at six (6) month intervals during the first two (2) years of operation of the underground injection control program. The data submitted shall be in accordance with that required by 40 CFR Parts 146.15, 146.25, and 146.35, as in effect on July 1, 1981. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-40. Exempted aquifers. (a) The secretary shall have the authority to designate an aquifer exempt from protection as an underground source of drinking water. Criteria for exemption may include, but shall not be limited to, an aquifer: containing water with more than ten thousand (10,000) milligrams per liter of total dissolved solid; being mineral, hydrocarbon or geothermal energy producing; or which is situated at a depth which makes the recovery of water economically impractical.

(b) These designations shall be first submitted to and approved by the administrator of the United States environmental protection agency. (Authorized by, and implementing, K.S.A. 65-171d; effective May 1, 1982.)

28-46-41. Sharing of information. 40 CFR Part 123.10, as in effect on July 1, 1981, is adopted by reference. (Authorized by K.S.A. 65-171d; implementing K.S.A. 65-170g; effective May 1, 1982.)

JOSEPH F. HARKINS, Secretary
Department of Health and Environment

Doc. No. 000137

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3131

AN ACT concerning fish hatcheries; authorizing the issuance and sale of revenue bonds and hatchery stamps therefor; making certain acts unlawful and prescribing penalties therefor.

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

Section 1. As used in this act, unless the context otherwise requires:

- (a) "Commission" means the Kansas fish and game commission;
- (b) "hatchery" means a fish hatchery constructed, maintained, operated, equipped and stocked pursuant to this act;
- (c) "revenue bonds" means bonds issued pursuant to this act and payable as to both principal and interest out of the income derived from hatchery stamps and, in the discretion of the commission, out of the proceeds of any grant-in-aid which may be received from any source.
- (d) "hatchery stamps" means stamps, punches or any other method of identification of the form and design selected and prescribed in accordance with the rules and regulations adopted by the commission.

Sec. 2. (a) For the purposes of paying the principal and interest on revenue bonds issued and sold pursuant to this act, the commission shall issue and sell hatchery stamps which shall be affixed to all fishing licenses issued by the commission. The fee for each stamp issued shall be fixed by rules and regulations adopted by the commission.

(b) No person required to purchase a fishing license shall fish within this state without first procuring a hatchery stamp and having it in possession while fishing. Each hatchery stamp shall be validated by the signature of the licensee written across the face of the hatchery stamp.

(c) Any person violating any provision of this section shall be deemed guilty of a class C misdemeanor.

Sec. 3. (a) The commission is hereby authorized to issue and sell its revenue bonds for the purpose of paying all or part of the cost of acquiring a site, constructing, reconstructing, improving, expanding, equipping and stocking a fish hatchery. The revenue bonds may be issued from time to time and sold in amounts which the commission deems necessary for such purposes.

(b) Prior to the issuance of the revenue bonds, the commission shall:

(1) Pledge the gross revenues derived from the sale of hatchery stamps to the payment of the principal of and interest on the revenue bonds;

(2) pledge to create and maintain (A) revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due and (B) a reasonable reserve fund;

(3) determine an interest rate to be paid on the principal of the revenue bonds not in excess of the maximum rate of interest prescribed by K.S.A. 1981 Supp. 10-1009;

(4) determine that the revenue bonds will be term or serial bonds maturing not later than 40 years from their date;

(5) fix the purchase price of hatchery stamps in an amount necessary to sell the revenue bonds and assure the prompt payment of the principal of and interest on the revenue bonds as they become due, and sell the revenue bonds in the manner provided by K.S.A. 1981 Supp. 10-106 at not less than 90% of the par value thereof;

(6) register the revenue bonds with the state treasurer.

(c) Prior to the issuance of the revenue bonds, the commission may:

(1) Pledge the proceeds of any grant-in-aid, gift, donation, bequest, or other such fund, or the income from any of such sources obtained by the commission directly or in trust, to the payment of the principal of and interest on the revenue bonds;

(2) covenant or contract in the resolution authorizing the issuance of revenue bonds, any and all matters consistent with the authority granted herein necessary and convenient in the determination of the commission to sell the revenue bonds and obtain the most favorable interest rate thereon, including, but not limited to maturities, priority of liens, number of issuances, special funds for security, redemption privileges, security agree-

ments, trust indentures, paying agencies, registration provisions and conversion privileges.

Sec. 4. (a) Revenue bonds issued hereunder, including refunding revenue bonds authorized hereunder, shall be special obligations of the commission in accordance with their terms and shall not constitute an indebtedness of the state of Kansas, the commission or individual members thereof, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(b) All contracts, agreements and covenants contained in the resolution authorizing the issuance of revenue bonds shall be binding in all respects upon the commission, its officials, agents, employees and successors. Such agreements, contracts and covenants shall be enforceable by appropriate legal action brought pursuant to the terms of the resolution authorizing the issuance of revenue bonds.

Sec. 5. The commission may issue revenue bonds for the purpose of refunding revenue bonds issued hereunder pursuant to the terms and authority of K.S.A. 1981 Supp. 10-116a.

Sec. 6. The proceeds derived from the sale of all revenue bonds issued under this act shall be deposited to the credit of the commission in a bank, banks, or the depositories designated by the commission and kept in a separate fund and used solely for the purpose for which the revenue bonds are authorized. The commission is authorized to make all contracts and execute all instruments which in its discretion may be deemed necessary or advisable for the purpose of acquiring a site, constructing, reconstructing, improving, expanding, equipping and stocking a fish hatchery, and to provide for the manner of disbursement of the funds for such purposes. Nothing contained in this act shall be construed as placing in the state treasury any money collected under this act or requiring such action, and the legislature hereby declares that funds deposited under this section shall not be subject to the provisions of section 24 of article 2 of the Kansas constitution.

Sec. 7. The revenue bonds issued hereunder and any refunding revenue bonds authorized to be issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas inheritance taxes.

Sec. 8. Revenue bonds authorized hereunder shall be proper and legal investment securities for any investment funds of the state of Kansas or any department, agency or institution thereof, or any county, municipal or other public corporation or political subdivision created pursuant to the laws of the state of Kansas. Banks, trust companies and insurance companies organized under the laws of the state of Kansas and the Kansas public employees retirement system may legally and properly purchase the revenue bonds issued hereunder, and they are hereby deemed and approved as collateral security for the deposit of any and all funds and for the investment of all trust funds under the jurisdiction of the laws of the state of Kansas.

Sec. 9. (a) This act constitutes full and complete authority for the purposes set out in this act, and no procedure or proceedings other than those required by this act shall be necessary for the performance of the provisions thereof. The powers conferred by this act shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred on the commission by any other law.

(b) The provisions of this act are severable, and if any provision, section, subsection, sentence, clause or phrase of this act, including, but not limited to the provisions relating to any of the sources of revenues for payment of bonds authorized pursuant to this act, are for any reason held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act and each provision, section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the same are declared invalid.

Sec. 10. Prior to the issuance of any revenue bonds under authority of this act and after the adoption of a resolution autho-

(continued)

rizing any revenue bonds under this act, the commission shall cause to be published once in the Kansas register a notice to all persons interested that it has determined to issue revenue bonds under authority of this act. The notice shall state the amount or maximum amount of revenue bonds to be issued pursuant to such resolution, together with a brief statement of the purposes for which the proceeds are to be used, and further, that unless an action to contest the legality of the proposed revenue bonds shall be filed in a court of law within 30 days from the date of such publication, the right to contest the legality of any revenue bonds issued in compliance with the proceedings taken by the commission prior to the date of such publication and the right to contest the validity of the provisions of such proceedings shall cease to exist and no court shall thereafter have authority to inquire into such matters. After the expiration of the 30 days, no one shall have any right to commence an action contesting the validity of such revenue bonds or the provisions of such proceedings and all revenue bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 19, 1982.

HOUSE concurred in SENATE amendments April 7, 1982.
 WENDELL LADY
Speaker of the House.
 GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.
 ROSS O. DOYEN
President of the Senate.
 LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.
 JOHN CARLIN
Governor.

STATE OF KANSAS
 Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3125

AN ACT concerning setoff against debtors of the state of amounts owed; relating to hearings; amending K.S.A. 1981 Supp. 75-6207 and repealing the existing section.

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

Section 1. K.S.A. 1981 Supp. 75-6207 is hereby amended to read as follows: 75-6207. (a) If the director receives a timely written request for a hearing under K.S.A. 1981 Supp. 75-6206, the director shall request the secretary of administration to appoint a hearing officer who shall hold a hearing to determine whether the debt claim is valid. *Subject to the provisions of subsection (b),* the designated hearing officer shall determine and prepare findings after the hearing as to whether the claimed sum asserted as due and owing is correct, and if not, shall order an adjustment to the debt claim which shall be forwarded to the director and to the agency to which the debt is owed. No issue may be considered at the hearing which has been previously litigated and no collateral attack on any judgment shall be permitted at the hearing. The hearing officer shall notify the debtor by mail of the amount determined as due, if any, and that setoff procedures have been ordered to proceed in accordance with this act. If the setoff is to be made against earnings of the debtor, the notice also shall include a statement that the setoff may be postponed in accordance with K.S.A. 1981 Supp. 75-6208.

(b) *In cases where there is only one known present or future payment due from the state to the alleged debtor, the hearing officer may limit the hearing issue to a determination of whether the debt owed the state is at least equal to the amount of the payment owed to the debtor by the state.*

(c) Pending final determination in the findings of the designated hearing officer of the validity of the debt asserted by the state agency, no action shall be taken in furtherance of collection through the setoff procedure allowed under this act.

(e) (d) Appeals to the courts from a decision of a hearing officer under this section shall be in accordance with the provisions of subsection (d) of K.S.A. 1980 1981 Supp. 60-2101 except that the appeal shall be to the district court for the county in which the hearing was held.

Sec. 2. K.S.A. 1981 Supp. 75-6207 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 31, 1982.

WENDELL LADY
Speaker of the House.
 GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 7, 1982.
 ROSS O. DOYEN
President of the Senate.
 LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.
 JOHN CARLIN
Governor.

STATE OF KANSAS
 Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2833

AN ACT relating to financing of public buildings in counties; amending K.S.A. 19-15,116 and repealing the existing section.

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

Section 1. K.S.A. 19-15,116 is hereby amended to read as follows: 19-15,116. The board of county commissioners of any county may for the purposes hereinbefore authorized and provided:

(a) Receive and expend gifts;

(b) Receive and expend grants-in-aid of state or federal funds;

(c) Issue general obligation bonds of the county, ~~except that no bonds for any construction, acquisition or improvement, the cost of which exceeds one hundred thousand dollars (\$100,000) shall be issued until the question of the issuance of such bonds shall have. If it is determined that it is necessary to issue more than \$300,000 in general obligation bonds for the purposes hereinbefore authorized, such bonds shall not be issued until the question of their issuance has been submitted to a vote of the qualified electors of the county and received the approval of has been approved by a majority of those voting thereon at a general election or at a special election called for that purpose. Such election shall be called and held and bonds issued in the manner provided by the general bond law;~~

(d) Make an annual tax levy of not to exceed one mill for a period of not to exceed ~~ten (10)~~ 10 years upon all taxable tangible property in the county for the purpose of creating a building fund to be used for the purposes herein provided and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. ~~1979~~ 1981 Supp. 12-1774, and amendments thereto, by cities located in the county, except that no such levies shall be made until a resolution authorizing the same shall be adopted by the board of county commissioners stating the specific purpose for which such fund is created, the total amount proposed to be raised, the number of years such tax levy shall be made and shall be published once each week for three consecutive weeks in the official county newspaper. Whereupon such levies may be made unless a petition requesting an election upon the proposition, signed by electors equal in number to not less than ~~ten percent (10%)~~ 10% of the electors of the county who voted for the secretary of state at the last preceding general election, is filed with the county clerk within ~~thirty (30)~~ 30 days following the last publication of such resolution. In the event such petition is filed, the board of county commissioners shall submit the question to the voters at an election called for that purpose and held within ~~ninety (90)~~ 90 days after the last publication of the resolution or at the next general election if held within that time and no such levies shall be made unless such proposition shall receive the approval of a majority of the votes cast thereon. Such election shall be called and held in the manner provided in the general bond law. Such building fund may be used for the purposes stated in the resolution establishing the same at any time after the making of the second levy and if there are insufficient moneys in the building fund for such purpose the board of county commissioners may, in the manner provided by the general bond law of the state issue general obligation bonds of the county in an amount which together with the amount raised by the tax levies will not exceed the total amount stated in the resolution creating such fund. All levies authorized under the provisions of this section shall be in addition to and not limited by any other act authorizing or limiting the tax levies of such counties. Counties are hereby authorized to invest any portion of the special building fund which is not currently needed in investments authorized by K.S.A. ~~1979~~ 1981 Supp. 12-1675, and amendments thereto, in the manner prescribed therein or in direct obligations of the United States government maturing or redeemable at par and accrued interest within three years from date of purchase, the principal and interest whereof is guaranteed by the government of the United States. All interest received on any such investment shall upon receipt thereof be credited to the special building fund, except that the board of county commissioners of any county which has heretofore established a building fund under the provisions of this act may, if it shall find that the amount of the fund as originally established is insufficient for such pur-

poses, by resolution redetermine and increase the amount necessary to be raised for the purpose for which ~~said~~ such fund was originally created and may make or continue to make an annual tax levy of not to exceed one mill upon all of the taxable tangible property of the county for the purpose of providing the additional funds contemplated by the supplemental resolution and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. ~~1979~~ 1981 Supp. 12-1774, and amendments thereto, by cities located in the county. Such supplemental resolution shall be published and shall be subject to petition for election and become effective in like manner as that provided for the original resolution;

(e) Issue no-fund warrants in the manner and form and bearing interest and redeemable as prescribed by K.S.A. 79-2940, except that they may be issued without the approval of the state board of tax appeals, and without the notation required by ~~said~~ such section. The board of county commissioners shall make a tax levy at the first tax levying period after such warrants are issued, sufficient to pay such warrants and the interest thereon. All such levies shall be in addition to all other levies authorized or limited by law and the tax limitations provided by article 19 of chapter 79 of the Kansas Statutes Annotated shall not apply to such levies;

(f) Use moneys from the general operating fund or other appropriated budgeted fund when such is available;

(g) Use moneys received from the sale of public buildings or buildings and sites without regard to limitations prescribed by the budget law;

(h) Or may combine any two or more of such methods of financing for the purposes herein authorized, except that counties shall first use funds received from the payment of insurance claims for damages sustained by any such public building before resorting to methods of financing herein authorized;

(i) Authorize the county engineer to supervise the work necessary for the purposes herein provided, including the right of such county engineer to have such work done by force account as well as by contract.

Sec. 2. K.S.A. 19-15,116 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 22, 1982.

HOUSE concurred in SENATE amendments April 6, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 2, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2463

AN ACT concerning criminal procedure; relating to persons found not guilty by reason of insanity and defendants' competency to stand trial; amending K.S.A. 22-3302, 22-3428 and 22-3428a and repealing the existing sections.

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

Section 1. K.S.A. 22-3302 is hereby amended to read as follows: 22-3302. (1) At any time after the defendant has been charged with a crime and before pronouncement of sentence, the defendant, ~~said~~ the defendant's counsel or the prosecuting attorney may request a determination of the defendant's competency to stand trial. If, upon the request of either party or upon ~~his or her~~ the judge's own knowledge and observation, the judge or magistrate before whom the case is pending finds that there is reason to believe that the defendant is incompetent to stand trial the proceedings shall be suspended and a hearing conducted to determine the competency of the defendant.

(2) ~~If the issue of the competency of a defendant charged with a felony is raised prior to indictment or information; and the magistrate before whom the case is pending determines that there is reason to believe that the defendant is incompetent to stand trial; such magistrate shall certify the case to the clerk of the district court for proceedings to determine the defendant's competency. If the defendant is charged with a felony, the hearing to determine the competency of the defendant shall be conducted by a district or associate district judge.~~

(3) ~~All proceedings under this section in felony cases shall be in the district court of the county in which the case is pending. The court shall determine the issue of competency and may impanel a jury of six (6) persons to assist in making such the determination. The court may order a psychiatric or psychological examination of the defendant; and. To facilitate such psychiatric the examination, the court may: (a) Commit the defendant for not more than sixty (60) days or for good cause shown; the commitment may be extended for another sixty (60) days to any appropriate state, county or private institution for examination and report to the court; or the court may (b) designate any appropriate psychiatric or psychological clinic, mental health center or other psychiatric or psychological facility to conduct such the examination while the defendant is in jail or on pretrial release; or the court may (c) appoint two (2) qualified licensed physicians or certified psychologists, or one of each, to examine the defendant and report to the court. If the court commits the defendant to an institution for the examination, the commitment shall be for not more than 60 days or until the examination is completed, whichever is the shorter period of time. No statement made by the defendant in the course of any examination provided for by this section, whether the examination shall be with or without the consent of the defendant or not the defendant consents to the examination, shall be admitted in evidence against said the defendant in any criminal proceeding. Upon notification of the court that a defendant committed for psychiatric or psychological examination under this subsection has been found competent to stand trial, the court shall order that the defendant be returned not later than five days after receipt of the notice for proceedings under this section. If the defendant is not returned within that time, the county in which the proceedings will be held shall pay the costs of maintaining the defendant at the institution or facility for the period of time the defendant remains at the institution or facility in excess of the five-day period.~~

(4) If the defendant is found to be competent, the proceedings which have been suspended shall be resumed. If the proceedings were suspended before or during the preliminary examination, the judge who conducted the competency hearing may conduct a preliminary examination or ~~such~~, if a district magistrate judge was conducting the proceedings prior to the competency hearing, the judge who conducted the competency hearing may order the preliminary examination to be heard by the magistrate before whom proceedings were pending prior to the competency hearing a district magistrate judge.

(5) If the defendant is found to be incompetent to stand trial the court shall proceed in accordance with K.S.A. 22-3303; ~~as amended and amendments thereto.~~

(6) If proceedings are suspended and a hearing to determine

the defendant's competency is ordered after the defendant is in jeopardy, the court may either order a recess or declare a mistrial.

(7) ~~Proceedings to determine competency in misdemeanor cases shall be conducted in the manner provided by this section but shall be in the court where the case was pending when the question was raised.~~

(8) The defendant shall be present personally at all proceedings under this section.

Sec. 2. K.S.A. 22-3428 is hereby amended to read as follows: 22-3428. (1) When a person is acquitted on the ground that ~~such~~ the person was insane at the time of the commission of the alleged crime, the verdict shall be "not guilty because of insanity," and the person ~~so acquitted~~ shall be committed to the state security hospital for safekeeping and treatment. A finding of not guilty by reason of insanity shall constitute a finding that the acquitted person committed an act constituting the offense charged or an act constituting a lesser included crime, except that the person did not possess the requisite criminal intent. A finding of not guilty because of insanity shall be prima facie evidence that the acquitted person is presently dangerous to the person's self or others or a substantial danger to the property of others.

(2) Whenever it appears to the chief medical officer of the state security hospital that a person committed under this section is not dangerous to other patients, ~~such~~ the officer may transfer ~~such~~ the person to any state hospital. Any person committed under this section may be granted convalescent leave or discharge as an involuntary patient after ~~thirty (30) 30~~ days' notice ~~shall have~~ been given to the district or county attorney, sheriff and district court of the county from which ~~such~~ the person was committed.

(3) Within ~~fifteen (15) 15~~ days after the receipt of the notice provided for in subsection (2), the district or county attorney may request that a hearing on the proposed leave or discharge be held. Upon receiving ~~any such~~ the request, the district court shall order that a hearing be held on the proposed leave or discharge; ~~giving notice thereof. The court shall give notice of the hearing to the state hospital where the patient was transferred; and the court shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and such the patient's attorney. The report of the court ordered mental evaluation shall be given to the district or county attorney, the involuntary patient and such the patient's attorney at least five days prior to the hearing. The hearing shall be held within thirty (30) 30 days after the receipt by the court of the district or county attorney's request. The involuntary patient shall remain in the state hospital until the hearing on the proposed leave or discharge is to be held. At such the hearing, the court shall determine; and the patient shall have the burden of proof to show by a preponderance of the evidence, that the patient is not shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or the state hospital where the patient is under commitment, and shall determine whether the patient continues to be a danger to the patient's self or others or a substantial danger to the property of others. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the district or county attorney. At the conclusion of the hearing, if the court finds that the patient continues to be a danger to the patient's self or others or a substantial danger to the property of others, the court shall order the patient to remain in the state hospital, otherwise the court shall order the patient discharged or conditionally released. If the court finds from evidence presented at the hearing that the discharge of the patient will not pose a danger to the patient's self or to the self others or a substantial danger to the property of others if the patient continues to take prescribed medication or to receive periodic psychiatric treatment or guidance counseling, the court may order the patient conditionally released in accordance with subsection (4). If the court orders the conditional release of the patient, the court may order as an additional condition to the release that the patient continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery to determine whether or not the patient is taking such the medication; or that the patient~~

(continued)

continue to receive periodic psychiatric treatment or guidance counseling.

(4) In order to insure the safety and welfare of a patient who is to be conditionally released and the citizenry of the state the court may allow the patient to remain in custody at a facility under the supervision of the secretary of social and rehabilitation services for a period of time not to exceed ~~thirty (30)~~ 30 days in order to permit sufficient time for ~~said the~~ the secretary to prepare recommendations to the court for a suitable re-entry program for the patient. ~~Such~~ The re-entry program shall be specifically designed to facilitate the return of the patient to the community as a functioning, self-supporting citizen, and may include appropriate supportive provisions for assistance in establishing residency, securing gainful employment, undergoing needed vocational rehabilitation, receiving marital and family counseling, and such other out-patient services that appear beneficial. ~~In the event~~ If a patient who is to be conditionally released will be residing in a county other than the county where the district court that ordered the conditional release is located, ~~such the~~ the court shall transfer venue of the case to the district court of ~~such the~~ the other county and send a copy of all of the court's records of the proceedings to ~~such the other~~ the other court. In all cases of conditional release the court shall:

(a) Order that the patient be placed under the temporary supervision of state parole and probation services, district court probation and parole services or any appropriate private agency; and

(b) require as a condition precedent to the release that the patient agree in writing to waive extradition in the event a warrant is issued pursuant to K.S.A. 22-3428b.

(5) At any time during the conditional release period, a conditionally released patient, through ~~his or her the patient's~~ attorney, or the county or district attorney of the county in which the district court having venue is located may file a motion for modification of the conditions of release, and the court shall hold an evidentiary hearing on the motion within ~~fifteen (15)~~ 15 days of its filing. The court shall give notice of the time for ~~such the~~ the hearing to the patient and the county or district attorney. If the court finds from the evidence at the hearing that the conditional provisions of release should be modified or vacated, it shall so order. If at any time during the transitional period the designated medical officer or supervisory personnel informs the court that the patient is not satisfactorily complying with the provisions of the conditional release, the court, after a hearing for which notice ~~thereof~~ has been given to the county or district attorney and the patient, may make orders: (a) For additional conditions of release designed to effect the ends of the re-entry program, (b) requiring the county or district attorney to file an application to determine whether the patient is a mentally ill person as provided in K.S.A. ~~1980~~ 1981 Supp. 59-2913, or (c) requiring that the patient be committed to the state security hospital or any state hospital. In cases where ~~such an~~ application is ordered to be filed, the court shall proceed to hear and determine the application pursuant to the provisions of the act for obtaining treatment for a mentally ill person and ~~such provisions that act~~ shall apply to all subsequent proceedings. The costs of all proceedings, the mental evaluation and the re-entry program authorized by this section shall be paid by the county from which ~~such the~~ the person was committed.

(6) In any case ~~where in which~~ the defense of insanity is relied on, the court shall instruct the jury on the substance of this section.

Sec. 3. K.S.A. 22-3428a is hereby amended to read as follows: 22-3428a. (1) Any person found not guilty because of insanity who remains in the state security hospital or a state hospital for over one year pursuant to a commitment under K.S.A. 22-3428 shall be entitled annually to request a hearing to determine whether or not ~~such the~~ the person continues to be dangerous to the ~~patient's person's~~ self or others or a substantial danger to the property of others. The request shall be made in writing to the district court of the county where the person is hospitalized and shall be signed by the committed person or ~~such the~~ the person's counsel. When the request is filed, the court shall ~~forthwith~~ give notice of the request to: (a) The county or district attorney of the county in which the person was originally ordered committed, and (b) the chief medical officer of the state security hospital or state hospital where the person is committed. The chief medical officer receiving the notice or ~~such the~~ the officer's designee, shall

conduct a mental examination of the person and shall send to the district court of the county where the person is hospitalized and to the county or district attorney of the county in which the person was originally ordered committed a report of ~~such the~~ the examination within ~~twenty (20)~~ 20 days from the date ~~upon which~~ when notice from the court was received. Within five (5) days after receiving the report of the examination ~~pursuant to this subsection~~, the county or district attorney receiving the ~~same it~~ may file a motion with the district court that gave the notice, requesting ~~such the~~ the court to change the venue of the hearing to the district court of the county in which the person was originally committed, ~~or the court that gave the notice on its own motion may change the venue of the hearing to the district court of the county in which the person was originally committed.~~ Upon receipt of ~~such that~~ that motion and the report of the mental examination ~~such or upon the court's own motion~~, the court shall ~~forthwith~~ transfer the hearing to the district court specified in the motion and send a copy of the court's records of the proceedings to ~~such that~~ that court.

(2) After the time in which a change of venue may be requested has elapsed, the court having venue shall set a date for the hearing, giving notice thereof to the county or district attorney of the county, the committed person and ~~such the~~ the person's counsel. If there is no counsel of record, the court shall appoint a counsel for the committed person. The committed person shall have the right to procure, at ~~his or her the person's~~ the person's own expense, a mental examination by a physician or certified psychologist of ~~his or her the person's~~ the person's own choosing. If a committed person is financially unable to procure such an examination, the aid to indigent defendants provisions of article 45 of chapter 22 of the Kansas Statutes Annotated shall be applicable to ~~such that~~ that person. A committed person requesting a mental examination pursuant to K.S.A. 22-4508 may request a physician or certified psychologist of ~~his or her the person's~~ the person's own choosing; ~~whereupon the judge shall inquire as to the estimated cost therefor and the court shall request the physician or certified psychologist to provide an estimate of the cost of the examination.~~ If ~~such the~~ the physician or certified psychologist agrees to accept compensation in an amount in accordance with the compensation standards set by the board of supervisors of panels to aid indigent defendants, the judge shall appoint the requested physician or certified psychologist; otherwise, the court shall designate a physician or certified psychologist to conduct the examination. Copies of each mental examination of the committed person shall be filed with the court at least five days prior to the hearing and ~~copies thereof~~ shall be supplied to the county or district attorney receiving notice pursuant to this section and the committed person's counsel.

(3) At the hearing the committed person shall have the right to present evidence and cross examine the witnesses. ~~The committed person shall have the burden of proof to show by a preponderance of the evidence that the committed person is not a danger to such person's self or others or property of others.~~ The court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or state hospital where the person is under commitment, and shall determine whether the committed person continues to be a danger to the person's self or others or a substantial danger to the property of others. At ~~such the~~ the hearing the court may make any order that a court is empowered to make pursuant to ~~subsection subsections~~ (3), (4) and (5) of K.S.A. 22-3428; and any amendments thereto. If the court finds the committed person is no longer dangerous to ~~such the~~ the person's self or others or a substantial danger to the property of others, the court shall order the person discharged; otherwise, the person shall remain committed or be conditionally released.

(4) Costs of a hearing held pursuant to this section shall be assessed against and paid by the county in which the person was originally ordered committed.

Sec. 4. K.S.A. 22-3302, 22-3428 and 22-3428a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(continued)

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 1, 1982.

House adopted Conference Committee report April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 26, 1982.
Senate adopted Conference Committee report April 8, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 22nd day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2996

AN ACT relating to expenditures for official hospitality by state agencies within the executive branch of state government.

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

Section 1. Subject to the approval of the secretary of administration, the director of accounts and reports may prescribe limitations and procedures relating to expenditures for official hospitality by agencies within the executive branch of state government.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 31, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 5, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3124

AN ACT concerning the payment of the cost of tuition and other educational training expenses of certain personnel of state agencies; relating to rules and regulations prescribing limitations and procedures therefor; amending K.S.A. 75-5519 and repealing the existing section.

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

Section 1. K.S.A. 75-5519 is hereby amended to read as follows: 75-5519. (a) Any state agency may pay the tuition and other educational expenses for the education or training of any personnel of such state agency when it is determined by the head of the state agency that such education or training is of value to the state and such state agency.

(b) All payments under this act section shall be made from appropriations to the state agency and shall be approved by the head of the state agency. Tuition payments shall be made directly to the person, partnership, association, corporation or institution offering such education or training.

(c) As used in this act section, "state agency" means any state department, office, board, commission, authority, council or officer and the personnel thereof.

(d) In accordance with K.S.A. 1981 Supp. 75-3706 and with the advice of the director of accounts and reports, the secretary of administration may adopt rules and regulations prescribing limitations and procedures relating to expenditures for tuition and other education or training expenses under this section.

Sec. 2. K.S.A. 75-5519 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 31, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 6, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3097

AN ACT concerning social welfare; relating to parent locator, support collection and paternity determination services; providing for assignment to the secretary of social and rehabilitation services of certain rights to support; amending K.S.A. 39-756 and repealing the existing section.

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

Section 1. K.S.A. 39-756 is hereby amended to read as follows: 39-756. The secretary of social and rehabilitation services shall make services required under part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), or acts amendatory thereof or supplemental thereto, and federal regulations promulgated pursuant thereto relating to the location of parents, the establishment of paternity and the enforcement of child support obligations available to persons not receiving aid to families with dependent children upon application by such persons and the payment of a fee established by the secretary of social and rehabilitation services. The amounts collected on behalf of such persons shall be paid to them after first deducting therefrom the costs of providing such services in excess of fees paid by such persons. *The secretary shall fix by rules and regulations a fee or fees for services rendered pursuant to this section as required by federal law or federal regulations, or both.* The secretary may take an assignment of support rights from an individual applying for paternity or child support services under this section. *The amounts collected on behalf of persons who apply for and receive such services shall be paid to them unless the secretary of social and rehabilitation services retains an assignment of support rights pursuant to subsection (c) of K.S.A. 39-709. If such an assignment is retained by the secretary, current support payments shall be paid to the obligee and the secretary may retain any support arrearage to which social and rehabilitation services has a claim. Any support arrearage collected in excess of the amount assigned to social and rehabilitation services shall be paid to the obligee. In any action brought pursuant to this section, or any action brought by a governmental agency or contractor, to establish paternity or to establish or enforce a support obligation, the social and rehabilitation services' attorney or the attorneys with whom such agency contracts to provide such services shall represent the state department of social and rehabilitation services. Nothing in this section shall be construed to modify statutory mandate, authority or confidentiality required by any governmental agency. Any representation by such attorney shall not be construed to create an attorney-client relationship between the attorney and any party, other than the state department of social and rehabilitation services.*

Sec. 2. K.S.A. 39-756 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 10, 1982.

HOUSE concurred in SENATE amendments April 7, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2697

AN ACT concerning the state board of education; authorizing an increase in fees for certification thereby; amending K.S.A. 72-1387 and repealing the existing section.

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

Section 1. K.S.A. 72-1387 is hereby amended to read as follows: 72-1387. Each application to the state board of education for certification, renewal of certification or duplication of certification shall be accompanied by a fee which shall be established by the state board of education and shall be in an amount of not less than ~~five dollars (\$5)~~ \$13 nor more than ~~thirteen dollars (\$13)~~ \$18. ~~On or before Prior to January July 1~~ of each year, commencing in 1978, the state board of education shall determine the amount of revenue which will be required to properly administer the provisions of article 13 of chapter 72 of Kansas Statutes Annotated during the next ensuing fiscal year, and shall establish the certification fee for such year in the amount deemed necessary for such purposes. Such certification fee shall become effective on the succeeding July 1 of each year. The state board of education shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the certificate fees fund, and shall be used only for the payment of expenses connected with the issuance, renewal, or duplication of such certifications, and for the keeping of records by the state department of education. All expenditures from the certificate fees fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state board of education or by a person or persons designated by it.

Sec. 2. K.S.A. 72-1387 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 19, 1982.

House adopted Conference Committee report April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 25, 1982.

Senate adopted Conference Committee report April 8, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3108

AN ACT concerning the Kansas animal health department; relating to certain fees for brand registration and inspection; amending K.S.A. 47-417, 47-417a, 47-437 and 47-1011a and repealing the existing sections.

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

Section 1. K.S.A. 47-417 is hereby amended to read as follows: 47-417. (a) Any person may adopt a brand for the purpose of branding livestock in accordance with authorized rules and regulations of the livestock commissioner; of the Kansas animal health department. He or she *Such person* shall have the exclusive right to use such brand in this state, after registering such brand with the livestock commissioner.

(b) Any person desiring to register a livestock brand shall forward to the commissioner a facsimile of such brand and shall accompany the same with *a the registration fee of twenty dollars (\$20) in the amount provided under this section.* Each person making application for the registering of a livestock brand which is available shall be issued a certificate of brand title *which shall be valid for a period ending four (4) years subsequent to the next April 1, following date of issuance.*

(c) For the purpose of revising the brand records, *it shall be the duty of the livestock commissioner to shall collect a renewal fee of twenty dollars (\$20) in the amount provided under this section on all brands upon which recording period expires.* Any person submitting such renewal fee shall be entitled to a renewal of registration of his or her *such person's* livestock brand for a five-year period from the date of expiration of registration of his or her *such person's* livestock brand as shown by his or her *such person's* last certificate of brand title.

(d) The livestock brand of any person who fails to pay such renewal fee within a grace period of six (6) months after expiration of the registration period shall be placed in a delinquency status. The use of a delinquent brand shall be unlawful. If the owner of any delinquent registered brand *shall fail fails* to renew registration of such brand within one (1) year after such brand became delinquent, such failure shall be and is hereby declared to constitute an abandonment of any and all claim to any property right in *said such brand.*

(e) Upon the expiration of *said such* one-year delinquency period without any request for renewal and required remittance from the last record owner of a brand, or his or her *such owner's* heirs, legatees, or assigns, and with the termination of property rights by abandonment, the livestock commissioner is authorized to receive and accept an application for such brand to the same extent as if *said such* brand had never been issued to any one as a registered brand. *On or after January 1, 1979, the livestock commissioner may adopt rules and regulations to establish the amount of the brand registration and renewal fees, but in no case shall such fee exceed twenty-five dollars (\$25).*

(f) *The livestock commissioner shall determine annually the amount of funds which will be required for the purposes for which the brand registration and renewal fees are charged and collected and shall fix and adjust from time to time each such fee in such reasonable amount as may be necessary for such purposes, except that in no case shall either the brand registration fee or the renewal fee exceed \$35. The amounts of the brand registration fee and the renewal fee in effect on the day preceding the effective date of this act shall continue in effect until the livestock commissioner fixes different amounts for such fees under this section.*

Sec. 2. K.S.A. 47-417a is hereby amended to read as follows: 47-417a. (a) The livestock commissioner may, when brand inspectors or examiners are available, provide brand inspection. When brand inspection is requested and provided, the livestock commissioner shall charge and collect from the person making the request, a brand inspection fee of not to exceed *twenty cents (20¢) \$.25 per head on cattle, and three cents (3¢) \$.03 per head on sheep and other livestock.* No inspection charge shall be made or collected at any licensed livestock market where brand inspection is otherwise available.

(b) The livestock commissioner shall remit all moneys received by or for him or her under the statutes contained in article 4 of chapter 47 of the Kansas Statutes Annotated and amendments

thereto (, except K.S.A. 47-434 to 47-445, inclusive, and amendments thereto), to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the livestock brand fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by him or her *the commissioner.*

Sec. 3. K.S.A. 47-437 is hereby amended to read as follows: 47-437. *It shall be the duty of (a) The livestock commissioner to shall charge and collect a fee of not to exceed twenty cents (20¢) \$.25 per head on all cattle and not to exceed three cents (3¢) \$.03 per head on all sheep inspected in brand inspection areas of the state; and. The livestock commissioner may, when brand inspectors are available, provide brand inspection in other areas where brand inspection is requested; and the commissioner shall charge and collect inspection fees in the same manner as prescribed for the collection of such fees in brand inspection areas. The owner or seller of cattle or sheep inspected shall be responsible for the payment of the inspection fees; and said such fees shall be collected in such manner as the livestock commissioner shall prescribe or authorize by rule or regulation.*

(b) Whenever the livestock commissioner shall determine that the fees collected pursuant to the provisions of this section are yielding more than is required for the purposes for which such fees were collected, he or she is authorized and empowered to the commissioner may reduce such fees for such period as he or she the commissioner shall deem justified; and. In the event the livestock commissioner, after reducing such fees, finds that sufficient revenues are not being produced by the reduced fees to properly administer and enforce this act and acts of which this section is amendatory or supplemental, he or she is authorized and empowered to the commissioner may increase said such fees to such rate as will, in his or her the commissioner's judgment, produce sufficient revenue for the purposes provided in this section, but not exceeding *twenty cents (20¢) \$.25 per head on cattle and not to exceed three cents (3¢) \$.03 per head on sheep.*

(c) The livestock commissioner shall remit all moneys received by him or her under K.S.A. 47-434 to 47-445, inclusive, and amendments thereto to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be ~~accredited~~ credited to the county option brand fee fund, except any amounts received for brand inspection services of livestock outside of a county option area. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by him or her *the commissioner.* All amounts received for inspection of livestock outside of a county option area shall be deposited *in to the credit of the livestock brand fee fund.*

Sec. 4. K.S.A. 47-1011a is hereby amended to read as follows: 47-1011a. (a) The public livestock market operator shall collect from the consignor of cattle sold at a public livestock market, where brand inspection of such cattle is requested, by the public livestock market operator, as a brand inspection fee, in addition to amounts specified in K.S.A. 47-1011, a sum of *not less than five cents (5¢) and not more than twenty cents (20¢) \$.25 per head on all such cattle.* Such amount shall be determined by the livestock commissioner.

(b) Where cattle consigned to, or sold at, such public livestock market originate in, and have brand inspection clearance from a county option brand inspection area, operating under K.S.A. 47-434 to 47-445, inclusive, as amended and supplemented, such livestock brand inspection fee *under this section* shall not be required.

(c) The public livestock market operator shall pay all amounts received under this section to the livestock commissioner.

(d) The livestock commissioner shall remit all such amounts received under this section to the state treasurer at least monthly.

(continued)

Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the livestock market brand inspection fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the livestock commissioner or by a person or persons designated by him or her the commissioner.

Sec. 5. K.S.A. 47-417, 47-417a, 47-437 and 47-1011a are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 9, 1982.

HOUSE concurred in SENATE amendments April 7, 1982.
WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 24, 1982.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 20, 1982.
JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2472

AN ACT relating to insurance; concerning examination and licensure of agents; amending K.S.A. 40-241, as amended by 1982 House Bill No. 2765 and repealing the existing section.

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

Section 1. K.S.A. 40-241, as amended by 1982 House Bill No. 2765, is hereby amended to read as follows: 40-241. If the commissioner of insurance is satisfied that the applicant for an agent's license is of good business reputation and is otherwise qualified in the line of business, the applicant shall be given a written examination to determine whether such applicant possesses the competence and knowledge of the kinds of insurance and transactions under the license applied for, of the duties and responsibilities of such a license and of the pertinent provisions of the laws of this state. The applicant shall be tested on each class or subclassification of insurance which may be written. An examination fee in the amount of \$10 to be paid by the applicant shall be required for each class of insurance for each attempt to pass the examination, and such examination fee shall be in addition to the license fee required under K.S.A. 40-252, and acts amendatory thereof or supplemental thereto. There shall be three classes of insurance for the purposes of this act, which are:

- (1) Life, including health and accident;
- (2) casualty and allied lines;
- (3) fire and allied lines.

The commissioner of insurance shall establish rules and regulations with respect to the scope, subclassification, type and conduct of such written examination. Examinations shall be given to applicants as follows: Class one examinations at least twice a month in Topeka, Kansas, and at least quarterly in other convenient locations in the state of Kansas; class two and three examinations monthly not more frequently than twice a month in

Topeka, Kansas, and concurrently in other convenient locations in the state of Kansas. The commissioner shall publish or arrange for the publication of information and material which applicants can use to prepare for such written examination. One or more rating organizations, advisory organizations or other associations may be designated by the commissioner to assist in, or assume responsibility for, distribution of the study manuals to applicants and other interested parties. Persons purchasing the study manual shall be charged a reasonable fee established or approved by the commissioner. In the event the publication and distribution of the study material is delegated to private firms, organizations or associations and the state incurs no expense or obligation, the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto, shall not apply. If the commissioner of insurance finds that the applicant is trustworthy, competent and has satisfactorily ~~accomplished~~ completed the written examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i. If the applicant fails to satisfactorily complete the written examination, such examination may be retaken following a waiting period of not less than 14 days from the date of the last attempt. If an applicant fails to qualify for, or is refused a license, the license fee shall be returned. The examination fee shall not be returned for any reason. No insurance agent shall be required to take an examination for continuation of the agent's license for any class or subclassification of business which the agent was licensed to write prior to May 1, 1963, or for which the agent has previously been examined by the commissioner of insurance. The commissioner of insurance shall keep a permanent record of all agents' licenses issued and the insurance companies that the respective agents were certified to represent under such licenses for a period of 10 years.

Sec. 2. K.S.A. 40-241, as amended by 1982 House Bill No. 2765, is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 18, 1982.

HOUSE concurred in SENATE amendments April 6, 1982.
WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 2, 1982.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.
JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2712

AN ACT concerning administrative rules and regulations; amending K.S.A. 77-424 and K.S.A. 1981 Supp. 77-415, as amended by section 2 of 1982 House Bill No. 2724, 77-416, 77-420, 77-421, 77-421a, 77-426 and 77-437 and repealing the existing sections.

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

Section 1. K.S.A. 1981 Supp. 77-415, as amended by section 2 of 1982 House Bill No. 2724, is hereby amended to read as follows: 77-415. As used in K.S.A. 77-415 to 77-437, inclusive, and amendments thereto, unless the context clearly requires otherwise:

(1) (a) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

(b) "State agency" does not include any officer, department, bureau, division, board, authority, agency, commission or institution of the judicial or legislative branch except that the board of supervisors of panels to aid indigent defendants shall be considered a state agency for the purpose of adoption of rules and regulations pursuant to K.S.A. 22-4504 and amendments thereto.

(2) "Person" means firm, association, organization, partnership, business trust, corporation or company.

(3) "Board" means the state rules and regulations board established under the provisions of K.S.A. 1981 Supp. 77-423 and amendments thereto.

(4) "Rule and regulation," "rule," "regulation" and words of like effect mean a standard, statement of policy or general order, including amendments or revocations thereof, of general application and having the effect of law, issued or adopted by a state agency to implement or interpret legislation enforced or administered by such state agency or to govern the organization or procedure of such state agency. Every rule and regulation adopted by a state agency to govern its enforcement or administration of legislation shall be adopted by the state agency and filed as a rule and regulation as provided in this act. The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in a state agency decision upon or disposition of a particular matter as applied to a specific set of facts does not render the same a rule or regulation within the meaning of the foregoing definition, nor shall it constitute specific adoption thereof by the state agency so as to be required to be filed. A rule and regulation as herein defined shall not include any rule and regulation which: (a) Relates to the internal management or organization of the agency and does not affect private rights or interest; (b) is an order directed to specifically named persons or to a group which does not constitute a general class and the order is served on the person or persons to whom it is directed by appropriate means. The fact that the named person serves a group of unnamed persons who will be affected does not make such an order a rule or regulation; (c) relates to the use of highways and is made known to the public by means of signs or signals; (d) relates to the construction and maintenance of highways or bridges or the laying out or relocation of a highway *other than bidding procedures or the management and regulation of rest areas*; (e) relates to the curriculum of public educational institutions or to the administration, conduct, discipline, or graduation of students from such institutions or relates to parking and traffic regulations of state educational institutions under the control and supervision of the state board of regents; (f) relates to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 1981 Supp. 75-5202; (g) relates to the use of facilities by public libraries; (h) relates to military or naval affairs *other than the use of armories*; (i) relates to the form and content of reports, records, or accounts of state, county, or municipal officers, institutions, or agencies; (j) relates to expenditures by state agencies for the purchase of materials, equipment, or supplies by or for state agencies, or for the printing or duplicating of materials for state agencies; (k) establishes personnel standards, job classifications, or job ranges for state employees who are in the classified civil service; (l) fixes or approves rates, prices, or charges, or rates, joint rates, fares, tolls, charges, rules,

regulations, classifications or schedules of common carriers or public utilities subject to the jurisdiction of the state corporation commission, except when a statute specifically requires the same to be fixed by a rule or regulation; (m) determines the valuation of securities held by insurance companies; (n) is a statistical plan relating to the administration of rate regulation laws applicable to casualty insurance or to fire and allied lines insurance; (o) is a form, the content or substantive requirements of which are prescribed by regulation or statute; (p) is a pamphlet or other explanatory material not intended or designed as interpretation of legislation enforced or adopted by a state agency but is merely informational in nature; (q) fixes the seasons and establishes bag limits and possession limits for game birds and game animals; if such seasons, bag limits and possession limits are made known to the public by other means; (r) fixes the seasons and establishes creel, size and possession limits for fish, if such seasons and creel, size and possession limits are made known to the public by other means; or (s) fixes the seasons and establishes bag limits and season limits for fur-bearing animals, if such seasons, bag limits and season limits are made known to the public by other means.

Sec. 2. K.S.A. 1981 Supp. 77-416 is hereby amended to read as follows: 77-416. (a) Every state agency shall file with the revisor of statutes every rule and regulation adopted by it and every amendment and revocation thereof. Such rules and regulations shall be filed in duplicate, and each section shall include a citation to the statutory section or sections being implemented or interpreted and a citation of the authority pursuant to which it, or any part thereof, was adopted. Every rule and regulation filed in the office of the revisor of statutes shall be accompanied by a copy of (1) the fiscal or financial impact statement required by subsection (b) of this section and (2) any document which is adopted by reference by the rule or regulation. A copy of any document adopted by reference in a rule and regulation shall be available from the state agency which adopted the rule and regulation upon request by any person interested therein. The state agency shall, under the direction of the revisor of statutes, number each section with a distinguishing number and, in making a compilation of the rules and regulations, the sections shall be arranged therein in numerical order. A decimal system of numbering shall be prohibited.

(b) At the time of drafting any proposed rule and regulation or amendment to any existing rule and regulation the state agency shall prepare a statement of the fiscal or financial effect or impact of such proposed rule and regulation or amendment upon all governmental agencies or units and private businesses which will be subject thereto *and upon the general public*, and if such proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program, the state agency shall so specify as a part of the fiscal or financial impact statement. The state agency shall reevaluate and when necessary update such statement at the time of giving notice of hearing on a proposed rule and regulation and at the time of filing a rule and regulation with the revisor of statutes. If a public hearing was held prior to the adoption of the rule and regulation, a state agency at the time of filing a rule and regulation with the revisor of statutes shall include as a part of the fiscal or financial impact statement a statement specifying the time and place at which the hearing was held and the attendance at the hearing. A copy of such fiscal or financial impact statement shall be available from the state agency upon request by any party interested therein.

Sec. 3. K.S.A. 1981 Supp. 77-420 is hereby amended to read as follows: 77-420. (a) Every rule and regulation proposed to be adopted by any state agency, before being submitted to the attorney general under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. *Every rule and regulation submitted to the secretary of administration under this subsection (a) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection (a) shall be*

(continued)

stamped as approved and the date of such approval shall be indicated therein. No rule and regulation proposed to be adopted by any state agency as a permanent rule and regulation shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar after November 1 October 15 in any year.

(b) Every rule and regulation proposed by any state agency which has been approved by the secretary of administration as provided in subsection (a) of this section before being adopted or filed shall be submitted to the attorney general for an opinion as to the legality of the same, and the attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection (b) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection (b) shall be stamped as approved and the date of such approval shall be indicated therein.

(c) No rule and regulation shall be filed with the revisor of statutes unless:

(1) The organization, style, orthography and grammar have been approved by the secretary of administration;

(2) The same rule and regulation has been approved in writing by the attorney general as to legality;

(3) The attorney general finds that the making of such rule and regulation is within the authority conferred by law on the state agency submitting the same; and

(4) The rule and regulation has been formally adopted by the state agency after it has been approved by the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 1980 1981 Supp. 77-421 and any amendments thereto when adoption is by a board, commission, authority, or other similar body; and

(5) The rule and regulation to be filed is accompanied by a copy of the fiscal or financial impact statement as required by K.S.A. 1981 Supp. 77-416 and amendments thereto.

Sec. 4. K.S.A. 1981 Supp. 77-421 is hereby amended to read as follows: 77-421. (a) Prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 15 days' notice of its intended action in the Kansas register and to the revisor of statutes. The notice shall be mailed to the revisor of statutes and published in the Kansas register and shall contain a statement of the terms, or summary of the substance of the proposed rules and regulations or a description of the subjects and issues involved and the address where a complete copy of the proposed rules and regulations may be obtained. Such notice shall state the time and place of the public hearing to be held thereon and the manner in which interested parties may present their views thereon. Such notice shall be accompanied by a copy of the fiscal or financial impact statement applicable to all proposed rules and regulations which will be considered at such public hearing, and the notice shall state that a copy of the fiscal or financial impact statement may be obtained from the state agency and shall provide the address of the state agency from which such fiscal or financial impact statement may be obtained. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations. Nothing in this section shall be construed to require publication in the Kansas register of the fiscal or financial impact statement.

(b) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. When requested to do so, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto. Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving; or revoking a rule and

regulation, the state agency may, in lieu of following the requirements or statutory procedure set out in such other law, give notice and hold hearings on proposed rules and regulations in the manner prescribed by this act. Notwithstanding the other provisions of this section, the Kansas adult authority and the secretary of corrections may, but shall not be required to, give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation.

(c) No public hearing required by this section shall be scheduled or held by a state agency after the 10th day of December 1 of any calendar year.

(d) No rule and regulation shall be adopted except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted unless it shall receive approval by roll call vote of a majority of the total membership of the adopting board, commission, authority or other similar body.

Sec. 5. K.S.A. 1981 Supp. 77-421a is hereby amended to read as follows: 77-421a. Whenever any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and the legislative branches, is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state, and such rules and regulations are exempt from the requirements of K.S.A. 77-415 et seq., and amendments thereto, by virtue of the definition of "rule or regulation" in subsection (4) of K.S.A. 1978 1981 Supp. 77-415 and amendments thereto, such rules and regulations shall be adopted in the manner prescribed by K.S.A. 1978 1981 Supp. 77-421 and amendments thereto after notice has been given and a hearing held in the manner prescribed by K.S.A. 1981 Supp. 77-421 and amendments thereto. This section shall not apply to orders issued by directors of correctional institutions under K.S.A. 1978 1981 Supp. 75-5256.

Sec. 6. K.S.A. 77-424 is hereby amended to read as follows: 77-424. The state rules and regulations board shall meet as soon as possible after December 31 15 each year to determine which rules and regulations are to be published in the annual supplement to the Kansas administrative regulations. For the purpose of avoiding unwarranted expense, the board may authorize and direct the revisor of statutes to withhold publication of any technical rule and regulation of any state agency where such rules and regulations are of limited public interest and are or will be available in published form. In every such case where the rules and regulations are not published in the Kansas administrative regulations or annual supplement, reference shall be made by the revisor of statutes to the rules and regulations omitted therefrom, and shall state how such rules and regulations may be obtained and that the rules and regulations so omitted are on file in the office of revisor of statutes. Rules and regulations adopted jointly by two or more agencies shall not be published in more than one place in the compilation or supplement thereto.

Sec. 7. K.S.A. 1981 Supp. 77-426 is hereby amended to read as follows: 77-426. (a) All rules and regulations on file with the revisor of statutes which are in force and effect at the time this act takes effect shall continue in full force and effect and may be amended, revived; or revoked as provided by law. All new rules and regulations and all amendments, revivals; or revocations of rules and regulations, other than temporary regulations, adopted in any year shall be filed with the revisor of statutes on or before December 31 15 of such year, and shall become effective on and after May 1 of the succeeding year. No rules and regulations may be filed after December 31 15 in any year or prior to the next following May 1 in any year, except temporary rules and regulations.

(b) As soon as possible after the filing of any rules and regulations by a state agency, the revisor of statutes shall submit to the joint committee on administrative rules and regulations such number of copies as may be requested by the joint committee on administrative rules and regulations.

(c) At any time prior to adjournment sine die of the regular session of the legislature, the legislature may adopt a concurrent resolution modifying or rejecting any permanent rule and regu-

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lation filed in the office of revisor of statutes during the preceding year. When a concurrent resolution modifying a permanent rule and regulation is adopted, the rule and regulation affected shall be modified in the manner and become effective on the date specified in the concurrent resolution. When a concurrent resolution of the legislature rejecting a permanent rule and regulation is adopted, such rule and regulation shall not take effect as submitted but shall be void. If the permanent rule and regulation so rejected is an amendment to a currently effective rule and regulation, such rejection shall have no effect upon the currently effective rule and regulation which shall continue to be in effect until amended, revoked or suspended as otherwise provided by law. In the event no concurrent resolution modifying or rejecting a permanent rule and regulation is adopted, such permanent rule and regulation shall take effect and be in force from and after the date specified in subsection (a) of this section.

(d) Any rule and regulation included in the Kansas administrative regulations or any supplement thereto and any temporary rule and regulation in effect may be modified or revoked by a concurrent resolution adopted by the legislature. The modification or revocation of any such rule or regulation by concurrent resolution of the legislature shall become effective upon the date specified in the concurrent resolution. Any rule and regulation so modified shall be published as modified, and a rule and regulation so revoked shall be shown as revoked, in the Kansas administrative regulations or the annual supplement thereto subject to the provisions of K.S.A. 77-424 and any amendments thereto. Any rule and regulation modified as provided in this subsection may be amended, revived, suspended or revoked by the appropriate state agency in the manner provided by law for the amendment, revival, suspension or revocation of any rule and regulation. The revocation of a rule and regulation by concurrent resolution of the legislature shall not be construed as reviving a rule and regulation previously revoked, nor shall such revocation be construed as affecting any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the rule and regulation revoked.

Sec. 8. K.S.A. 1981 Supp. 77-437 is hereby amended to read as follows: 77-437. (a) On or before December 31, 1978, and, except as otherwise provided by this section, in accordance with the provisions of K.S.A. 77-416 and 77-418, and amendments thereto: (1) The secretary of corrections shall prepare and file with the revisor of statutes a complete compilation of all rules and regulations of the secretary of corrections and (2) the Kansas adult authority shall prepare and file with the revisor of statutes a complete compilation of all rules and regulations of the Kansas adult authority. The rules and regulations compiled and filed under this subsection (a) shall not be required to be accompanied by fiscal or financial effect or impact statements under K.S.A. 77-416, and amendments thereto.

(b) Until January 1, 1979, and notwithstanding any provisions of K.S.A. 77-415 to 77-436, inclusive, and amendments thereto, all rules and regulations of the secretary of corrections and the Kansas adult authority which are in force and effect prior to July 1, 1978, shall continue in full force and effect and may be amended, revived or revoked in the manner provided by the law in effect prior to July 1, 1978. On January 1, 1979, all rules and regulations of the secretary of corrections and the Kansas adult authority in force and effect prior to January 1, 1979, shall be null and void.

(c) On January 1, 1979, the rules and regulations of the secretary of corrections which are compiled and filed with the revisor of statutes on or before December 31, 1978, in accordance with this section by the secretary of corrections, shall take effect and be in force and shall be the duly adopted temporary rules and regulations of the secretary of corrections. On January 1, 1979, the rules and regulations of the Kansas adult authority which are compiled and filed with the revisor of statutes on or before December 31, 1978, in accordance with this section by the Kansas adult authority, shall take effect and be in force and shall be the duly adopted temporary rules and regulations of the Kansas adult authority. All temporary rules and regulations of the secretary of corrections and the Kansas adult authority which become temporary rules and regulations on January 1, 1979, pursuant to this

subsection shall be numbered in accordance with the numbering arrangement approved by the revisor of statutes for temporary rules and regulations but shall not be published by the revisor of statutes. On and after January 1, 1979, All temporary and permanent rules and regulations of the secretary of corrections and the Kansas adult authority shall be subject to all of the provisions of K.S.A. 77-415 to 77-436, inclusive, and amendments thereto.

New Sec. 9. K.S.A. 77-415 to 77-437, inclusive, and acts amendatory thereof or supplemental thereto shall be known and may be cited as the rules and regulations filing act.

Sec. 10. K.S.A. 77-424 and K.S.A. 1981 Supp. 77-415, as amended by section 2 of 1982 House Bill No. 2724, 77-416, 77-420, 77-421, 77-421a, 77-426 and 77-437 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 18, 1982.

HOUSE concurred in SENATE amendments April 7, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 799

AN ACT concerning the powers of the governing bodies of certain water districts; amending K.S.A. 19-3505 and 19-3554 and repealing the existing sections.

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

New Section 1. The governing body of a public wholesale water supply district No. 4 created pursuant to K.S.A. 19-3545 *et seq.* may issue general obligation bonds of the district to finance the cost of acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of the district. All general obligation bonds of the district shall be authorized, issued, registered and sold in the manner provided by the general bond law and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 1981 Supp. 10-1009. The authorized and outstanding bonded indebtedness of the district shall not exceed 20% of the assessed value of all taxable tangible property located within the district, as certified to the county clerk on the preceding August 25.

No bonds may be issued until the question of issuing such bonds has been submitted to and approved by a majority of the qualified electors of the district voting at an election called thereon. Such election shall be called and held in the manner provided by the general bond law. If a majority of the voters voting on the question vote in favor thereof, the bonds may be issued.

Sec. 2. K.S.A. 19-3554 is hereby amended to read as follows: 19-3554. Subsequent to the organization of a district and the appointment of a The governing body for such of any district; such governing body shall be authorized to created pursuant to K.S.A. 19-3545 *et seq.* may issue no-fund warrants in amounts sufficient to pay preliminary engineering, financial and legal services to determine the advisability of proceeding with the acquisition or construction of a water supply system. The governing body may, with the approval of the state board of tax appeals, issue no-fund warrants in like manner as other warrants which shall bear interest at a rate of not more than the maximum rate of interest as prescribed by K.S.A. 10-1000. Such warrants shall be authorized, issued, registered, and redeemed and bear interest in the manner and in the form as prescribed by K.S.A. 79-2940 and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 1981 Supp. 10-1009. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940.

The governing body of the district may assess each participating public agency each year for three (3) years in approximately equal installments an amount proportionate to the number of households within the jurisdiction of such public agency for the purpose of paying such warrants and interest thereon. The governing body may redeem no-fund warrants by tax assessment. The governing body of the district shall make not more than five equal annual tax levies, as determined by the board of tax appeals, at the next succeeding tax-levying periods after such warrants are issued in an amount sufficient to pay such warrants and interest thereon.

Sec. 3. K.S.A. 19-3505 is hereby amended to read as follows: 19-3505. The governing body of any water district to which this section applies shall be a five (5) member five-member board holding positions numbered one (1) to five (5), inclusive. Except as hereinafter provided, each member shall be elected and shall hold office from May first 1 following such member's election until April thirtieth 30, four (4) years thereafter and until a successor is elected and has qualified.

The first election of members of the governing body of any water district created after the effective date of this act shall be held on the first Tuesday in August of any even-numbered year, at which time members shall be elected for terms beginning on the first day of September 1 of the same year, and ending on April thirtieth 30 of the third year following the beginning of such term, to positions numbered three (3), four (4) and five (5). At such first election, members shall be elected for terms ending on April thirtieth 30 of the first year following the beginning of such terms, to positions numbered one (1) and two (2). Members first elected to positions one (1) and two (2) shall have terms of approximately eight (8) months. Elections shall be thereafter held

on the first Tuesday in April of each odd-numbered year for the member positions whose terms expire in that year.

All elections held under this act shall be nonpartisan and shall be called and conducted by the county election officer. Laws applying to other local elections occurring at the same time and in the same locality shall apply to elections under this act to the extent that the same can be made to apply.

Following each such election the board shall organize itself and not later than the second regular meeting following each such election shall select from among its members a chairman chairperson, secretary and treasurer. The chairman chairperson may designate an acting chairman chairperson to preside over any meetings at which the chairman chairperson may not be present. Vacancies occurring during a term shall be filled for the unexpired term by appointment by the remaining members. All members shall take an oath of office as prescribed for other public officials. The members of such the board shall be qualified electors in such the water district. Prior to accepting office, the water district shall obtain for each member-elect a corporate surety bond to the state of Kansas in the amount of ten thousand dollars (\$10,000) \$10,000, conditioned upon the faithful performance of the member's duties and for the true and faithful accounting of all money that may come into the member's hands by virtue of the office. Such bonds shall be filed in the office of the county clerk for the county in which the major portion of such water district is located after approval by the board of county commissioners of such county.

Each member of the board shall receive a monthly salary of not to exceed one hundred dollars (\$100) and reimbursement in an amount determined by the board and shall be reimbursed for all necessary and reasonable expenses incurred in performing official assigned duties.

Sec. 4. K.S.A. 19-3505 and 19-3554 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 10, 1982.

SENATE concurred in HOUSE amendments April 7, 1982.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 5, 1982.
WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

JACK H. BRIER
(SEAL) Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 870

AN ACT concerning the health care provider insurance availability act; authorizing coverage under the act for not for profit corporations organized for the purpose of rendering professional services by persons who are health care providers; amending K.S.A. 40-3401 and repealing the existing section.

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

Section 1. K.S.A. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act the following terms shall have the meanings respectively ascribed to them herein:

- (a) "Applicant" means any health care provider;
- (b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of subsection (a) or (b) of K.S.A. 40-3402;
- (c) "Commissioner" means the commissioner of insurance;
- (d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of that month, thereafter;
- (e) "Fund" means the health care stabilization fund established pursuant to subsection (a) of K.S.A. 40-3403;
- (f) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, a health maintenance organization issued a certificate of authority by the commissioner of insurance, an optometrist licensed by the board of examiners in optometry, a podiatrist registered by the state board of healing arts, a pharmacist registered by the state board of pharmacy, a licensed professional nurse who is licensed by the board of nursing and certified as a nurse anesthetist by the American association of nurse anesthetists, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas not for profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection (f), a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, a physical therapist registered by the state board of healing arts, or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services;
- (g) "Inactive health care provider" means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a health care provider;
- (h) "Insurer" means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workmen's compensation and automobile liability insurance, pursuant to the provisions of article 9, 11, 12 or 16 of chapter 40 of Kansas Statutes Annotated;
- (i) "Plan" means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to health care providers;
- (j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or which should have been rendered by a health care provider;
- (k) "Rating organization" means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-930 or K.S.A. 40-1114, or both sections, to make rates for professional liability insurance;
- (l) "Self-insurer" means a health care provider who has qualified as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto;

(m) "Medical care facility" means the same when used in the health care provider insurance availability act as the meaning ascribed to that term in K.S.A. 65-425, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility;

(n) "Mental health center" means a mental health center licensed by the secretary of social and rehabilitation services under K.S.A. 1980 Supp. 75-3307b, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center;

(o) "Mental health clinic" means a mental health clinic licensed by the secretary of social and rehabilitation services under K.S.A. 1980 Supp. 75-3307b, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic;

(p) "State institution for the mentally retarded" means Norton state hospital, Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

New Sec. 2. (a) Any professional corporation organized under the professional corporation law of Kansas that reorganizes as a Kansas not for profit corporation and seeks to comply with the provisions of the health care provider insurance availability act shall be considered to be a continuing concern for the purposes of obtaining basic coverage pursuant to the health care provider insurance availability act and shall not be considered to be an inactive health care provider. Any insurer issuing basic coverage to such corporation shall provide coverage for all claims made during the term of the policy issued which arose while the not for profit corporation was operating in this state as a professional corporation under the professional corporation law of Kansas.

(b) This section shall be part of and supplemental to the health care provider insurance availability act.

Sec. 3. K.S.A. 40-3401 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 24, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 20, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 20th day of April, 1982.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 866

AN ACT concerning alcoholic liquors and beverages; relating to agreements for distribution of individual brands of beer or cereal malt beverages to certain wholesalers or distributors; relating to residency requirements for a beer distributor's license; amending K.S.A. 41-311, 41-409 and 41-2705 and repealing the existing sections.

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

Section 1. K.S.A. 41-311 is hereby amended to read as follows: 41-311. (1) (a) No license of any kind shall be issued to a person:

(a) A person (1) Who has not been a citizen of the United States for at least ten (10) 10 years;

(b) A person (2) Who has been convicted of or has pleaded guilty to a felony under the laws of this state, or any other state, or of the United States;

(c) A person (3) Who has been convicted of or has pleaded guilty to a violation of intoxicating liquor laws of any state or the alcoholic beverage control laws of the United States; or shall have has forfeited bond to appear in court to answer charges for any such violation, within the ten (10) 10 years immediately prior to the date of such the person's application for a license;

(d) A person (4) Who has been convicted of or has pleaded guilty to a violation of any of the laws of any state relating to cereal malt beverages, within ten (10) 10 years immediately prior to the date of such the person's application for a license;

(e) A person (5) Who has had his or her a license revoked for cause under the provisions of this act or who has had any license issued to him or her under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of ten (10) 10 years following the date of such the revocation;

(f) A person (6) Who has been convicted of or has pleaded guilty to being the keeper or is keeping a house of ill fame or shall have prostitution or has forfeited bond to appear in court to answer charges for any such violation; of being a keeper of a house of prostitution.

(g) A person (7) Who has been convicted of or has pleaded guilty to being a proprietor of a gambling house, or of pandering or any other crime or misdemeanor opposed to decency and morality or shall have has forfeited bond to appear in court to answer charges for any such violation; of those crimes.

(h) A person (8) Who is not at least twenty-one (21) 21 years of age;

(i) A person (9) Who appoints or is a law enforcement official or who is an employee of the director or the board;

(j) A person (10) Who intends to carry on the business authorized by the license as agent of another;

(k) A person (11) Who at the time of application for renewal of any license issued hereunder under this act would not be eligible for such the license upon a first application;

(l) A person (12) Who is the holder of a valid and existing license issued under the laws of this state relating to cereal malt beverages and malt products unless he or she shall agree the person agrees to and does surrender such the license to the officer issuing the same upon the issuance to him or her the person of a license under this act and shall surrender the same: *Provided, however, except that* a holder of a cereal malt beverages wholesaler's license shall be eligible to receive a beer distributor's license hereunder; under this act.

(m) A person (13) Who does not own the premises for which a license is sought, or does not have a written lease thereon for at least three-fourths (¾) ¾ of the period for which the license is to be issued; or.

(n) Any person if the spouse of such person (14) Whose spouse would be ineligible to receive such a license hereunder under this act for any reason other than citizenship and residence requirements or age.

(2) (b) No retailer's license shall be issued to a: (a) A (1) Person who is not a resident of the county in which the premises sought to be licensed are located;

(b) A (2) Person who has not been a resident; for at least five (5) years immediately preceding the date of his or her application, a resident of the county in which the premises covered by the

license are located or a person who has not been a resident of this state for a total of at least ten (10) 10 years preceding the date of his or her application: *Provided, Any veteran of world war II, unless dishonorably discharged, who established residence in Kansas within six (6) months from the date of his or her separation from the service and on or before January 1, 1947, and has maintained a continuous residence in the county in which the premises governed by the license are located since his or her residence was established as herein provided shall be exempt from the provisions of this paragraph: Provided, except that, if the premises sought to be licensed are located in a city which is located in two (2) or more counties and the applicant for license is a resident of either county, the applicant for a license, if he or she is a resident of either of such counties, shall be deemed to be a resident of each of such counties county for the purpose of his or her qualification;*

(c) A (3) Person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;

(d) A (4) Person or copartnership or association who has beneficial interest in any other retail establishment licensed under this act;

(e) A (5) Copartnership, unless all of the copartners are qualified to obtain a license; or.

(f) A (6) Corporation.

(3) (c) No manufacturer's license shall be issued to: (a)

(1) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than twenty-five percent (25%) 25% of the stock of such the corporation would be ineligible to receive a manufacturer's license hereunder for any reason other than citizenship and residence requirements;

(b) (2) A copartnership, unless all of the copartners shall have been residents of the this state for at least (5) five years immediately preceding the date of application; and unless all the members of such the copartnership would be eligible to receive a manufacturer's license hereunder; under this act.

(c) (3) An individual who has not been a resident of the this state of Kansas for at least five (5) years immediately preceding the date of his or her application.

(4) (d) No distributors- distributor's license shall be issued to: (a)

(1) A corporation, if any officer, manager, or director thereof, or any or stockholder of the corporation would be ineligible to receive a distributor's license hereunder for any reason and. It shall be unlawful for any stockholder of said a corporation licensed as a distributor to transfer any stock in said the corporation to any person who would be ineligible to receive a distributor's license herein for any reason, and any such transfer shall be null and void: *Provided, however, except that: (A) If any such stockholder owning stock in any such corporation shall become deceased; and his or her heirs or devisees the corporation dies and an heir or devisee to whom said stock of the corporation descends by descent and distribution or by will shall be is ineligible to receive a distributor's license hereunder; then, the legal representatives of said the deceased stockholder's estate, his or her heirs and devisees and the ineligible heir or devisee shall have fourteen (14) 14 months from the date of the death of said the stockholder within which to sell said the stock to a person eligible to receive a distributor's license hereunder, any such sale to be made by a legal representative hereunder shall to be made in accordance with the provisions of the probate code or any amendments thereto: *Provided further;* or (B) if the stock in any such corporation shall be is the subject of any trust heretofore or hereafter created then unless said trustee, or each of the trustees of said trust, and beneficiaries of said trust, who are twenty-one (21) and any trustee or beneficiary of the trust who is 21 years of age or older; are persons who would be eligible is ineligible to receive a distributor's license, the trustee shall be and he or she is hereby authorized and required within fourteen (14), within 14 months after the effective date of the trust to sell said, shall sell the stock to a person eligible to receive a distributor's license under this act; and hold and disburse the proceeds thereof in accordance with the terms of the trust: *Provided further, If said. If any legal representatives, heirs and, devisees shall or trustees fail, refuse or neglect to so convey said sell any stock within the**

(continued)

time hereinbefore prescribed, then said as required by this subsection, the stock shall revert to and become the property of the corporation for which, and the corporation shall pay to said the legal representatives, heirs or, devisees or trustees the book value thereof. ~~And provided further, book value of the stock.~~ During the period of said fourteen (14) months hereinbefore mentioned, said 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if said the corporation meets all of the other requirements necessary to have a distributor's license as provided in this act.

(b) (2) A copartnership, unless all of the copartners shall be are eligible to receive a distributor's license hereunder.

(c) (3) An individual who has not been a resident of the this state of Kansas for at least ten (10) 10 years immediately preceding the date of his or her application: ~~Provided, Any individual who was the holder of a distributor's license on June 30, 1953, and who has been a resident of the state of Kansas for at least five (5) years immediately preceding the date of his or her application and who is otherwise eligible may renew his or her distributor's license upon proper application therefor. Provided further, except that:~~

(A) A wholesaler of cereal malt beverages properly licensed on September 1, 1948, shall be eligible to receive for a beer distributor's license hereunder without regard to the residence requirement of this paragraph; and

(B) a person who has been a resident of the state for at least five years immediately preceding the date of application shall be eligible for a beer distributor's license.

(5) (e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director thereof, of the corporation or any stockholder owning in the aggregate more than twenty-five percent (25%) 25% of the stock of such the corporation would be ineligible to receive a nonbeverage user's license hereunder for any reason other than citizenship and residence requirements.

Sec. 2. K.S.A. 41-409 is hereby amended to read as follows: 41-409. (1) Before commencing or continuing business, every manufacturer or distributor of beer, regardless of its alcoholic content, and every importer of beer containing more than ~~3.2~~ percent 3.2% of alcohol by weight shall file with the director a notice in writing, stating which states: (a) The name of the person, company, corporation or firm, (b) the name of the members of any such company or firm, (c) the places of residence of such persons, (d) a legal description of the premises on which the office of the manufacturer or distributor is situated; and of his or their the title thereto and the name of the owner thereof, and (e) the geographic territory within which the distributor will distribute beer to retailers. ~~Said No manufacturer or distributor or other supplier of beer shall enter into an agreement for the distribution of a brand of beer with more than one distributor of beer for all or any part of such geographic territory. Such geographic territory shall be the territory agreed upon by the manufacturer and the distributor; and it may not be changed or modified without the written consent of both the manufacturer and distributor all parties thereto. No supplier or distributor shall terminate or modify an agreement for the distribution of a brand of beer or alter the geographic territory designated in an agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. Upon receipt of such notice, the director shall notify immediately all affected parties of the impending termination, modification or alteration by certified mail. Any supplier or distributor aggrieved by a termination, modification or transferral made under this section may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or transferral violates the agreement between the supplier and the distributor involved.~~ There shall also be filed with such notice a verified copy of any contractual arrangement between the manufacturer and distributor, the importer and the distributor, and the distributor and the retailer.

(2) Every such manufacturer or distributor of beer on filing notice, as aforesaid, of his the manufacturer or distributor's intention to commence or continue business as required by this section, shall execute a bond to the state of Kansas to be approved by the director in a sum equal to three times the amount of the tax

which, in the opinion of the director, such manufacturer or distributor will be liable to pay during any one month and in no event less than five thousand dollars (\$5,000); \$5,000 and conditioned (a) that he the manufacturer or distributor will pay, or cause to be paid; as herein provided; the taxes or duties required to be paid the state of Kansas under the Kansas liquor control act on all beer made or brewed by or for him; or distributed by or for him the manufacturer or distributor, before the same is sold or removed for consumption or sale from the premises owned or controlled by him the manufacturer or distributor in such manner and at such time as the director; by rule, shall may prescribe pursuant to rules and regulations adopted under the Kansas liquor control act; and (b) that he the manufacturer or distributor will keep, or cause to be kept, books and records and make reports in the manner and for the purposes hereinafter specified by rules of the director and regulations adopted under the Kansas liquor control act, which shall be open to inspection by the director and the proper agents of the director; (c) that he the manufacturer or distributor will in all respects faithfully comply with all the requirements of the laws of the state of Kansas and the rules of the director; and regulations relating to the manufacture and distribution to licensed cereal malt beverage and beer retailers in the state of Kansas; and (d) that he the manufacturer or distributor will execute a new bond once in four years, or whenever required to do so by the director in the amount above named determined under this subsection, and conditioned as above provided by this subsection, which bonds shall be in lieu of any former bond or bonds of such manufacturer or distributor in respect to all liability accruing after its approval by the director.

(3) The director may require by rule, promulgated under rules and regulations adopted as provided in this act, that beer be kept, received and withdrawn from bonded warehouses, as other alcoholic liquors are kept, received and withdrawn; as hereinbefore provided under the Kansas liquor control act, whenever he the director deems that the public interest demands.

(4) No beer manufactured or distributed within this state shall be sold under the provisions of this act until the manufacturers or distributors of such beer furnish satisfactory evidence to the director that such beers are brewed from alcoholic fermentation of an infusion of pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and are free from all harmful substances, preservatives and adulterants.

Sec. 3. K.S.A. 41-2705 is hereby amended to read as follows: 41-2705. (a) It shall be unlawful for any individual brewer or group of brewers to sell, deliver or distribute cereal malt beverages or malt products in the state of Kansas except to a licensed wholesaler or distributor of such.

(b) (1) Except as provided in paragraph (2) of this subsection (b), no manufacturer, distributor, agent or wholesaler shall:

(A) Directly or indirectly sell, supply, furnish, give, pay for, loan or lease any furnishings, fixture or equipment on the premises of a place of business of a retailer;

(B) directly or indirectly pay for any retailer's license or advance, furnish, lend or give money for payment of such license;

(C) purchase or become the owner of any note, mortgage or other evidence of indebtedness of a retailer or any form of security therefor;

(D) directly or indirectly be interested in the ownership, conduct or operation of the business of any retailer; or

(E) be directly or indirectly interested in or owner, part owner, lessee or lessor of any premises upon which cereal malt beverages are sold at retail.

(2) A distributor, agent or wholesaler may sell tapping and dispensing equipment, as defined by rules and regulations adopted by the secretary of revenue under article 27 of chapter 41 of the Kansas Statutes Annotated, at not less than the cost paid for such equipment by the distributor, agent or wholesaler. The terms of any such sale shall comply with the provisions of K.S.A. 41-2706. Such sales shall not be subject to any repurchase agreement.

(c) No manufacturer, distributor or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such manufacturer, distributor or wholesaler,

(continued)

furnish, give, lend or rent any interior decorations other than signs, costing in the aggregate more than ~~one hundred dollars~~ (\$100) \$100 in any one calendar year for use in or about or in connection with any one establishment on which products of the manufacturer, distributor or wholesaler are sold.

(d) No person engaged in the business of manufacturing, distributing or wholesaling cereal malt beverages shall, directly or indirectly, pay for or advance, furnish or lend money for the payment of any license for another.

(e) Any licensee who shall permit or assent, or be a party in any way to any violation or infringement of the provisions of this section, shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this act shall not be recovered back, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

(f) No wholesaler or distributor shall sell any cereal malt beverage to any person who has not secured a license as provided for in this act and no wholesaler or distributor shall sell any cereal malt beverage to any retailer located outside the geographic area designated in ~~said wholesaler's~~ the wholesaler or distributor's application for a license pursuant to K.S.A. 41-2713, and any amendments thereto, except that if any wholesaler or distributor shall refuse to sell any cereal malt beverage or provide service in connection ~~therewith~~ with that sale to any retailer located within such ~~wholesaler's~~ wholesaler or distributor's geographic territory, it shall be lawful for any other wholesaler or distributor to sell any such cereal malt beverage to such retailer.

(g) (1) Except as provided in paragraph (2) of this subsection (g), no individual brewer or ~~breweries group of brewers~~ shall directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such brewer or ~~breweries group of brewers~~:

(A) Furnish, give or lend money for the payment of any license for any wholesaler in the state of Kansas;

(B) have or own any financial interest directly or indirectly in the ownership, conduct or operation of the business of any wholesaler in the state of Kansas;

(C) be directly or indirectly interested in or owner, part owner, lessee or lessor of any premises upon which cereal malt beverages are sold at wholesale; or

(D) engage in the wholesale distribution of cereal malt beverages or malt products in the state of Kansas.

(2) Nothing herein in this section shall be construed to prohibit brewers any brewer from making sale and deliveries of cereal malt beverages or malt products to licensed wholesalers in the state of Kansas, or to a branch, subsidiary or affiliate located in the state of Kansas, from which, on or before January 14, 1947, ~~it~~ the brewer had been dispensing at wholesale cereal malt beverage or malt products and for which ~~it~~ the brewer holds, directly or indirectly, a license and pays a license tax as provided for in K.S.A. 41-2713, and any amendments thereto.

(h) Nothing contained in this section shall make it unlawful for any person to be a member of a club licensed as such by the director of alcoholic beverage control nor shall membership in such a club by any person constitute a disqualification of any person for any license under this act.

(i) No brewer or other supplier shall enter into an agreement for the distribution of a brand of cereal malt beverage with more than one wholesaler or distributor of cereal malt beverages for all or part of any designated geographic territory. No supplier or distributor shall terminate or modify an agreement for the distribution of a brand of cereal malt beverage or alter the geographic territory designated in an agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. Upon receipt of such notice, the director shall notify immediately all affected parties of the impending termination, modification or alteration by certified mail. Any supplier or distributor aggrieved by a termination, modification or transferral made under this section may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or transferral violates the agreement between the supplier and the distributor involved.

Sec. 4. K.S.A. 41-311, 41-409 and 41-2705 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 2, 1982.

SENATE concurred in HOUSE amendments April 8, 1982.

ROSS O. DOYEN

President of the Senate.

LU KENNEY

Secretary of the Senate.

Passed the HOUSE as amended April 7, 1982.

WENDELL LADY

Speaker of the House.

GENEVA SEWARD

Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN

Governor.

STATE OF KANSAS

Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

JACK H. BRIER

Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 867

AN ACT concerning boiler inspection; relating to the qualifications of deputy inspectors; authorizing inspection fees to be established by rules and regulations; amending K.S.A. 44-916, 44-919 and 44-926 and repealing the existing sections.

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

Section 1. K.S.A. 44-916 is hereby amended to read as follows: 44-916. (a) The secretary shall adopt rules and regulations, consistent with the provisions of this act, for the safe construction, installation, inspection, maintenance and repair of boilers in this state and to fix inspection fees as provided in K.S.A. 44-926 and amendments thereto.

(b) Rules and regulations adopted hereunder for construction of new boilers shall be based upon and at all times follow generally accepted nationwide engineering standards, formulae and practices established and pertaining to boiler construction and safety. Such rules and regulations may incorporate by reference specific editions, or portions thereof, of the boiler and pressure vessel code of the American society of mechanical engineers.

(c) Rules and regulations adopted hereunder for the inspection, maintenance and repair of boilers shall be based upon and at all times follow generally accepted nationwide engineering standards. Such rules and regulations may incorporate by reference specific editions, or portions thereof, of the inspection code of the national board of boiler and pressure vessel inspectors and may require the use of such board's "R" stamp for repairs.

(d) All rules and regulations adopted hereunder shall be subject to the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, except that rules and regulations applying to the construction and installation of new boilers shall not become effective until ~~twelve (12)~~ 12 months after their adoption by the secretary.

Sec. 2. K.S.A. 44-919 is hereby amended to read as follows: 44-919. The secretary shall employ deputy inspectors who shall be responsible to the chief inspector. Each deputy inspector shall have at the time of appointment not less than three (3) years experience in the construction, installation, inspection, operation,

(continued)

maintenance or repair of high pressure boilers as a mechanical engineer, steam operating engineer, boilermaker or boiler inspector and shall hold a commission issued by the national board of boiler and pressure vessel inspectors. Deputy inspectors shall be in the unclassified civil service and shall receive such compensation as prescribed by the secretary, subject to the approval of the governor.

Sec. 3. K.S.A. 44-926 is hereby amended to read as follows: 44-926. (a) The owner or user of a boiler required by this act to be inspected by the chief inspector or a deputy inspector shall pay directly to the chief inspector, upon completion of inspection, inspection fees fixed by the secretary in accordance with the following schedule:

(1) Power boilers and high pressure, high temperature water boilers:

Certificate Inspections	
Boilers of 50 sq. ft. of heating surface or less	\$35.00
Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface	40.00
Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft. of heating surface	45.00
Boilers of 10,000 sq. ft. of heating surface or more	55.00

External Inspections	
Boilers of 50 sq. ft. of heating surface or less	\$12.00
Boilers over 50 sq. ft. of heating surface	15.00

Not more than the equivalent of the certificate and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one year.

(2) Heating boilers:

Certificate Inspections	
Heating boilers without a manhole	\$12.00
Heating boilers with a manhole	18.00
Hot water supply boilers	12.00

Not more than one fee shall be charged or collected for any and all inspections as above of any heating boiler in any required inspection period.

(3) Hydrostatic tests:

When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees applicable to a certificate inspection of the boiler shall be charged.

(4) All other inspections, including shop inspections, special inspections and inspections of secondhand or used boilers, made by the chief or deputy inspector shall be charged for at the rate of not less than seventy-five dollars (\$75) for one half (1/2) day of four (4) hours, and one hundred twenty-five dollars (\$125) for one full day of eight (8) hours, plus all expenses, including traveling and hotel.

"Secondhand" shall mean an object which has changed ownership and location after primary use: this subsection (a). The secretary shall fix annually, by rules and regulations, a schedule of fees for inspections of boilers by state inspectors. Such fees shall not exceed \$250 per day for each boiler inspected, Subject to this limitation, the secretary may establish, by rules and regulations, different categories of boilers to be inspected and may fix, by rules and regulations, different fees for the inspection of boilers in the various categories.

(b) The owner or user of a boiler for which an inspection certificate is to be issued pursuant to subsection (b) of K.S.A. 44-924 shall pay directly to the chief inspector, before issuance of such certificate, a certificate fee fixed by the secretary by rules and regulations of five dollars (\$5) not to exceed \$25.

(c) There is hereby created in the state treasury the boiler inspection fee fund. The chief inspector shall pay daily to the secretary all moneys received from the fees established hereun-

der, and the secretary shall remit all such moneys to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent (20%) of each such deposit shall be credited to the state general fund and the balance shall be credited to the boiler inspection fee fund. All expenditures from the boiler inspection fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of human resources or by a person or persons designated by said the secretary.

(d) The fees established by this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the secretary by rules and regulations as provided under this section.

Sec. 4. K.S.A. 44-916, 44-919 and 44-926 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 24, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 868

AN ACT concerning the health care provider insurance availability act; relating to the Kansas soldiers' home; amending K.S.A. 40-3414 and repealing the existing section.

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

Section 1. K.S.A. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider whose annual insurance premium is or would be \$100,000 or more for basic coverage calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413, may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner. Upon application of any such health care provider, on a form prescribed by the commissioner, the commissioner may issue a certificate of self-insurance if the commissioner is satisfied that the applicant is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the commissioner shall consider (1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims and (4) any other relevant factors. The certificate of self-insurance may contain reasonable conditions prescribed by the commissioner. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel a certificate of self-insurance upon reasonable grounds therefor. Failure to pay any judgment for which the self-insurer is liable arising from the self-insurer's rendering of professional services as a health care provider, the failure to comply with any provision of this act or the failure to comply with any conditions contained in the certificate of self-insurance shall be reasonable grounds for the cancellation of such certificate of self-insurance. The provisions of this subsection shall not apply to state institutions for the mentally retarded or to the Kansas soldiers' home.

(b) Any health care provider who holds a certificate of self-insurance shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402.

(c) Each state institution for the mentally retarded and the Kansas soldiers' home shall be a self-insurer and shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402.

Sec. 2. K.S.A. 40-3414 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 24, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 883

AN ACT concerning the department of economic development; relating to exempting contracts for promotional advertising services from competitive bid requirements.

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

Section 1. The secretary of economic development is hereby authorized to negotiate and enter into contracts for promotional advertising services for the performance of the powers, duties and functions of the department of economic development under K.S.A. 74-5005 and amendments thereto. All such contracts shall be exempt from the competitive bid requirements of K.S.A. 1981 Supp. 75-3739 and any amendments thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 7, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 861

AN ACT concerning the pooled money investment board; relating to repurchase agreements with state banks, national banks and trust companies located and doing business in Kansas.

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

Section 1. Each state bank, national bank and trust company located and doing business within the state of Kansas is hereby authorized to enter into repurchase agreements with the pooled money investment board under any statute authorizing the board to enter into such agreements.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 2, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 865

AN ACT concerning sales of cereal malt beverages by licensed private clubs; amending K.S.A. 41-2637 and 41-2704 and repealing the existing sections.

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

Section 1. K.S.A. 41-2637 is hereby amended to read as follows: 41-2637. (a) A club license shall allow the licensee to sell and offer for sale, to any member of the club, alcoholic liquor for consumption on the licensed premises by such member or by guests accompanying such member. *Cereal malt beverages, as defined by K.S.A. 41-2701, may be sold by a private club licensed by the director to members of the private club or to bona fide guests accompanying such members for on-premise consumption only.*

(b) Any two or more class A clubs, or any two or more class B clubs which are restaurants, may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement, and, if the agreement so provides, any club which is a party to such agreement may sell and offer for sale, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person or by guests accompanying such person.

(c) This section shall be part of and supplemental to K.S.A. 41-2601 to 41-2635, inclusive, and amendments thereto.

Sec. 2. K.S.A. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing,

standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) *Except as provided by subsection (g), no cereal malt beverages may be sold:*

- (1) Between the hours of 12:00 midnight and 6:00 a.m.;
- (2) on Sunday; or
- (3) on the day of any national, state, county or city elections, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the director.

(d) Each place of business shall be open to the public and to the police at all times during business hours, except that a premises licensed as a club under a license issued by the director shall be open to the police and not to the public.

(e) No licensee shall permit a person under 18 years of age to consume, purchase or possess any cereal malt beverage in or about a place of business.

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.

(g) *Cereal malt beverages may be sold on premises which are both licensed pursuant to the acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.*

Sec. 3. K.S.A. 41-2637 and 41-2704 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 2, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 531

AN ACT concerning municipalities as defined in K.S.A. 1981 Supp. 75-1117; relating to preparation of financial statements and financial reports by governing bodies thereof; amending K.S.A. 1981 Supp. 75-1120a and repealing the existing section.

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

Section 1. K.S.A. 1981 Supp. 75-1120a is hereby amended to read as follows: 75-1120a. (a) Except as otherwise provided in this section, the governing body of each municipality, as defined in K.S.A. 1980 1981 Supp. 75-1117, shall utilize accounting procedures and fiscal procedures in the preparation of financial statements and financial reports that conform to generally accepted accounting principles as promulgated by the national committee on governmental accounting and the American institute of certified public accountants and adopted by rules and regulations of the municipal accounting board.

(b) ~~While still conforming with all other generally accepted accounting principles,~~ The governing body of any municipality whose, which has aggregate annual gross receipts are of less than \$275,000 and who which does not operate a utility, shall not be required to maintain fixed asset records for buildings and land.

(c) ~~The director of accounts and reports shall waive the requirements of law relating to the preparation and maintenance of fixed asset records upon request for such waiver by the governing body of any municipality. The waiver shall be granted to the extent and for the period of time requested by the governing body, except that the waiver shall not extend beyond January 1, 1982.~~

(d) (1) The director of accounts and reports shall waive the requirements of subsection (a) upon request therefor by the governing body of any municipality. The waiver shall be granted to the extent requested by the governing body. Prior to requesting the waiver provided for in this subsection, the governing body, by resolution, annually shall make a finding that financial statements and financial reports prepared in conformity with the requirements of subsection (a) are not relevant to the requirements of the cash basis and budget laws of this state and are of no significant value to the governing body or members of the general public of the municipality. No governing body of a municipality shall request the waiver or adopt the resolution authorized under this subsection if the provisions of revenue bond ordinances or resolutions or other ordinances or resolutions of the municipality require financial statements and financial reports to be prepared in conformity with the requirements of subsection (a). The governing body of any municipality which is granted a waiver under this subsection shall cause financial statements and financial reports of the municipality to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this state.

(2) *The provisions of this subsection do not apply to community colleges.*

(d) *The director of accounts and reports shall waive the requirements of law relating to the preparation and maintenance of fixed asset records upon request therefor by the board of trustees of any community college. The waiver shall be granted to the extent and for the period of time requested by the board of trustees. Nothing contained in this subsection shall be construed so as to exempt any community college from compliance with the provisions of K.S.A. 71-211 which requires the use by all community colleges of a standardized and uniform chart of accounts.*

Sec. 2. K.S.A. 1981 Supp. 75-1120a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 16, 1982.

Senate adopted Conference Committee report April 8, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 1, 1982.

House adopted Conference Committee report April 7, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 528

AN ACT concerning the Kansas water authority; relating to powers and duties thereof; amending K.S.A. 1981 Supp. 74-2622 and repealing the existing section.

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

Sec. 1. K.S.A. 1981 Supp. 74-2622 is hereby amended to read as follows: 74-2622. (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority which shall be composed of 16 members of whom 11 shall be appointed as follows: (1) Eight members shall be appointed by the governor for a term of four years, except that of the first members of the authority, two members shall be appointed for a term commencing July 1, 1981, and ending on May 1, 1982, two members shall be appointed for a term commencing on July 1, 1981, and ending on May 1, 1983, two members shall be appointed for a term commencing on July 1, 1981, and ending on May 1, 1984, and two members shall be appointed for a term commencing on July 1, 1981, and ending on May 1, 1985. The governor shall designate the term for which each of the members first appointed shall serve. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, and one shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the Kansas league of municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. All such nominations shall be

(continued)

submitted to the governor not later than 60 days after the effective date of this act. In any case where the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations; (2) one member shall be appointed by the governor subject to confirmation by the senate to serve at the pleasure of the governor who shall be the chairperson of the advisory council. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than five of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years commencing on July 1, 1981; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years commencing on July 1, 1981. The state geologist, the chief engineer of the division of water resources of the state board of agriculture, the director of the division of environment of the department of health and environment, the director of the Kansas water office and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members of the authority ex officio. The director of the Kansas water office shall serve as the secretary of the authority.

(b) In the case of a vacancy in the appointed membership of the Kansas water authority, such vacancy shall be filled for the unexpired term by appointment in like manner as the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) *The Kansas water authority shall:*

(1) *Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.*

(2) *Review plans for the development, management and use of the water resources of the state by any state or local agency.*

(3) *Make a study of the laws of this state and of the other states and of the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.*

(4) *Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.*

(5) *Make recommendations to the 1982 regular session of the legislature and each regular session thereafter and to the governor at such times as the authority shall deem advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority shall deem advisable.*

(6) *Approve, prior to submission to the legislature by the Kansas water office or its director, (A) any contract entered into pursuant to the state water plan storage act, (B) any amendments to the state water plan or the state water planning act and (C) any other legislation concerning water resources of the state.*

(7) *Approve, before the same becomes effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.*

(8) *Approve, before the same becomes effective, any agreement entered into with the federal government by the Kansas water office.*

(9) *Request the submission of, and it shall be the duty of any agency of the state so requested to submit its budget estimate which pertains to the state's water resources and any plans or programs related thereto and, upon receipt of such budget estimate, to review and evaluate the same and furnish recommendations relating thereto to the governor and the legislature.*

(10) *Approve, prior to the adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.*

(d) *The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.*

(e) *The provisions of the Kansas sunset law apply to the Kansas water authority established by this section, and such authority is subject to abolition thereunder.*

Sec. 2. K.S.A. 1981 Supp. 74-2622 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body January 14, 1982.

SENATE concurred in HOUSE amendments April 7, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended February 3, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS

Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2937

AN ACT concerning certain financial institutions; relating to deposit accounts payable on the death of the owner; amending K.S.A. 17-2263 and 17-5828 and K.S.A. 1981 Supp. 9-1215 and repealing the existing sections.

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

Section 1. K.S.A. 1981 Supp. 9-1215 is hereby amended to read as follows: 9-1215. An individual, adult or minor, hereinafter referred to as the owner, may enter into a written contract with any bank or trust company located in this state whereby the balance of the owner's deposit account, or the balance of the owner's legal share of a deposit account, at the time of death of the owner shall be made payable on the death of the owner to one or more persons; or, if they the persons predecease the owner, to another person or persons, hereinafter referred to as the beneficiary or beneficiaries. Should If any beneficiary be is a minor at the time the account, or any portion thereof of the account, becomes payable to such the beneficiary and such the balance, or portion thereof of the balance, exceeds four thousand dollars (\$4,000) such \$4,000, the moneys shall be payable only to a conservator of such the minor beneficiary. Such transfer

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.

Every such contract authorized by this section shall be deemed to contain a right on the part of the owner during the owner's lifetime both to withdraw funds on deposit in such the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the design-

(continued)

nation of beneficiary. The interest of the beneficiary shall be deemed not to vest until the death of the owner.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the bank or trust company and delivered to the bank or trust company prior to the death of the owner.

For the purposes of this section, the balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701 and amendments thereto.

Sec. 2. K.S.A. 17-2263 is hereby amended to read as follows: 17-2263. An individual, adult or minor, hereinafter referred to as the shareholder, may enter into a written contract with any credit union located in this state whereby the balance of the shareholder's account, *or the balance of the shareholder's legal share of an account*, at the time of death of the shareholder shall be made payable on the death of the shareholder to one or more persons; or, if ~~they~~ *the persons* predecease the owner, to another person or persons, hereinafter referred to as the beneficiary or beneficiaries.

~~Should~~ *If any beneficiary be is a minor at the time the account, or any portion thereof of the account, becomes payable to such the beneficiary and such the balance, or portion thereof of the balance, exceeds four thousand dollars (\$4,000) such \$4,000, the moneys shall be payable only to a conservator of such the minor beneficiary. Such transfer*

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.

Every ~~such~~ contract authorized by this section shall be deemed to contain a right on the part of the shareholder during the shareholder's lifetime both to withdraw funds on deposit in ~~such~~ *the account* in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be deemed not to vest until the death of the shareholder.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the credit union and delivered to the credit union prior to the death of the shareholder.

For the purposes of this section, the balance of the shareholder's account or the balance of the shareholder's legal share of an account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701 and amendments thereto.

Sec. 3. K.S.A. 17-5828 is hereby amended to read as follows: 17-5828. An individual, adult or minor, hereinafter referred to as the owner, may enter into a written contract with any savings and loan association located in this state whereby the balance of the owner's deposit account, *or the balance of the owner's legal share of a deposit account*, at the time of death of the owner shall be made payable on the death of the owner to one or more persons; or, if ~~they~~ *the persons* predecease the owner, to another person or persons, hereinafter referred to as the beneficiary or beneficiaries. ~~Should~~ *If any beneficiary be is a minor at the time the account, or any portion thereof of the account, becomes payable to such the beneficiary and such the balance, or portion thereof of the balance, exceeds four thousand dollars (\$4,000) such \$4,000, the moneys shall be payable only to a conservator of such the minor beneficiary. Such transfer*

Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.

Every ~~such~~ contract authorized by this section shall be deemed to contain a right on the part of the owner during the owner's lifetime both to withdraw funds on deposit in ~~such~~ *the account* in

the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be deemed not to vest until the death of the owner.

No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the savings and loan association and delivered to the savings and loan association prior to the death of the owner.

For the purposes of this section, the balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall not be construed to include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner.

As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701 and amendments thereto.

Sec. 4. K.S.A. 17-2263 and 17-5828 and K.S.A. 1981 Supp. 9-1215 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 9, 1982.

HOUSE concurred in SENATE amendments April 7, 1982.
WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2720

AN ACT relating to the practice of barbering; concerning certification and registration requirements; amending K.S.A. 65-1810 and 65-1813 and K.S.A. 1981 Supp. 65-1812, 65-1814, 65-1815, 65-1817 and 65-1820 and repealing the existing sections.

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

Section 1. K.S.A. 65-1810 is hereby amended to read as follows: 65-1810. (a) No school or college of barbering shall be approved by the board unless:

(1) The school or college requires, as a prerequisite to graduation, a course of instruction of not less than ~~one thousand five hundred 1,500~~ hours to be completed within nine months of not more than eight hours in any one working day;

(2) the course of instruction required by the school or college includes scientific fundamentals of barbering; hygiene; histology of the hair and skin; structure of the head, face and neck; elementary chemistry relating to sterilization and antiseptics; massages and manipulations of the muscles of the scalp, skin and neck; cutting, shaving, arranging, permanent waving, curling, coloring, bleaching, tinting and dyeing the hair; and barbering practices for all major ethnic groups residing in the state;

(3) all teachers and instructors of the school or college have been licensed *practicing* barbers for not less than ~~five three~~ years and hold teachers' certificates; and

(4) no practice or policy of discrimination is in effect against applicants for admission to the school or college by reason of race, religion, color, national origin or ancestry.

(b) A teacher's certificate shall be granted by the board only after the applicant has passed a two-part examination, prescribed by the board for such purpose, with a grade of not less than ~~seventy-five percent 75%~~ on each part of the examination, and has paid the prescribed fee for such examination. Any person who holds a teacher's certificate but has not taught in an approved school or college of barbering for three years, before renewal of the teacher's certificate, must pass the examination required of teachers by this section.

(c) Every barber school or college shall designate to the public that it is a barber school or college by having a sign on the front window or entrance with letters not less than six inches in height.

(d) No school or college of barbering shall enroll or admit any student thereto unless such student shall make and file, in duplicate, a ~~duly verified an~~ application upon a form prescribed and furnished by the board. One copy of such application shall be retained by the school or college, and the school or college shall file the other with the board. No school or college of barbering shall enroll or admit any student in a postgraduate course for the purpose of qualifying persons to pass the examination conducted by the board to determine fitness to practice barbering.

(e) ~~Nothing in this section shall be construed as limiting or modifying the provisions of K.S.A. 65-1811 and amendments thereto.~~

(f) It shall be unlawful for any person, firm or corporation to operate a barber school or barber college without first obtaining a permit from the state board of barber examiners, fully complying with the provisions of this act and paying an annual fee for the operation thereof.

Sec. 2. K.S.A. 1981 Supp. 65-1812 is hereby amended to read as follows: 65-1812. (a) Any person shall be qualified to receive a certificate of registration to practice as a registered barber if such person:

(1) ~~Is a citizen of the United States of America;~~
(2) (1) Is at least 16 years of age and of good moral character and temperate habits;

(3) (2) has graduated from a high school accredited by the appropriate accrediting agency or has otherwise obtained the equivalent of a high school education;

(4) (3) is a graduate of a school or college of barbering approved by the board or has satisfactorily completed the barber course at the Kansas state industrial reformatory at Hutchinson;

(5) (4) has paid an examination fee and has passed a ~~written the~~ examination conducted by the board to determine the fitness of such person to practice as a registered barber.

(b) Any person who fails to pass an examination conducted by the board to determine such person's fitness to practice barbering shall be entitled to take a ~~second examination at the end of six additional months the next examination conducted by the board.~~

(c) The board may issue a temporary certificate to practice barbering to any ~~apprentice who is registered on the effective date of this act person who has graduated from an approved school or college of barbering~~ and who makes application to take the next examination to become a registered barber. Such certificate shall be effective only until the results of the examination are announced. ~~No more than three temporary certificates shall be issued to any one person.~~

Sec. 3. K.S.A. 65-1813 is hereby amended to read as follows: 65-1813. (a) The board may issue, without examination, a certificate of registration to practice barbering to any person who pays the prescribed fee and submits evidence satisfactory to the board that such person:

(1) Is at least ~~eighteen 18~~ years of age;

(2) is of good moral character and temperate habits;

(3) ~~is a citizen of the United States of America;~~

(4) (3) holds a valid license or certificate of registration as a practicing barber from another state, territory or country which has substantially the same requirements for licensed or registered barbers as required by this act and which grants reciprocal registration or licensure to barbers registered in this state as required by subsection (b); and

(5) (4) has practiced as a barber in such other state, territory or country for at least two years prior to making application for registration in this state.

(b) A certificate of registration shall be issued pursuant to this section only if the state, territory or country in which the person is registered or licensed grants, under like conditions and without examination, reciprocal registration or licensure to barbers to barbers registered in this state.

(c) No certificate of registration shall be issued to any person without examination unless such person meets all requirements of this section.

Sec. 4. K.S.A. 1981 Supp. 65-1814 is hereby amended to read as follows: 65-1814. Any person who desires to practice barbering shall file with the board a written application ~~under oath on a form prescribed by the board together with two 5" x 3" signed photographs of the applicant and satisfactory proof that the applicant is of good moral character.~~ Every application for restoration of a certificate to practice shall be accompanied with a certificate from a person licensed to practice medicine and surgery under the laws of any state showing that the applicant is free from any contagious, infectious or communicable diseases, and every such application shall also be accompanied with a recent photograph of the applicant which shall be attached to the back and be a part of the restored certificate when issued. Every application for renewal of a certificate to practice shall be accompanied with a recent photograph of the applicant which shall be attached as provided in this section.

Sec. 5. K.S.A. 1981 Supp. 65-1815 is hereby amended to read as follows: 65-1815. The board shall conduct examinations for applicants for certificates of registration to practice as registered barbers at such times and places as it shall determine; but examinations shall be given not less than twice in each year. Such examination shall include both a practical demonstration and a written and oral test of the applicant's knowledge of hygiene and the fundamentals of the vocation. ~~The practical examination shall count for 60%, and the written and oral examination shall count for 40%.~~ A certificate to practice shall be issued each applicant who shall satisfactorily pass ~~an both the practical examination and the written and oral examination with an average a grade of not less than 80%, and shall possess the other qualifications required by law.~~ *The board shall allow an applicant who fails one part of the examination to be reexamined only on that part which was failed.* Each certificate of registration to practice shall contain, in addition to any other information required by the board or by law, the name, address, height, weight and age of the applicant to whom issued. The board shall have authority to issue temporary seminar permits to barbers and teachers holding valid li-

(continued)

censes from Kansas or any other state or country, to teach and demonstrate the art of advanced barbering. Such temporary seminar permit shall be restricted to prescribed dates and places, but in no instance shall it be valid for more than five days. No such temporary seminar permit shall be required of any barber or teacher demonstrating the art of advanced barbering at no cost to those viewing such demonstration.

Sec. 6. K.S.A. 1981 Supp. 65-1817 is hereby amended to read as follows: 65-1817. (a) On or before October 1 of each year, the board of barber examiners shall determine the amount of funds which will be required during the next ensuing fiscal year to properly administer the laws which the board is directed to enforce and administer and shall fix fees in accordance with this section for such ensuing year in such reasonable sums as may be necessary for such purposes.

(b) After fixing such fees, the board may charge and collect the fees, in advance for the following purposes, subject to the following limitations:

For examination of applicant to practice as a barber—not more than	\$ 40
For issuance of certificate to practice as a barber—not more than	35
For renewal of certificate to practice as a barber—not more than	35
For restoration of expired certificate to practice as a barber, under three years old each year—not more than	35
After three years applicant shall be reexamined upon payment of the regular examination fee—not more than	40
For teacher's certificate or annual renewal thereof—not more than	40
For restoration of expired teacher's certificate, under three years old each year—not more than	40
After three years the teacher shall be reexamined upon payment of the regular examination fee—not more than	110
For a permit to operate a barber school or barber college, annual fee—not more than	330
For shop inspection, and annual license fee—not more than	15
For a new shop, relocation or change of ownership—not more than	40
For issuance of a temporary seminar permit—not more than	60

(c) A duplicate license certificate or permit will be issued upon the filing of a statement covering the loss of same, verified by the oath of the applicant, and submitting a signed photograph of the applicant, and the payment of a fee of \$1 for the issuance of same. Each duplicate shall have the word "duplicate" stamped across the face thereof and will bear the same number as the original.

Sec. 7. K.S.A. 1981 Supp. 65-1820 is hereby amended to read as follows: 65-1820. The board may issue orders which require the remedying of any of the violations hereinafter mentioned. If the violations are not remedied in a reasonable time after the order is issued, the board shall move to suspend the certificate of registration of the violator. The board shall follow the procedure set forth in K.S.A. 65-1821, and amendments thereto, in proceedings to suspend any certificate of registration.

The board may either refuse to issue or renew or may suspend or revoke any certificate of registration for any one or combination of the following causes: (a) Malpractice or incompetency; (b) when applicant or registered barber is or becomes afflicted with an infectious or communicable disease; (c) advertising by means of knowingly false or deceptive statements; (d) advertising, practicing or attempting to practice under a trade name other than one's own; (e) habitual drunkenness or habitual addiction to habit-forming drugs; (f) immoral or unprofessional conduct; (g) obtaining or attempting to obtain a certificate of registration for money other than the required fee, or for any other thing of value or by fraudulent misrepresentations; (h) the willful failure to display a certificate of registration as required by K.S.A. 65-1818 and amendments thereto; (i) practicing or attempting to practice by fraudulent misrepresentations; (j) the willful failure to display the rules and regulations as provided in K.S.A. 74-1806, and amendments thereto; (k) the violation of any of the sanitary regulations promulgated by the board of barber examiners for the regulation of barber shops, barber schools and barber colleges; (l) continuing to be employed in a barber shop wherein the sanitary regulations of the board of barber examiners promulgated for the regulation of barber shops, barber schools and barber colleges are known by the registered barber to be violated.

Sec. 8. K.S.A. 65-1810 and 65-1813 and K.S.A. 1981 Supp. 65-1812, 65-1814, 65-1815, 65-1817 and 65-1820 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 4, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 7, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 21, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 859

AN ACT concerning state moneys; relating to the definition of certain terms; active accounts and time deposit, open accounts; additional inactive account awards and deposits; amending K.S.A. 75-4205, 75-4206, 75-4209 and 75-4212 and K.S.A. 1981 Supp. 75-4201 and 75-4211 and repealing the existing sections.

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

Section 1. K.S.A. 1981 Supp. 75-4201 is hereby amended to read as follows: 75-4201. As used in this act, unless the context otherwise requires:

- (a) "Treasurer" means state treasurer.
- (b) "Controller" means director of accounts and reports.
- (c) "Board" means the pooled money investment board.
- (d) "Bank" means a state or national bank or trust company doing business within the state of Kansas.
- (e) "State moneys" means all moneys in the treasury of the state or coming lawfully into the possession of the treasurer.
- (f) "Custodial moneys" means state moneys deposited with the treasurer which, in the written opinion of the attorney general, are required by contract, bequest or law to be segregated from other bank accounts.
- (g) "Special moneys" means moneys which are required to be or are deposited in a custodial bank account or a fee agency bank account by the state or any agency thereof.
- (h) "State bank account" means state or special moneys deposited in a designated bank in accordance with the provisions of this act.
- (i) "Active account" means a state bank account which (1) is payable or withdrawable, in whole or in part, on demand, and (2) is in a bank not having an inactive account.
- (j) "Inactive account" means a state bank account which is not payable on demand but shall not include custodial accounts.
- (k) "Time deposit, open account" means a state bank account which is a deposit, other than a time certificate of deposit, with respect to which there is in force a written contract which provides that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to (A) the date of maturity; which shall be not less than thirty (30) days after the date of the deposit; or (B) the expiration of the period of notice which must be given by the board in writing; not less than thirty (30) days in advance of withdrawal.
- (l) "Custodial account" means a state bank account of custodial moneys.
- (m) "Fee agency account" means a state bank account of any

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state agency consisting of fees, tuition or charges authorized by law prior to remittance to the state treasurer.

(n) "Disbursement" means a payment of any kind whatsoever made from the state treasury or from any active account, except transfer of state or special moneys between or among active accounts and inactive accounts or either or both of them.

(o) "Interest period" means three (3) months commencing on the date an inactive account is initially deposited, and each three (3) months thereafter, and in the case of time deposit, open accounts means the period of the deposit but not exceeding three (3) months.

(p) "Securities" means any one or more of the following:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

(2) Kansas municipal bonds which are general obligations of the municipality issuing the same.

(3) Revenue bonds of any agency or arm of the state of Kansas.

(4) Revenue bonds of any municipality, as defined by K.S.A. 10-101, within the state of Kansas; or bonds issued by a public building commission as authorized by K.S.A. 1981 Supp. 12-1761 if approved by the state bank commissioner, except (A) bonds issued under the provisions of K.S.A. 1981 Supp. 12-1740 to 12-1749 and acts amendatory thereof—*et seq.* unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp. and (B) bonds secured by revenues of a utility which has been in operation for less than three (3) years. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(5) Temporary notes of any municipal corporation or quasi-municipal corporation within the state of Kansas which are general obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation within the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) All of such securities shall be current as to interest according to the terms thereof.

Sec. 2. On August 1, 1982, K.S.A. 75-4205 is hereby amended to read as follows: 75-4205. (a) The board shall designate not less than three (3) nor more than nine (9) banks one or more banks to receive active accounts. The capital and surplus of any bank having an active account shall be not less than two million dollars (\$2,000,000) \$2,000,000. In determining the amount of any the award of an active account to any bank designated under this subsection therefor, the board shall give consideration to the amount of service to be required of it. Active accounts shall bear no interest.

(b) The aggregate moneys in all active accounts shall not exceed forty million dollars (\$40,000,000) \$40,000,000 at any time. *Provided*, except that in periods of anticipated peak disbursements, the board, in its discretion, may cause the aggregate moneys in such the active accounts to exceed such amount for the duration of such periods of peak disbursements, not to exceed ten (10) 10 days. At any time moneys in all active accounts exceed fifty percent (50%) 50% of the aggregate awards award of such accounts, additional moneys may be deposited in time deposit, open accounts in banks having active accounts (in proportion to the awards of the active accounts) in amounts which shall not exceed, in any one bank, two hundred percent (200%) of the active account award of such bank.

(c) If the aggregate of all active and time deposit, open accounts exceeds the limits hereinbefore limit prescribed in subsection (b), the board shall direct the treasurer to make withdrawals within sixty (60) 60 days of sufficient moneys to reduce

such aggregate the amount in the active accounts below such limit, and such withdrawals shall be made in accordance with the formula prescribed for the initial award of such moneys. The moneys so withdrawn shall be transferred to and deposited in inactive accounts in accordance with the same formula as is prescribed in K.S.A. 75-4207 and K.S.A. 75-4209; and amendments thereto for initial deposits therein in inactive accounts except that any bank which was entitled to an inactive account award of one hundred thousand dollars (\$100,000) \$100,000 or more under the provisions of K.S.A. 75-4209 and amendments thereto, but which contracted for a lesser amount shall not be entitled to receive such supplemental additional deposits.

(d) When moneys are available for deposit for not to exceed sixty (60) 60 days in time deposit, open accounts in excess of the limitation hereinbefore prescribed, the board shall deposit such moneys in time deposit, open accounts in the banks and in the proportion hereinbefore prescribed by K.S.A. 75-4206 and amendments thereto for the making of such deposits of moneys within such limitation or if the board shall determine determines that it is impossible to deposit such moneys in time deposit, open accounts, it shall invest the same in repurchase agreements of less than thirty (30) 30 days' duration with a Kansas bank for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

(e) At any time moneys are available for deposits or investment for a period of time which is insufficient to permit deposit in time deposit, open accounts the board may invest the same in repurchase agreements of less than thirty (30) 30 days' duration with Kansas banks for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof.

Sec. 3. On August 1, 1982, K.S.A. 75-4206 is hereby amended to read as follows: 75-4206. As nearly as practicable: (a) Daily deposits in active accounts or time deposit, open accounts by the treasurer in banks having an active account shall be in the same proportion that each such bank's award of active account bears to the total of all such active account awards to the extent that such deposits are secured as provided in K.S.A. 75-4215; and (b) on any day the total amount deposited in time deposit, open accounts in any bank shall be in the amount prescribed by K.S.A. 75-4205, to the extent that such deposits are secured as provided in K.S.A. 75-4215. (a) Subject to the provisions of K.S.A. 75-4205 and amendments thereto, the pooled money investment board shall deposit moneys in time deposit, open accounts in banks having combined capital, undivided profits and surplus in an amount of \$3,500,000 or more, as determined by the board as of the end of the preceding calendar year. As nearly as practicable, the board shall apportion all deposits to time deposit, open accounts among the banks which qualify therefor and are willing to receive such deposits in the same proportion that each such bank's combined capital, undivided profits and surplus bears to the total capital, undivided profits and surplus of all such banks.

(b) Subject to the provisions of K.S.A. 75-4205 and amendments thereto, the board may make additional deposits in time deposit, open accounts at any time. Additional deposits to and any withdrawals of moneys from time deposit, open accounts shall be made in accordance with the method of apportionment prescribed by subsection (a).

Sec. 4. On August 1, 1982, K.S.A. 75-4209 is hereby amended to read as follows: 75-4209. (a) Inactive accounts shall be apportioned by the board among the banks which propose to receive such accounts and which qualify therefor in the proportion that each such bank's combined capital, undivided profits and surplus bears to the total capital, undivided profits and surplus of all such banks. The board may award additional inactive accounts or make additional deposits to existing inactive accounts at any time. Awards of additional inactive accounts, additional deposits to existing inactive accounts and withdrawals from inactive accounts shall be made by the same method of apportionment, except that any bank which was entitled to an inactive account of \$100,000 or more, but which contracted for a lesser amount shall not be entitled to receive any such additional award or deposit.

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One hundred percent (100%) of all inactive accounts shall bear interest in the amounts provided in K.S.A. 75-4210.

(b) If any bank does not accept the full amount of inactive accounts for which it legally qualifies, the balance thereof shall be apportioned in the manner prescribed in subsection (a) of this section among eligible banks willing to receive additional inactive accounts.

(c) In the event the board is unable to deposit all state and special moneys which are available for inactive accounts, the board shall deposit such moneys in time deposit, open accounts in such bank or banks as it shall determine to be in the best interest of the state or shall invest the same in repurchase agreements as authorized and provided in K.S.A. 75-4205.

Sec. 5. On August 1, 1982, K.S.A. 1981 Supp. 75-4211 is hereby amended to read as follows: 75-4211. All initial inactive accounts awarded at the time prescribed by K.S.A. 75-4208, and amendments thereto, shall be made for a twelve-month period and all initial inactive accounts awarded after the time so prescribed and all additional inactive accounts awarded to banks holding initial inactive accounts shall be made for the period extending from the date of the award of such accounts until the time next prescribed for the awarding of inactive accounts by K.S.A. 75-4208, and amendments thereto. Additional deposits made by the board to existing inactive accounts may be for periods of one month or more between award periods.

Sec. 6. On August 1, 1982, K.S.A. 75-4212 is hereby amended to read as follows: 75-4212. (a) Banks designated to have active accounts shall agree to accept time deposit, open accounts equal to two hundred percent (200%) of their award of active accounts.

(b) Interest on time deposit, open accounts shall be at a rate equal to the average yield before taxes received on ninety-one day United States treasury bills as determined by the federal reserve banks as fiscal agents of the United States at its most recent public offering of such bills prior to each particular deposit. The provisions of K.S.A. 75-4226 and other provisions of article 42 of chapter 75 of Kansas Statutes Annotated and amendments thereto shall apply to this section.

Sec. 7. K.S.A. 1981 Supp. 75-4201 is hereby repealed.

Sec. 8. On August 1, 1982, K.S.A. 75-4205, 75-4206, 75-4209 and 75-4212 and K.S.A. 1981 Supp. 75-4211 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 10, 1982.

SENATE concurred in HOUSE amendments April 9, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 22nd day of April, 1982.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 588

AN ACT concerning an easement to the city of Lawrence, Kansas, along the Kansas river for use for park or recreational purposes; amending K.S.A. 1981 Supp. 82a-213 and repealing the existing section.

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

Section 1. K.S.A. 1981 Supp. 82a-213 is hereby amended to read as follows: 82a-213. (a) The secretary of state is hereby authorized and directed to grant an easement on tracts of land owned by the state of Kansas along the south bank of the Kansas river in Douglas county and within and without the city of Lawrence, Kansas, to the city of Lawrence, Kansas, for use as a nature trail and for similar park and recreational purposes. Such easement shall be 80 feet in width and shall be 40 feet on each side of the following described line: (1) Beginning on the west right-of-way line of Massachusetts street extended 979.10 feet north of the center line of 7th street in Lawrence, Kansas; thence N 75° 59'36" W 109.77 feet; thence N 34° 18'54" W 155.74 feet; thence N 47° 40'01" W 136.84 feet; thence N 41° 13'12" W 239.03 feet; thence N 36° 25'06" W 230.45 feet; thence N 29° 38'28" W 213.34 feet; thence N 26° 56'51" W 195.11 feet; thence N 21° 47'18" W 165.50 feet; thence N 17° 12'15" W 321.21 feet; thence N 10° 32'42" W 199.19 feet; thence N 15° 19'38" W 181.14 feet; thence N 12° 59'09" W 188.41 feet; thence N 06° 28'47" W 180.37 feet; thence N 05° 08'47" W 159.48 feet; thence N 08° 23'39" W 296.01 feet; thence N 03° 00'17" E 146.47 feet; thence N 05° 26'29" W 203.93 feet; thence N 15° 28'11" W 106.70 feet; thence N 04° 56'18" E 82.85 feet; thence N 36° 18'57" W 154.24 feet; thence N 39° 09'37" W 158.22 feet; thence N 51° 03'11" W 135.06 feet; thence N 40° 48'22" W 109.84 feet; thence N 27° 51'37" W 89.33 feet; and (2) continuing at a point 4622.72 feet North and 647.06 1647.06 feet West of the Centerline of 7th and Massachusetts streets in the city of Lawrence, Douglas county, Kansas; thence N 12° 31'19" W 306.73 feet, thence N 02° 50'09" W 213.58 feet, thence N 08° 05'30" W 236.20 feet, thence N 04° 31'52" E 288.07 feet, thence N 11° 01'44" E 302.52 feet, thence N 13° 07'06" E 243.79 feet, thence N 14° 54'13" E 276.58 feet, thence N 10° 45'27" E 298.57 feet, thence N 13° 02'39" E 306.32 feet, thence N 06° 45'45" E 270.50 feet, thence N 20° 54'58" E 200.20 feet, thence N 14° 22'40" E 287.31 feet, thence N 07° 34'30" E 301.10 feet, thence N 00° 23'48" E 298.64 feet, thence N 03° 56'44" W 297.03 feet, thence N 02° 13'21" W 266.65 feet, thence N 02° 54'58" W 287.17 feet, thence N 07° 44'48" W 274.37 feet, thence N 14° 16'58" W 292.11 feet, thence N 21° 32'26" W 257.31 feet, thence N 30° 12'27" W 278.29 feet, thence N 28° 20'29" W 298.50 feet, thence N 32° 39'50" W 193.20 feet; to a point of termination on the North line of Section 24, Township 12 South, Range 19 East of the Sixth Principal Meridian, such point being approximately 5137.55 feet East of the Northwest corner of such Section 24.

(b) Such easement shall be conditioned on the city of Lawrence assuming full responsibility for the use of such easement and holding the state of Kansas harmless therefor.

(c) The city of Lawrence, Kansas, is hereby authorized to acquire the easement described in subsection (a) as provided in this section, to use such easement as a nature trail and for similar park and recreational purposes and to assume full responsibility for such use and hold the state of Kansas harmless therefor.

Sec. 2. K.S.A. 1981 Supp. 82a-213 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 16, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 7, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

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APPROVED April 21, 1982.

JOHN CARLIN
Governor.STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 21st day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3010

AN ACT concerning social welfare; relating to eligibility requirements of applicants for and recipients of assistance; amending K.S.A. 39-709 and K.S.A. 39-709, as amended by section 1 of this act, and repealing the existing sections; and also repealing K.S.A. 39-709, as amended by section 2 of 1982 House Bill No. 2952.

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

Section 1. K.S.A. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended shall be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or *minor stepchild if the stepchild is living with such individual.* The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal legislation.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas. If any person transfers or assigns property without adequate consideration or for the purpose of becoming eligible for assistance (A) within the two-year period immediately preceding the application if the value of the property so transferred or assigned is \$12,000 or less or (B) within a period of time in excess of two years, as established by rules and regulations of the secretary, if the value of the property so transferred or assigned is in excess of \$12,000, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person without the consent of the secretary assigns or transfers property without adequate consideration while on the assistance rolls, after making application for assistance or while receiving assistance, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health.

(b) *Assistance to families with dependent children.* Assistance shall be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a) of this section, who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children.

(c) *Applying for or receiving aid to families with dependent children constitutes an automatic assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient

shall be deemed to have assigned to the secretary of social and rehabilitation services, on behalf of the state, any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. The assignment shall remain in full force and effect so long as such person is an applicant or recipient of such aid or until such other time as the secretary of social and rehabilitation services and the applicant or the recipient of such aid may agree. Upon the discontinuance of such aid, the assignment shall remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of such aid until the claim of the secretary of social and rehabilitation services for repayment of the unreimbursed portion of such aid is satisfied. By applying for or receiving aid to dependent children assistance the applicant or recipient is also deemed to have appointed the secretary of social and rehabilitation services, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by social and rehabilitation services in behalf of any person applying for or receiving such assistance. This limited power of attorney shall be effective from the date social and rehabilitation services approves the application for aid and shall remain in full force and effect as to the respective support rights herein assigned.

(d) *Eligibility requirements for assistance, the cost of which is not participated in by the federal government.* Subject to the additional requirements below, assistance shall be granted to any needy person who does not qualify for financial assistance in a program in which the federal government participates who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or *a minor stepchild if the stepchild is living with such individual.* In determining the need of an individual, the secretary may provide for income and resource exemptions.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas except that assistance shall be granted to a transient person pending verification of residence, ~~including the cost of transportation to the transient's place of residence~~; but in no event shall such assistance be given for a period exceeding 30 days in any twelve-month period. If any person transfers or assigns property without adequate consideration or for the purpose of becoming eligible for assistance (A) within the two-year period immediately preceding the application if the value of the property so transferred or assigned is \$12,000 or less or (B) within a period of time in excess of two years, as established by rules and regulations of the secretary, if the value of the property so transferred or assigned is in excess of \$12,000, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person without the consent of the secretary assigns or transfers property without adequate consideration while on the assistance rolls after making application for assistance or while receiving assistance, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, such person

(continued)

shall thereby become ineligible to receive assistance under the provisions of this subsection (c). If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become ineligible to receive assistance under the provisions of this subsection. Such assistance shall be known as general assistance.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Such assistance shall be known as medical assistance.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or whose health would be endangered by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

Sec. 2. On July 1, 1982, K.S.A. 39-709, as amended by section 1 of this act, is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended shall be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal legislation.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas. If any person transfers or assigns property without adequate consideration or for the purpose of becoming eligible for assistance (A) within the two-year period immediately preceding the application if the value of the property so transferred or assigned is \$12,000 or less or (B) within a period of time in excess of two years, as established by rules and regulations of the secretary, if the value of the property so transferred or assigned is in excess of \$12,000, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person without the consent of the secretary assigns or transfers property without adequate consideration while on the assistance rolls, after making application for assistance or while receiving assistance, such person shall thereby become ineligible to receive assistance for such period of time as the value of the

property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health.

(b) *Assistance to families with dependent children.* Assistance shall be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a) of this section, who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as aid to families with dependent children.

(c) *Applying for or receiving aid to families with dependent children constitutes an automatic assignment of support rights and limited power of attorney.* By applying for or receiving aid to families with dependent children such applicant or recipient shall be deemed to have assigned to the secretary of social and rehabilitation services, on behalf of the state, any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. The assignment shall remain in full force and effect so long as such person is an applicant or recipient of such aid or until such other time as the secretary of social and rehabilitation services and the applicant or the recipient of such aid may agree. Upon the discontinuance of such aid, the assignment shall remain in effect as to unpaid support obligations due and owing at the time of the discontinuance of such aid until the claim of the secretary of social and rehabilitation services for repayment of the unreimbursed portion of such aid is satisfied. By applying for or receiving aid to dependent children assistance the applicant or recipient is also deemed to have appointed the secretary of social and rehabilitation services, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by social and rehabilitation services in behalf of any person applying for or receiving such assistance. This limited power of attorney shall be effective from the date social and rehabilitation services approves the application for aid and shall remain in full force and effect as to the respective support rights herein assigned.

(d) *Eligibility requirements for assistance, the cost of which is not participated in by the federal government.* Subject to the additional requirements below, assistance shall be granted to any needy person who does not qualify for financial assistance in a program in which the federal government participates who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife are living together the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse or such individual's minor child or a minor stepchild if the stepchild is living with such individual. In determining the need of an individual, the secretary may provide for income and resource exemptions.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas except that assistance shall be granted to a transient person pending verification of residence, but in no event shall such assistance be given for a period exceeding 30 days in any twelve-month period. If any person transfers or assigns property without adequate consideration or for the purpose of becoming eligible for assistance (A) within the two-year period immediately preceding the application if the value of the property so transferred or assigned is \$12,000 or less or (B) within a period of time in excess of two years, as established by rules and regulations of the secretary, if the value of the property so transferred or as-

(continued)

signed is in excess of \$12,000, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person without the consent of the secretary assigns or transfers property without adequate consideration while on the assistance rolls after making application for assistance or while receiving assistance, such person shall thereby become ineligible to receive assistance for such period of time as the value of the property assigned or transferred would have reasonably maintained such person at a standard compatible with decency and health. If any person is found guilty of the crime of theft under the provisions of K.S.A. 39-720, such person shall thereby become ineligible to receive assistance under the provisions of this subsection (c). If any person is found guilty by a court of competent jurisdiction of any state other than the state of Kansas of a crime involving welfare fraud, such person shall thereby become ineligible to receive assistance under the provisions of this subsection. Such assistance shall be known as general assistance.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. *The secretary shall exempt principal and interest held in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance.* Such assistance shall be known as medical assistance.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or whose health would be endangered by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

Sec. 3. K.S.A. 39-709 is hereby repealed.

Sec. 4. On July 1, 1982, K.S.A. 39-709, as amended by section 1 of this act, and K.S.A. 39-709, as amended by section 2 of 1982 House Bill No. 2952, are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 10, 1982.

HOUSE concurred in SENATE amendments April 8, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 22nd day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3028

AN ACT concerning elections; nomination petitions of candidates; verification; mailing addresses of registered voters; sample ballots; amending K.S.A. 25-205, 25-303, 25-604, 25-2309 and 25-2316c and repealing the existing sections.

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

Section 1. K.S.A. 25-303 is hereby amended to read as follows: 25-303. This section shall not apply to city and school elections, nor to election of other officers provided by law to be elected in April. All nominations other than party nominations shall be known and designated as "independent nominations," and the nomination papers whereby such nominations are made shall be known and designated as "independent certificates of nomination." independent nominations. Independent nominations of candidates for any office to be filled by the voters of the state at large may be made by nomination papers petitions signed by not less than ~~twenty-five hundred (2,500)~~ 2,500 qualified voters of the state for each candidate and in the case of governor and lieutenant governor for each pair of such candidates.

Independent nominations of candidates for offices to be filled by the voters of a county, district or other division less than a state may be made by nomination papers petitions signed by not less than ~~five percent (5%)~~ 5% of the qualified voters of such county, district or other division voting for secretary of state at the last preceding general election for each candidate, and in no case to be signed by less than ~~twenty-five (25)~~ 25 voters of such county, district or division, for each candidate.

Independent nominations of candidates for offices to be filled by the voters of a township may be made by nomination papers signed by not less than ~~five percent (5%)~~ 5% of the qualified voters of such township, computed as above provided, for each candidate, and in no case to be signed by less than ~~ten (10)~~ 10 such voters of such township for each candidate.

The signatures to such nomination papers petitions need not all be appended to one paper, but each registered voter signing an independent certificate of nomination shall add to his the signature his such petitioner's place of residence and post-office address; and one of the signers to each separate certificate shall make and subscribe an oath that the signatures thereto are genuine; and also that, to the best of his knowledge and belief, the statements therein contained are true; and a certificate of such oath shall be annexed to each such nomination paper. All signers of each separate nomination petition shall reside in the same precinct. The affidavit of a qualified elector who resides in such precinct or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator, to the effect that such circulator personally witnessed the signing of the petition by each person whose name appears thereon. The person making such affidavit shall be duly registered to vote. No such nomination paper shall contain the name of a candidate for governor without in the same such paper containing the name of a candidate for lieutenant governor, and if it does it shall be void. No person shall join in nominating more than one person for the same office, and if he does his this is done, the name shall not be counted on any certificate.

Sec. 2. K.S.A. 25-205 is hereby amended to read as follows: 25-205. (1) The names of candidates for national, state, county (continued)

and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: *First*, they shall have had filed in their behalf, not later than 12:00 noon, June 20, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act: Or, *second*, they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee required by law.

Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the _____ precinct of the township of _____ (or _____), precinct of the _____ ward of _____, county of _____, and state of Kansas, and a duly registered voter, and a member of _____ party, hereby nominate _____, who resides in the township of _____ (or at number _____) on _____ street, city of _____, in the county of _____ and state of Kansas, as a candidate for the office of (here specify the office) _____, to be voted for at the primary election to be held on the first Tuesday in August in _____, as representing the principles of said party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for said office at such primary election.

(HEADING)

Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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(2) All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(3) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(4) All signers of each separate nomination petition shall reside in the same precinct. The affidavit described in this paragraph of a qualified elector who resides in such precinct or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon. The person making such affidavit shall be duly registered to vote.

(5) Such nomination petitions shall be signed: (a) If for a state officer elected on a statewide basis (or for the office of United States senator) by not less than 1% of the total vote of the party designated in the state.

(b) If for a state or national officer elected on less than a statewide basis by not less than 2% of the total vote of the party designated in such district, except that for the office of district magistrate judge, by not less than 2% of the total vote of the party designated in the county in which such office is to be filled.

(c) If for a county office by not less than 3% of the total vote of the party designated in such district or county.

(d) If for a township office by not less than 3% of the total vote of the party designated in such township.

(6) The basis of a percentage shall be the vote of the party for secretary of state at the last preceding election; or, in case of a new party, the basis of a percentage shall be the vote cast for the successful candidate for secretary of state at the last preceding election; and, subject to the requirements of K.S.A. 25-202, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party, and, upon

receipt of such nomination petitions the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

Sec. 3. K.S.A. 25-2309 is hereby amended to read as follows: 25-2309. (a) Any person may apply in person or by mail to the county election officer to be registered. Such application shall be made on a form approved by the secretary of state, which shall be provided by the county election officer upon request in person, by telephone or in writing by an individual applicant. Such application shall be signed by the applicant under penalty of perjury.

(b) Applications made under this section shall give such information as is necessary to identify the applicant and to determine the qualifications of the applicant as an elector and the facts authorizing such person to be registered, including, but not limited to, the following data concerning the applicant:

- (1) Name;
- (2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;
- (3) date of birth;
- (4) sex;
- (5) telephone number, if available;
- (6) naturalization data (if applicable);
- (7) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;
- (8) when present residence established; and
- (9) name under which applicant last registered or voted, if different from present name.

If the application discloses any previous registration, as indicated by item (7) or item (9), or otherwise, the application shall include a statement that applicant has abandoned any such other name or former residence. If the application discloses former registration in any other county or state, the applicant shall sign a notice, to be furnished by the county election officer and to be mailed by such officer upon the registration of the applicant, which notice shall be addressed to the election official of the place of former registration, notifying such official of applicant's present residence and registration, and authorizing cancellation of such former registration.

(c) It shall be the duty of each individual applicant to return the application to the county election office. Upon receipt of a complete and correct application for registration, the county election officer shall send, by nonforwardable first-class mail, a certificate of registration to the applicant at the address shown on the application. If a certificate of registration is returned as undeliverable, a second mailing shall be attempted. Registration shall not be considered completed until the certificate of registration is received by the applicant. If an application is rejected, the applicant shall be promptly notified of such rejection and the specific reason or reasons therefor. If an application is a duplicate of a registration already on file the applicant shall be so notified. If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.

(d) Any registered voter whose residence address is not a permissible postal delivery address may designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.

Sec. 4. K.S.A. 25-2316c is hereby amended to read as follows: 25-2316c. (a) When a registered voter changes name by marriage, divorce or legal proceeding, such voter must re-register in order to be eligible to vote, except that when a registered voter legally changes name during the period of ~~thirty~~ (30) 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change of name.

(b) When a registered voter changes residence, such voter must re-register in order to be eligible to vote, except that when a registered voter changes residence from one place in a precinct to

(continued)

another place within the same precinct during the period of ~~thirty~~ (30) 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change of residence. Whenever the county election officer receives from any election officer a notice of registration of a voter in a different place than that shown in the records of the county election officer, such officer shall remove the name of such voter from the registration book and party affiliation list.

(c) When a voter fails to vote at a general election at which members of the United States presidential electoral college are elected, such voter's name shall be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d). When a voter fails to vote at any other general election held on the Tuesday following the first Monday in November in an even-numbered year, such voter's name may be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d) if the county election officer determines that the removal of the names of voters who failed to vote in such election is necessary to the maintenance of accurate voter registration records.

(d) When a voter's name is subject to removal from the registration book and the party affiliation list as provided in subsection (c), the county election officer shall attempt to notify such voter by first-class mail at the ~~place of residence~~ mailing address specified in the registration book. Such notification shall advise that the registration books show that the person did not vote in the applicable November general election and that it is necessary to re-register if the residence of such person has changed. Such notification shall be mailed in an envelope or on a postcard which clearly indicates that it is not to be forwarded to another address. If such notification is not returned undelivered to the county election officer and no address correction which indicates that the voter has moved is received by the county election officer, the voter's name shall not be removed from the registration book or party affiliation list. If such notification is returned undelivered to the county election officer or if an address correction which indicates that the voter has moved is received by the county election officer, the county election officer shall check to verify that the mailing address on the notification is the same as that on the voter registration list. If it is determined that an error was made in addressing the notification, another notice shall be sent to the correct mailing address. If it is determined that no error was made in addressing the original notification or if the second notification is returned undelivered or an address correction is received therefor, the name of such person shall be stricken from the registration books.

(e) Except as otherwise provided by law, when a voter dies or is disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books. Whenever (1) an obituary notice appears in a newspaper having general circulation in the county reports the death of a registered voter, or (2) a registered voter requests in writing that such voter's name be removed from registration, or (3) a court of competent jurisdiction orders removal of the name of a registered voter from registration lists, or (4) the name of a registered voter appears on a list of deceased residents compiled by the secretary of health and environment as provided in K.S.A. 65-2422, or amendments thereto, or appears on a copy of a death certificate provided by the secretary of health and environment, or (5) pursuant to K.S.A. 25-2316d, a registered voter fails to vote in two consecutive state general elections the county election officer shall remove from the registration books and the party affiliation lists in such officer's office the name of any person shown by such list or death certificate to be deceased. The county election officer shall not use or permit the use of such lists of deceased residents or copies for any other purpose than provided in this section.

(f) Election board judges are hereby authorized to administer oaths for the purpose of taking affidavits under this section. All such affidavits shall be made upon forms approved by the secretary of state. Every affidavit given under this section shall be returned to the county election officer with the registration books.

(g) Except as otherwise provided in this section, no person

whose name has been removed from the registration books shall be entitled to vote until such person has registered again.

New Sec. 5. (a) The county election officer may request that any registered voter whose signature does not appear in registration records sign and submit a signature card on a form prescribed by the secretary of state to be included with the voter's registration records.

(b) If a county election officer determines that the reliability of the registration records require a current signature of any voter, or if a registered voter's signature becomes subject to verification by the county election officer, and a similar signature is not on file for such voter, the county election officer may request that the voter sign and submit a current signature card, on a form prescribed by the secretary of state, to be included with the voter's registration records.

New Sec. 6. Whenever any notice is required to be mailed to a registered voter at the place of residence specified in the registration books, such notice shall be addressed to the current mailing address of that voter as it appears in the registration records.

Sec. 7. K.S.A. 25-604 is hereby amended to read as follows: 25-604. (a) The county election officers shall have charge of the printing of the ballots for all elections, primary, special and general. The county election officer shall let the contract for the printing of any such ballots to some newspaper printed in Kansas and published with the original entry of such newspaper in the mail in the county or to any printer within the county, or if there be no such newspaper or printer, then to some newspaper printed in Kansas of general circulation in the county at rates established by the secretary of state by rules and regulations within ~~ten~~ (10) days after July 1, 1980, then within ~~ten~~ (10) 10 days after January 1 of each year for such year thereafter. The director of printing and the director of accounts and reports shall advise and assist the secretary of state in preparation of the above establishment of rates. Such rates shall reflect prevailing economic conditions in the printing and publishing industries in Kansas for similar work of this type and scope. Such rates shall consider, but not be limited to, labor costs, printing costs, paper costs, printing quantities, changes per ballot, size and scope of election ballots, costs per additional orders, regional cost variances and other relevant factors.

(b) Nothing in this subsection shall apply to the printing of ballot labels for use on voting machines.

The ballots shall be printed on white paper of sufficient strength as not to be punctured by ordinary pencil marking. Ballots shall be put in the possession of the county election officer at least five days before the election, accompanied by sufficient number, not to exceed ~~fifty~~ (50) 50 for each precinct or area, of exact copies of said such ballots, printed on paper of any other color than white color, except white, as authorized by rules and regulations adopted by the secretary of state, for the inspection of candidates and their agents and for distribution through each of the party organizations. If any mistakes be discovered they shall be corrected without delay. County election officers may also obtain and distribute ballots on paper of any color authorized by rules and regulations adopted by the secretary of state stamped "SAMPLE BALLOT" in large letters, and these ballots shall be used for kindergarten through grade 12 school educational purposes and the distribution shall be for such purpose. The county election officers shall cause to be delivered to the supervising judges, not less than ~~twelve~~ (12) 12 hours before the time fixed by law for the opening of the polls, a number of properly printed ballots fully sufficient to meet the demands and needs of all the voters. Such ballots shall be put in separate sealed packages of ~~twenty-five~~ (25); ~~fifty~~ (50) or one hundred (100) 25, 50 or 100 ballots each, with marks on the outside clearly designating the voting place for which they are intended and the number of ballots enclosed. The county election officer shall retain at his or her the county election office an additional supply of ballots to meet any emergency need for such ballots that might arise from loss or destruction of ballots, enlarged vote or any other legitimate cause.

(continued)

Sec. 8. K.S.A. 25-205, 25-303, 25-604, 25-2309 and 25-2316c are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 10, 1982.

HOUSE concurred in SENATE amendments April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 23, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 23rd day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 2827

AN ACT concerning reports of state agencies; amending K.S.A. 46-1212c, 75-3046 and 75-3048 and repealing the existing sections; and also repealing K.S.A. 75-3045.

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

Section 1. K.S.A. 75-3046 is hereby amended to read as follows: 75-3046. (1) the secretary of state is hereby required to make and submit a consolidated biennial report covering all state agencies to the governor at least twenty (20) days following the commencement of each regular session of the legislature.

(2) Copies of each biennial report shall be delivered to the state librarian, the secretary of the state historical society, and the secretary of the legislative council and a copy shall be mailed or delivered to each member of the legislature.

(3) Each biennial report shall cover the two fiscal-year periods immediately preceding each regular session of the legislature as of the close of business on June thirtieth of such years and each state agency shall prepare a report concerning the state agency which shall include a description of the program of each agency, information of historical importance, recommendations of any new legislation needed and other pertinent information and material. Copies of this report shall be available at the principal office of the agency. This report shall be made available to the public upon request at the cost of printing the report, and the amount received therefrom shall be placed in the state treasury and credited to the fee fund of such agency, if it has a fee fund, and if not, to the general fund of the state.

(4) The secretary of state shall appoint an advisory committee to advise with him or she the secretary on the contents of the biennial report to be composed of one (1) member of the legislature; one (1) member from a state agency; one (1) member from the staff of the state historical society; one (1) member from the research department of the legislative council. The members of the committee shall be paid their actual and necessary traveling and subsistence expenses incurred in the performance of their duties.

(5) Each state agency is hereby directed to furnish the secretary of state with all information and material required for each biennial report as shall be determined by the secretary of state.

Sec. 2. K.S.A. 75-3048 is hereby amended to read as follows: 75-3048. Each state agency may have printed such reports, pamphlets, books and material as pertain to its activity and which are within the terms of a specific legislative authorization or appropriation. Copies shall be delivered in the manner as provided in subsections 1 and 2 of K.S.A. 75-3046 to the governor, state librarian, the secretary of the state historical society and the secretary of the legislative coordinating council and a copy shall be mailed or delivered to each member of the legislature. Such publication shall be sold at approximately the cost of printing the same and the amount received therefrom shall be placed in the state treasury and credited to the fee fund of such agency, if it has a fee fund, and if not, to the general fund of the state except that research, industrial, agricultural and educational matter of general concern to the people of Kansas may be distributed without charge.

Sec. 3. K.S.A. 46-1212c is hereby amended to read as follows: 46-1212c. Any report, pamphlet, book or other materials required to be submitted by a state agency to the legislature or the members thereof pursuant to K.S.A. 75-3048, as amended by section 2, and K.S.A. 8-1201, 8-1760, 16a-6-104, 19-2674, 20-320, 20-2204, 22-3710, 25-4119a, 36-514, 40-2309, 44-566a, 44-1004, 46-408, 50-628, 65-176, 65-4007, 72-6011, 72-6111, 72-6814, 74-5503, 74-6203, 74-6706, 75-5020, 75-5326, 75-5375, 79-1404, 79-1806 and 79-4301 and K.S.A. 1981 Supp. 65-4007 and 79-1806, and amendments to any of the foregoing sections, shall, in lieu of such submission, be submitted to the director of legislative administrative services. Upon submission of any such report, pamphlet, book or other materials the director shall compile and maintain a current listing thereof and shall make such listing available at least monthly to each member of the legislature. The director, upon request made therefor by any member of the legislature, shall make available any such report, pamphlet, book or other materials enumerated on such listing to such requesting member.

Sec. 4. K.S.A. 46-1212c, 75-3045, 75-3046 and 75-3048 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 18, 1982.

House adopted Conference Committee report April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 2, 1982.

Senate adopted Conference Committee report April 9, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 22nd day of April, 1982.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

HOUSE BILL No. 3077

AN ACT concerning elections; automatic counting and tabulation of ballots; electronic and electromechanical voting systems; registration of voters; amending K.S.A. 25-2311 and 25-4401 and repealing the existing sections.

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

New Section 1. As used in this act unless the context otherwise requires:

(a) "Ballot" means a paper ballot of at least three inches in width and seven inches in depth on which candidates names or questions are printed and are designed to receive opaque marks which can be detected by optical scanning equipment and which are capable of being counted manually.

(b) "Counting location" means the location or locations in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.

(c) "Optical scanning equipment" means apparatus designed to examine and detect opaque marks on ballots which represent votes and count and tabulate those votes by electronic methods.

(d) "System" means an optical scanning system of automatically counting and tabulating ballots with optical scanning equipment.

New Sec. 2. (a) The board of county commissioners and the county election officer of any county may provide for use of a system using optical scanning equipment to be used in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) When the board of county commissioners of any county is presented with a petition requesting a vote on the proposition of using a system using optical scanning equipment in such county, signed by electors equal in number to not less than 10% of the votes cast for secretary of state in the county at the last preceding general election at which the secretary of state was elected, such board of county commissioners shall submit the proposition to the voters of such county at the next succeeding state primary or general election. If a majority of the votes cast on the proposition are in favor of the proposition, the board of county commissioners and the county election officer shall provide such a system to be used at national, state, county, township, city and school primary and general elections and in question submitted elections.

(c) The board of county commissioners of any county in which the board and county election officer have determined that a system using optical scanning equipment shall be used or in which a proposition to use a system that uses optical scanning equipment has been adopted may issue bonds, without an election, to finance and pay for purchase, lease or rental of such a system and optical scanning equipment.

(d) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any system using optical scanning equipment authorized under this act and approved by the secretary of state for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with regular paper ballots. Whenever the secretary of state rescinds approval of any such system or optical scanning equipment, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.

New Sec. 3. The secretary of state shall examine and approve the kinds or makes of systems using optical scanning equipment, and no kind or make of such system shall be used at any election unless and until it receives approval by the secretary of state and a statement thereof is filed in the office of the secretary of state.

New Sec. 4. (a) Any person, firm or corporation desiring to sell any kind or make of system using optical scanning equipment to counties in this state may make a request in writing of the secretary of state to examine the kind or make of the system using optical scanning equipment which it desires to sell and shall accompany the request with a certified check in the amount of \$250 payable to the secretary of state, and shall furnish at its own

expense such optical scanning equipment and other items necessary for operation of such system to the secretary of state at the capitol in the city of Topeka, Kansas, for use by the secretary in examining such equipment and system. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system that it will do all the things required by this act and applicable Kansas Statutes Annotated, and amendments thereto, and can be safely used. The secretary of state may employ a competent person or persons to assist in the examination and to advise the secretary as to the sufficiency of such system and equipment and to pay such persons reasonable compensation therefor. The costs of employment and other costs associated with the approval of such system shall be paid in advance by the applicant.

(b) The secretary of state may require a review of any theretofore approved system using optical scanning equipment and the operation thereof. Such review shall be commenced by the secretary of state giving written notice to the person, firm or corporation which sought approval of the system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system or equipment. Such notice shall fix a time and place of hearing at which those persons wishing to be heard may appear and give oral or written testimony and explanation of the system, its optical scanning equipment and operation and experience had therewith. After such hearing date and after such review as the secretary of state deems appropriate, the secretary of state may renew approval of the system and such equipment, require changes therein for continued approval thereof or rescind approval previously given on either a conditioned or permanent basis.

(c) The secretary of state may appoint persons to assist county election officers or county commissioners in the testing of any system using optical scanning equipment and the programs of the system.

New Sec. 5. (a) The board of county commissioners and the county election officer may purchase a system with payment by installments, may rent or lease a system or may lease optical scanning equipment with option to purchase with lease payments to be applied on the purchase price. Contracts for payment by installments, leases, rental agreements and leases with option to purchase may be for terms not exceeding 10 years, and the provisions of article 11 of chapter 10 of the Kansas Statutes Annotated and K.S.A. 79-2925 to 79-2940, inclusive, and amendments thereto, shall have no application to such contracts of purchase and lease or rental agreements, except that where payment is to be made from the general fund the budget shall provide for the raising of the necessary yearly amount to make installment or rental payments. Where the authorized maximum levy for the general fund is insufficient for all other yearly expenses chargeable against such fund and to pay installments or rentals on the system or optical scanning equipment, or where the aggregate limit for taxes is such that a sufficient tax for the general fund cannot be levied to pay all other yearly expenses chargeable against such fund and to pay installments or rentals on the systems, the board of county commissioners may levy a tax of sufficient mileage to provide revenue to pay such installments or rentals and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 1981 Supp. 12-1774, and amendments thereto, by cities located in the county and such levy shall not be within or limited by any aggregate limit of tax for such county.

(b) For the use of optical scanning equipment or a system, the board of county commissioners may pay the same out of the general fund of such county, or issue time warrants bearing not to exceed 5% interest and payable by not more than three annual tax levies of not to exceed two mills which shall not be within or limited by any aggregate tax levy applying to such county or issue general obligation bonds of such county, such bonds not to be limited by any bonded debt limit and such bonds shall not be considered in determining the bonded debt of the county for the purpose of issuing bonds for other purposes.

(continued)

(c) No tax shall be levied under this section, nor shall any moneys be paid from any fund under authority of this section for any contract to purchase, lease or rent any optical scanning equipment or system, if approval of such system or equipment has been rescinded by the secretary of state.

New Sec. 6. The board of county commissioners shall provide for the storage of optical scanning equipment. The county election officer shall be in complete charge of the system and its equipment and safekeeping thereof when not in use and keeping such equipment in repair and working order and shall see that such equipment is delivered to the central tabulating area in time for all arrangements to be made and for the system to be ready for use at the hour of opening the polls. After the election, the county election officer shall see that the system and its equipment is returned to the place of storage, or are secured for on-site storage.

New Sec. 7. (a) The ballot information shall be in the order of arrangement provided for in article 6, chapter 25 of Kansas Statutes Annotated for official ballots, except that such information may be printed on both sides of one ballot. Nothing in this act shall be construed as prohibiting the use of multiple ballots when the information for any election exceeds the capacity of a single ballot. Voting squares may be before or after the names of candidates and statements of questions, and shall be of such size as is compatible with the system used. Ballots shall be printed on paper and with ink compatible with the system used and the information printed in as plain clear type and size as the ballot spaces will reasonably permit. Tear off stubs shall be of a size suitable for the ballots used.

New Sec. 8. Insofar as applicable, the procedures provided for voting on regular paper ballots shall apply when optical scanning equipment is to be used.

New Sec. 9. (a) When a voter is handed a ballot, such voter shall be instructed to mark the ballot as directed, and to not mark the ballot in any other way. The voter shall also be instructed to place such person's ballot or ballots in an envelope or other container after voting, in order that no ballot upon which a choice is indicated is exposed.

(b) In case any elector after entering the voting booth asks for further instruction concerning the manner of voting, two judges of opposite political parties shall give such instruction to such elector, but no judge or other election officer or person assisting an elector shall in any manner request, suggest or seek to persuade or induce any elector to vote for or against any candidate, question or ticket. After receiving such instruction, such elector shall vote as in the case of an unassisted voter.

(c) After the voter has marked the ballot or ballots, the voter shall place it or them in the envelope provided for this purpose and return it to the judge. The judge shall remove the ballot stub or stubs and deposit them and the envelope with the ballot or ballots inside the ballot box.

New Sec. 10. (a) The optical scanning equipment may be located at any place within the county approved by the county election officer.

(b) Within five days prior to the date of the election, the county election officer shall have the optical scanning equipment tested to ascertain that the equipment will correctly count the votes cast for all offices and on all questions submitted. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in a newspaper of general circulation in the county where such equipment is to be used. The test shall be observed by at least two election inspectors, who shall not be of the same political party, and shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a pre-audited group of ballots marked as to record a predetermined number of valid votes for each candidate and on each question submitted, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the optical scanning equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the optical scanning equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots, and at the conclusion of the official count in the same

manner as set forth above. After the completion of the count, the programs used and ballots and ballot stubs shall be sealed, retained and disposed of in the same manner as paper ballots.

New Sec. 11. (a) As soon as the polls are closed, an election judge shall open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed the number of voters shown on the poll book. If there is an excess, this fact shall be reported in writing to the county election officer with the reasons therefor if known. The total number of voters shall be entered on the tally sheets.

(b) The election judge shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered by two election judges who shall not be of the same political party, to the counting location together with the unused, void and defective ballots and returns.

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election judges who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the optical scanning equipment, it shall be counted manually.

(d) Absentee ballots may be counted by the optical scanning equipment if they have been marked in a manner which will enable them to be properly counted by such equipment.

(e) The return printed by the optical scanning equipment, to which has been added the return of write-in and absentee votes and manually counted votes, shall constitute the official return of each precinct or voting area. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the office of the county election officer.

(f) If for any reason it becomes impracticable to count all or a part of the ballots with optical scanning equipment, the county election officer may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

New Sec. 12. Optical scanning equipment fraud is:

(a) Being in unlawful or unauthorized possession of ballots or programs; or

(b) willfully tampering with, altering, disarranging, defacing, impairing or destroying any optical scanning equipment or component part thereof, or any ballot, used by a system.

Optical scanning equipment fraud is a class E felony.

New Sec. 13. Optical scanning equipment and systems using optical scanning equipment approved by the secretary of state:

(a) Shall be capable of being tested to ascertain that the equipment will correctly count votes cast for all offices and on all questions submitted; and

(b) shall be capable of printing in legible form, reports and summaries of the election results as required by articles 30 and 31 of chapter 25 of Kansas Statutes Annotated; and

(c) shall be capable of tabulating votes for candidates for nomination or election of at least seven different political parties; and

(d) shall be capable of tabulating votes for any independent candidate of any office; and

(e) shall be capable of tabulating votes for constitutional amendments or other questions submitted; and

(f) shall be capable of tabulating the number of "write-in" votes cast for any office; and

(g) shall not count any votes for an office or upon a question submitted when the voter has cast more votes for such office or upon such question than the voter is entitled to cast.

Sec. 14. K.S.A. 25-4401 is hereby amended to read as follows: 25-4401. As used in this act unless the context otherwise requires:

(a) "Automatic tabulating equipment" includes apparatus necessary to examine automatically and count votes as designated on ballots and data processing machines which can be used for counting ballots and tabulating results.

(b) "Ballot card" means a ballot which is voted by the process of punching.

(continued)

(c) "Ballot labels" means the cards, papers, booklet, pages or other material containing the names of offices and candidates and statements of measures to be voted on.

(d) "Ballot" may include ballot cards, ballot labels and paper ballots.

(e) "Counting location" means the location in the county selected by the county election officer for the automatic processing or counting, or both, of ballots.

(f) "Electronic or electromechanical voting system" means a system of casting votes by use of marking devices and tabulating ballots employing automatic tabulating equipment or data processing equipment.

(g) "Marking device" means either an apparatus in which ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter or any approved device for marking a paper ballot with ink or other substance which will enable the ballot to be tabulated by means of automatic tabulating equipment. The hole or mark made by such marking device may be in the form of a round dot, a rectangle, a square or any other shape that will clearly indicate the intent of the voter.

Sec. 15. K.S.A. 25-2311 is hereby amended to read as follows: 25-2311. (a) County election officers shall provide for the registration of voters at one or more places on all days except the following:

(1) Days when the main offices of the county government are closed for business, except as is otherwise provided by any county election officer under the provisions of K.S.A. 25-2312.

(2) Days when the main offices of the city government are closed for business, in the case of deputy county election officers who are city clerks except as is otherwise provided by any county election officer under the provisions of K.S.A. 25-2312.

(3) The ~~twenty (20)~~ 20 days preceding the day of primary and general state elections.

(4) The ~~twenty (20)~~ 20 days preceding the day of primary city and school elections, if either has a primary.

(5) The ~~twenty (20)~~ 20 days preceding each first Tuesday in April of odd-numbered years, being the day of city and school general elections.

(6) The ~~twenty (20)~~ 20 days preceding the day of any election other than one specified in paragraphs (3), (4) and (5) of this subsection.

(7) The day of any primary or general election or any question submitted election.

(b) For the purposes of this section in counting days that registration books are to be closed, all of the days including Sunday and legal holidays shall be counted.

(c) The secretary of state shall notify every county election officer of the dates when registration shall be closed preceding primary and general state, city and school elections. The days so specified by the secretary of state shall be conclusive. Such notice shall be given by the secretary of state by mail at least ~~sixty (60)~~ 60 days preceding every primary and general state, city and school election.

(d) The last days before closing of registration books as directed by the secretary of state under subsection (c) of this section, county election officers shall provide for registration of voters during regular business hours, during the noon hours and until 9 o'clock each night at other than regular business hours upon such days as the county election officers deem necessary. The last three business days before closing of registration books prior to state primary and general elections, county election officers shall provide for registration of voters until 9:00 p.m. in cities of the first and second class. The number of such days that registration books are to be kept open such additional hours shall be as follows:

(1) In cities of the first class having a population of more than fifteen thousand (15,000), in primary and general state elections for ten (10) days and in primary and general city and school elections for five (5) days.

(2) In cities of the first class having a population of less than fifteen thousand (15,000), five days.

(3) In cities of the second class having a population of more than ten thousand (10,000), five days.

(4) In cities of the second class having a population of more

than five thousand (5,000) and less than ten thousand (10,000), four days.

(5) In cities of the second class having a population of less than five thousand (5,000), three days.

(e) The secretary of state may adopt rules and regulations interpreting the provisions of this section and specifying the days when registration shall be open, days when registration shall be closed, and days when it is optional with the county election officer for registration to be open or closed.

Sec. 16. K.S.A. 25-2311 and 25-4401 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 10, 1982.

House adopted Conference Committee report April 9, 1982.

WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 5, 1982.

Senate adopted Conference Committee report April 8, 1982.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 23rd day of April, 1982.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 29, 1982.)

SENATE BILL No. 643

AN ACT making and concerning appropriations for the fiscal year ending June 30, 1982, for the attorney general, department of economic development, Kansas public employees retirement system, department of revenue, state treasurer, Kansas state school for the deaf, department of education, Kansas state school for the visually handicapped, state board of agriculture, Kansas water office, insurance department, commission on civil rights, department of human resources, university of Kansas medical center, Kansas state university, Kansas state university veterinary medical center, Kansas technical institute, state board of regents, Kansas energy office, and crime victims reparations board, authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

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

Section 1. For the fiscal year ending June 30, 1982, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, receipts disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 2.

ATTORNEY GENERAL

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Rows include: Litigation costs (\$10,000), Additional operating expenditures regarding architectural and construction contracts for capital improvement projects at the university of Kansas medical center (including services of special assistant attorney general) (20,000), Additional operating expenditures regarding architectural and construction contracts for state capital improvement projects other than at the university of Kansas medical center (15,000), Total (\$45,000).

(b) The expenditure limitation established by section 3(b) of chapter 31 of the 1981 Session Laws of Kansas on the antitrust enforcement—federal fund is hereby increased from \$73,255 to \$81,928.

Sec. 3.

DEPARTMENT OF ECONOMIC DEVELOPMENT

(a) The expenditure limitation established by the state finance council on the for administration of the federal housing assistance program account of the housing assistance program—federal fund is hereby increased from \$18,588 to \$41,925.

Sec. 4.

KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: For employers' contributions (\$366,770).

Sec. 5.

DEPARTMENT OF REVENUE

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: Temporary modular motor carriers inspection station (\$17,500).

(b) On the effective date of this act, of the \$5,421,904 appropriated for the department of revenue by section 3(a) of chapter 17 of the 1981 Session Laws of Kansas from the state general fund in the other operating expenditures account, the sum of \$17,500 is hereby lapsed.

(c) The expenditure limitation established by the state finance council on the salaries and wages account of the division of vehicles operating fund is hereby decreased from \$8,390,843 to \$8,358,206.

(d) The expenditure limitation established by section 13(e) of chapter 32 of the 1981 Session Laws of Kansas on the other operating expenditures account of the division of vehicles operating fund is hereby decreased from \$5,394,833 to \$5,190,453.

(e) The expenditure limitation established by the state finance council on the division of vehicles operating fund is hereby decreased from \$13,785,676 to \$13,548,659.

Sec. 6.

STATE TREASURER

(a) There is appropriated for the above agency from the fol-

lowing special revenue fund all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:

Table with 2 columns: Description and Amount. Row: Unclaimed property expense recovery fund (\$20,000).

Sec. 7.

KANSAS STATE SCHOOL FOR THE DEAF

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: Other operating expenditures (\$43,757).

Sec. 8.

DEPARTMENT OF EDUCATION

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Rows include: Community college credit hour state aid (\$508,503), Community college out-district state aid entitlement (53,264), Municipal university fund (52,624), Total (\$614,391).

Sec. 9.

KANSAS STATE SCHOOL FOR THE VISUALLY HANDICAPPED

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: Other operating expenditures (\$22,750).

(b) The expenditure limitation established by section 4(b) of chapter 19 of the 1981 Session Laws of Kansas on the elementary and secondary education act—federal fund is hereby increased from \$51,000 to \$72,161.

Sec. 10.

STATE BOARD OF AGRICULTURE

(a) There is appropriated for the above agency from the following special revenue fund all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:

Table with 2 columns: Description and Amount. Row: U.S. geological survey cooperative gage agreement fund (No limit).

Provided, That the state board of agriculture is hereby authorized to enter into a cooperative gage agreement with the United States geological survey: Provided further, That all moneys collected for the construction or operation of river water intake gages shall be deposited in the state treasury and credited to this fund: And provided further, That expenditures may be made from this fund to pay the costs incurred in the construction or operation of river water intake gages.

Sec. 11.

KANSAS WATER OFFICE

(a) On the effective date of this act, the director of accounts and reports shall transfer \$38,198 from the expenditures for state operations account of the state general fund of the department of health and environment to the salaries and wages account of the state general fund of the Kansas water office.

Sec. 12.

INSURANCE DEPARTMENT

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: Salaries and wages (\$35,000).

Sec. 13.

COMMISSION ON CIVIL RIGHTS

(a) There is appropriated for the above agency from the state general fund the following:

Table with 2 columns: Description and Amount. Row: Other operating expenditures (\$12,463).

Sec. 14.

DEPARTMENT OF HUMAN RESOURCES

(a) On the effective date of this act, of the \$1,589,743 appropriated for the department of human resources by section 7(a) of chapter 31 of the 1981 Session Laws of Kansas from the state general fund in the salaries and wages account, the sum of \$5,598 is hereby lapsed.

(b) On the effective date of this act, of the \$341,689 appropriated for the department of human resources by section 7(a) of chapter 31 of the 1981 Session Laws of Kansas from the state general fund in the other operating expenditures account, the sum of \$26,000 is hereby lapsed.

(continued)

(c) The expenditure limitation established by the state finance council on the workmen's compensation fee fund is hereby increased from \$1,012,433 to \$1,039,921.

(d) The expenditure limitation established by the state finance council on the occupational health and safety—federal fund is hereby increased from \$201,625 to \$207,122.

(e) The expenditure limitation established by the state finance council on the boiler inspection fee fund is hereby decreased from \$145,708 to \$107,558.

Sec. 15.

UNIVERSITY OF KANSAS MEDICAL CENTER

(a) There is appropriated for the above agency from the state general fund the following:

Salaries and wages	\$1,200,000
Other operating expenditures (including official hospitality)	413,000
Purchase and install fuel oil storage tanks	20,000
Total	\$1,633,000

(b) The expenditure limitation established by section 32(b) of chapter 32 of the 1981 Session Laws of Kansas on the general fees fund is hereby decreased from \$4,048,503 to \$3,635,503.

Sec. 16.

KANSAS STATE UNIVERSITY

(a) The expenditure limitation established by section 22(b) of chapter 32 of the 1981 Session Laws of Kansas on the general fees fund is hereby increased from \$14,475,373 to \$14,662,486.

Sec. 17.

KANSAS STATE UNIVERSITY
VETERINARY MEDICAL CENTER

(a) There is appropriated for the above agency from the state general fund the following:

Other operating expenditures (including official hospitality)	\$57,500
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(b) The expenditure limitation established by section 23(b) of chapter 32 of the 1981 Session Laws of Kansas on the hospital and diagnostic laboratory revenue fund is hereby decreased from \$1,226,500 to \$1,169,000.

Sec. 18.

KANSAS TECHNICAL INSTITUTE

(a) The expenditure limitation established by section 33(b) of chapter 32 of the 1981 Session Laws of Kansas on the general fees fund is hereby increased from \$174,256 to \$186,456.

Sec. 19.

STATE BOARD OF REGENTS

(a) There is appropriated for the above agency from the state general fund the following:

Other operating expenditures (including official hospitality)	\$13,000
Expenses for recruiting, interviewing and selecting administrative personnel (including official hospitality)	6,000

Provided, That expenditures may be made from this account for actual expenses of applicants, regents and designated personnel and applicants' spouses when accompanying such applicants on official business.

Total	\$19,000
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Sec. 20.

KANSAS ENERGY OFFICE

(a) The expenditure limitation established by section 16(b) of chapter 31 of the 1981 Session Laws of Kansas on the energy special projects fund is hereby decreased from \$1,502,670 to \$901,468. On and after the effective date of this act, no community energy management grants shall be awarded by the above agency.

(b) The position limitation established by section 20 of chapter 31 of the 1981 Session Laws of Kansas for the Kansas energy office is hereby decreased from 23.0 to 16.0.

Sec. 21.

CRIME VICTIMS REPARATIONS BOARD

(a) There is appropriated for the above agency from the following special revenue fund all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures other than refunds authorized by law shall not exceed the following:

Federal preventive health and health services block grant fund.	No limit
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Provided, That all expenditures from this fund shall be to provide services to rape victims and for rape prevention.

(b) On the effective date of this act, the director of accounts and reports shall transfer \$30,106 from the preventive health and health services block grant fund of the department of health and environment to the federal preventive health and health services block grant fund of the crime victims reparations board.

Sec. 22. *Appeals to exceed limitations.* Upon written application to the governor and approval of the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, expenditures from special revenue funds may exceed the amounts specified in this act.

Sec. 23. *Effective date.* This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 23, 1982.

Senate adopted Conference Committee report April 8, 1982.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 25, 1982.
House adopted Conference Committee report April 8, 1982.
WENDELL LADY
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 22, 1982.

JOHN CARLIN
Governor.

STATE OF KANSAS
Office of Secretary of State

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 23rd day of April, 1982.

JACK H. BRIER
Secretary of State.

(SEAL)

State of Kansas

SECRETARY OF STATE

NOTICE

The following bills have been signed into law by the Governor, as of April 26, and transmitted to this office:

Senate Bills

2	505	557	606	674	763	817
30	506	560	608	675	764	820
36	507	562	609	677	765	822
61	510	563	610	678	767	823
72	511	564	613	683	768	826
73	512	569	617	687	769	832
141	513	570	618	689	770	836
174	514	571	622	693	772	840
203	522	575	627	707	773	843
301	524	582	630	718	775	845
370	525	583	633	719	776	851
383	526	584	634	721	779	853
391	528	588	635	728	781	857
438	530	589	636	731	782	859
441	531	590	640	733	783	861
476	532	591	643	738	785	865
485	537	593	646	740	787	866
487	538	594	650	741	791	867
495	539	595	651	742	793	868
496	542	596	655	743	799	870
498	547	599	657	749	800	879
499	548	601	662	760	803	881
504	550	605	665	762	812	883

House Bills

2139	2655	2724	2802	2889	3013	3065
2140	2656	2728	2803	2903	3016	3068
2253	2657	2731	2809	2918	3017	3069
2268	2658	2732	2810	2919	3018	3070
2273	2661	2735	2815	2923	3019	3072
2286	2665	2738	2817	2930	3020	3073
2394	2668	2739	2818	2937	3023	3075
2463	2669	2740	2820	2941	3025	3077
2469	2670	2744	2822	2952	3026	3089*
2472	2671	2746	2825*	2955	3027	3096
2492	2672	2750	2826	2957	3028	3097
2519	2673	2751	2827	2969	3029	3101
2546	2674	2752	2828	2971	3030	3104
2595	2675	2753	2829	2972	3031	3106
2610	2677	2765	2831	2974	3032	3108
2613	2679	2766	2833	2976	3034	3110
2615	2682	2767	2834	2985	3035	3111
2616	2686	2768	2837	2994	3037	3117
2617	2695	2769	2850	2995	3042	3118
2629	2697	2770	2856	2996	3045	3121
2630	2702	2785	2857	2998	3047	3124
2636	2703	2786	2859	2999	3049	3125
2637	2710	2788	2863	3002	3050	3127
2639	2712	2789	2866	3003	3051	3131
2640	2713	2793	2870	3008	3054	3134
2646	2714	2798	2877	3009	3063	3145
2653	2715	2799	2883	3010	3064	3166
2654	2720	2801	2888	3011		

* Signed with portions line-item vetoed, and returned to the House.

The following bills have been *vetoed* by the Governor:

Senate Bills: 205, 535, 561, 615*, 664, 797*.

House Bills: 2632, 2634, 2814, 2887, 2906, 3094.

* Incorrectly listed last week in both the signed and vetoed sections. Both were vetoed.

The following resolutions have been adopted by the Legislature and transmitted to this office:

Senate Concurrent Resolutions: 1633, 1644, 1647, 1649, 1650, 1651, 1657, 1659.

House Concurrent Resolutions: 5032, 5041, 5043, 5046, 5047, 5048, 5049, 5054, 5058, 5059, 5067.

House Resolutions: 6117, 6118, 6126, 6127, 6130, 6137, 6156, 6167.

Titles of the above bills and resolutions were listed in earlier editions of the *Kansas Register*, as they were introduced. Copies of enrolled (final) bills and resolutions are available from the Legislative Division of the Secretary of State's Office; State Capitol; Topeka 66612. Phone: 913/296-2236.

JACK H. BRIER
Secretary of State

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State Capitol
Topeka, Kansas 66612

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