

KANSAS REGISTER

State of Kansas

JACK H. BRIER
Secretary of State

Vol. 2, No. 16

April 21, 1983

Pages 437-540

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



PHONE: 913/296-2236

Carol A. Bell
 Publications Director

State of Kansas

SOCIAL AND REHABILITATION SERVICES**OPEN MEETING NOTICE**

Notice is hereby given to all interested parties that the Department of Social and Rehabilitation Services will hold an Open Meeting on May 3, 1983, at 9:00 a.m., in the Staff Development Training Center, Topeka State Hospital.

The scheduled agenda for the Open Meeting includes:

- Public hearing concerning proposed temporary administrative regulations.
- Preliminary overview of legislation passed in 1983 session.
- Preliminary discussion of possible budget guidelines for the agency for FY 1985.

Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hiawatha, Hutchinson, Junction City, Kansas City, Lawrence, Olathe, Ottawa, Parsons, Pittsburg, Pratt, Salina, Topeka (Area Office and State Office Building), Wichita, and Winfield.

ROBERT C. HARDER
Secretary

Doc. No. 001121

State of Kansas

LEGISLATURE

The following list gives the numbers and titles of bills and resolutions recently introduced in the Legislature.

Copies of bills and resolutions are available free of charge. (Limit: 5 copies of any one item.) Write: Legislative Document Room; State Capitol; Topeka, KS 66612. Or call: (913) 296-7394.

Bills Introduced April 7-9:

SB 446, by Committee on Ways and Means: An act concerning municipalities; providing for payments of certain claims in advance of presentation to governing bodies thereof; amending K.S.A. 12-105b and repealing the existing section.

SB 447, by Committee on Ways and Means: An act providing for a state census and use thereof; repealing K.S.A. 11-201.

SB 448, by Committee on Ways and Means: An act concerning community colleges; relating to credit hour state aid; affecting amounts thereof; amending K.S.A. 1982 Supp. 71-602 and repealing the existing section.

SB 449, by Committee on Ways and Means: An act concerning community colleges; relating to out-district tuition; affecting amounts thereof authorized to be charged to and collected from counties; amending K.S.A. 1982 Supp. 71-301 and repealing the existing section.

SB 450, by Committee on Ways and Means: An act concerning municipal universities; relating to credit hour state aid; affecting amounts thereof; amending K.S.A. 1982 Supp. 72-6503 and repealing the existing section.

SB 451, by Committee on Ways and Means: An act concerning the state board of regents; relating to the manufacture of parking permits authorized to be issued by institutions under the control and supervision thereof.

HB 2569, by Committee on Ways and Means: An act concerning the department of revenue; relating to fees for publications and the disposition thereof; creating the publications fee fund.

HB 2570, by Committee on Ways and Means: An act concerning the department of corrections; abolishing the correctional industries equipment replacement fund; transferring the assets and liabilities thereof to the correctional industries fund; amending K.S.A. 1982 Supp. 75-5282 and repealing the existing section.

HB 2571, by Committee on Calendar and Printing: An act relating to taxation; imposing a tax upon the use of facilities for the transportation of coal, oil, natural gas, helium, gas liquids, water, hydrocarbon refined products and other liquefied matter; providing for the levy and collection of such tax and the administration and enforcement of the provisions of the act; and prescribing certain penalties.

HB 2572, by Committee on Ways and Means: An act concerning the department of corrections; changing the name of the correctional institution for women to the Kansas correctional institution at Lansing; amending K.S.A. 21-4602, 21-4612, 75-5261, 75-5266

and 75-5283 and K.S.A. 1982 Supp. 65-1905, 75-3058, 75-5202, 75-5220 and 75-5229 and repealing the existing sections.

HB 2573, by Committee on Ways and Means: An act relating to the secretary of health and environment; concerning the program administered thereby for crippled and chronically ill children; amending K.S.A. 65-5a01, 65-5a05, 65-5a08, 65-5a10, 65-5a11, 65-5a12, 65-5a13, 65-5a14, 65-5a16, 75-5643 and 75-5644, and repealing the existing sections.

HB 2574, by Committee on Ways and Means: An act concerning the act for obtaining a guardian or conservator, or both; relating to powers and duties of a guardian and limitations thereon; amending K.S.A. 59-3018, as amended by section 14 of 1983 Senate Bill No. 11, and repealing the existing section.

HB 2575, by Committee on Ways and Means: An act relating to water; concerning public water supply systems; amending K.S.A. 65-163 and repealing the existing section.

SCR 1629, by Senator McCray: A concurrent resolution providing for a special committee to make a legislative study concerning a minority contractors' revolving loan fund and a surety bond guarantee program for minority contractors.

SCR 1630, by Senator Johnston: A concurrent resolution providing for a special committee to make a legislative study concerning the supply of physicians in this state and the number of students admitted to the University of Kansas school of medicine.

SCR 1631, by Senator Talkington: A concurrent resolution relating to adjournment of the senate and house of representatives for a period during the 1983 regular session of the legislature.

HCR 5048, by Representative Niles: A concurrent resolution urging the state board of healing arts to vigorously enforce the discipline of its licensees as required by law.

SR 1841, by Senators Feleciano, Daniels, Francisco, Hess, McCray and Morris: A resolution honoring Dr. Clark D. Ahlberg, retiring as President of Wichita State University, on being named the recipient of the 1983 Achievement Award from the Wichita State University Alumni Association.

SR 1842, by Senator Winter: A resolution congratulating and commending Mark Gidley and Rodger Payne of the University of Kansas on winning the 1983 national collegiate debate team championship.

SR 1843, by Senators Burke, Allen, Angell, Arasmith, Bogina, Chaney, Daniels, Doyen, Ehrlich, Feleciano, Francisco, Caar, Gaines, Gannon, Gordon, Harder, Hayden, Hein, Hess, Johnston, Karr, Kerr, McCray, Meyers, Montgomery, Morris, Mulich, Norvell, Parrish, Pomeroy, Rehorn, Reilly, Roitz, Steineger, Thiessen, Vidricksen, Warren, Werts and Winter: A resolution memorializing Congress to take appropriate action to secure the return of all prisoners of war and to obtain the fullest possible accounting for American servicemen and civilians missing or otherwise unaccounted for as a result of the war in Vietnam; and proclaiming April 9, 1983, as Kansas POW/MIA Recognition Day.

SR 1844, by Senators Ehrlich, Johnston and Meyers: A resolution concerning rules and regulations to be adopted by the State Board of Nursing pursuant to 1983 Senate Bill No. 13.

HR 6069, by Representative Patterson: A resolution congratulating and commending the Independence Community College basketball team on its sixth-place finish in the NJCAA Tournament.

HR 6070, by Representative Reardon: A resolution congratulating and commending Bishop Miege High School on its 25th anniversary.

HR 6071, by Representative R. D. Miller: A resolution congratulating and commending the La Crosse Junior High School eighth grade boys' basketball team and its coach, Benny Vieira, on an undefeated season and a league championship.

HR 6072, by Representatives Solbach, Branson, Charlton, Dempsey, Duncan, Heine-mann, Long, D. Miller, Rolfs and Shriver: A resolution congratulating and commending Mark Gidley and Rodger Payne of the University of Kansas on winning the 1983 national collegiate debate team championship.

HR 6073, by Representative R. D. Miller: A resolution congratulating and commending Walnut City Lodge No. 215, AF & AM, on its 100th anniversary.

HR 6074, by Representative R. D. Miller: A resolution congratulating and commending the Rush County Historical Society on the opening of the Rush County Historical Museum.

HR 6075, by Representatives Polson, Apt, Aylward, Braden, Buntin, Bussman, Campbell, Chromister, Crumbaker, Dempsey, Farrar, Foster, B. Fuller, Guldner, Hamm, Harper, Hayden, Hoagland, L. Johnson, King, Littlejohn, Moomaw, Nichols, Rosenau, Sand, Schmidt, Shriver, Smith, Teagarden, David Webb and Wisdom: A resolution congratulating R. E. "Bob" Arbutnot, a member of the Kansas House of Representatives, on his selection as the "1982 Kansas Hereford Breeder of the Year" by the Kansas Hereford Association.

HR 6076, by Representative Charlton: A resolution requesting the Kansas Corporation Commission to compile and make available data on the number of households disconnected from utility service for home heating fuel because of inability to pay.

HR 6077, by Representative Crowell: A resolution congratulating and commending the Madison High School Chapter of the American Industrial Arts Student Association on being named the outstanding AIASA Chapter in the United States.

HR 6078, by Representatives King, Duncan and Green: A resolution concerning rules and regulations to be adopted by the State Board of Nursing pursuant to 1983 Senate Bill No. 13.

State of Kansas

**SECRETARY OF STATE
NOTICE**

The following bills have been signed into law by the Governor, as of April 18, and transmitted to this office:

Senate Bills

1	27	55	92	145	284	345
2	28	56	93	147	294	347
3	30	57	94	157	297	353
4	31	59	103	160	298	355
5	32	60	106	169	308	356
6	33	61	112	172	312	358
7	34	64	116	174	314	359
8	35	73	119	177	320	362
9	36	74	120	204	321	363
10	40	75	122	226	322	383
11	42	83	124	229	337	402
15	45	84	125	238	338	406
16	49	85	132	244	341	408
17	52	86	134	263	342	423
20	54	90	140	280	344	432
24						

House Bills

2008	2033	2084	2166	2218	2382	2474
2009	2036	2093	2168	2221	2383	2475
2010	2037	2097	2169	2228	2404	2478
2012	2038	2099	2177	2242	2406	2480
2013	2039	2102	2184	2266	2418	2484
2014	2045	2108	2185	2285	2438	2488
2015	2047	2110	2189	2288	2439	2489
2017	2054	2112	2191	2294	2443	2491
2021	2056	2113	2192	2333	2447	2492
2023	2057	2116	2194	2334	2449	2503
2024	2059	2117	2197	2335	2455	2520
2025	2071	2124	2207	2337	2461	2531
2026	2072	2127	2208	2346	2464	2533
2027	2074	2131	2212	2357	2467	2534
2028	2079	2132	2216	2358	2468	2543
2030	2080	2165	2217	2379	2473	2546
2032						

The following bills have been vetoed by the Governor:

Senate Bill: 286.

House Bills: 2016, 2175.

The following resolutions have been adopted by the Legislature and transmitted to this office:

Senate Concurrent Resolutions: 1603, 1608, 1609, 1616, 1620, 1621, 1623, 1631.

House Concurrent Resolutions: 5002, 5005, 5006, 5007, 5010, 5011, 5012, 5014, 5016, 5018, 5036, 5042, 5043.

House Resolutions: 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015, 6016, 6017, 6018, 6019, 6020, 6022, 6023, 6024, 6025, 6026, 6027, 6028, 6029, 6030, 6031, 6032, 6033, 6034, 6035, 6036, 6037, 6038, 6039, 6040, 6042, 6043, 6044, 6045, 6046, 6047, 6048, 6049, 6050, 6051, 6052, 6053, 6054, 6056, 6057, 6058, 6059, 6060, 6061, 6062, 6063, 6064, 6065, 6066, 6067, 6068.

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: 913/296-4557.

State of Kansas

**DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASES**

NOTICE TO BIDDERS

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

MONDAY, MAY 2, 1983

#25394 (Supplemental Items)

University of Kansas Medical Center, Kansas City and Statewide—LABORATORY CHEMICALS

#25510

Board of Regents, Topeka—PERSONAL COMPUTER SYSTEM

#53420

University of Kansas Medical Center, Kansas City—UROLOGICAL INSTRUMENTATION

#53421

Kansas State Industrial Reformatory, Hutchinson—MEAT PRODUCTS

#53422

Kansas State Industrial Reformatory, Hutchinson—MEAT PRODUCTS

#53423

University of Kansas Medical Center, Kansas City—SURGICAL INSTRUMENTS

#53424

University of Kansas Medical Center, Kansas City—VINCRISTINE SULFATE

#53426

Kansas Technical Institute, Salina—LABOR, MATERIAL FOR PLUMBING REPAIR

#53483

University of Kansas, Lawrence—ASPHALT-PARKING LOT NO. R1, Lawrence Campus

#53489

University of Kansas, Lawrence—ULTRACENTRIFUGE

TUESDAY, MAY 3, 1983

#53430

Department of Transportation—PLANT MIX, BITUMINOUS MIXTURE, COMMERCIAL GRADE—"F.O.B. VENDORS PLANT" "NOT DELIVERED," Cowley County

#53431

Kansas State University, Manhattan—PHOTOMETER SYSTEM W/COMPUTER

#53434

Department of Transportation—M.R.A. AGGREGATE—A,B,C,D,E, for Cimarron and Meade

#53460

Department of Social and Rehabilitation Services—TELECOMMUNICATIONS SYSTEM, for Dodge City

#53477

Kansas State University, Manhattan—LABOR, MATERIAL TO REPAIR PLATFORM BLEACHERS—AHEARN FIELDHOUSE

#53478

Department of Corrections—INTERCOM SYSTEM, Lansing (Kansas State Penitentiary)

#53479

Wichita State University, Wichita—TELEVISION CAMERA

(continued)

#A-4658

Wichita State University, Wichita—REPAIR OF WALKS AND TERRACE SLABS OF CORBIN EDUCATION CENTER

WEDNESDAY, MAY 4, 1983

#25553

Statewide—FROZEN FOODS

#25554

Statewide—SPICES AND MISCELLANEOUS GROCERIES

#53436

Department of Transportation—AGGREGATE, AB SPECIAL and AGGREGATE, SPECIAL, for various locations

#53438

University of Kansas, Lawrence—FUEL OIL

#53439

Wichita State University, Wichita—SPECTRUM ANALYZER

#53441

Kansas State University, Manhattan—CRUST BUSTER, Hesston

#53445

Department of Transportation—SPRAYER, for Garden City and Topeka

#53446

University of Kansas Medical Center, Kansas City—CONTINUOUS FORMS, 2-PART CARBONLESS "BILLING STATEMENT"

#53447

Department of Revenue, Topeka—CONTINUOUS FORMS, 4-PART CARBONLESS

#53450

Kansas State University, Manhattan—JANITORIAL SUPPLIES

#53451

Kansas State University, Manhattan—FEED

#53452

Kansas State University, Manhattan—FEED

#53453

Kansas State University, Manhattan—JANITORIAL EQUIPMENT

#53454

Kansas State University, Manhattan—JANITORIAL EQUIPMENT

#53455

Department of Transportation, Topeka—ALUMINUM EXTRUSHEET SIGN PANELS

#A-4492

Youth Center At Beloit, Beloit—ENCLOSED OUTDOOR RECREATION AREA

#A-4611

Department of Administration, Topeka—ROOF REPAIR OF STATE OFFICE BUILDING, 915 Harrison

THURSDAY, MAY 5, 1983

#25557

University of Kansas, Lawrence—JUNE (1983) MEAT PRODUCTS

#53036

University of Kansas, Lawrence—BUILT-UP ROOF OF SPENCER LIBRARY

#53465

Kansas State University, Manhattan—FRONT END LOADER

#53472

Kansas State University, Manhattan—SCHOOL SEATING

#53485

Kansas State University, Manhattan—LIQUID SCINTILLATION SYSTEM

#53486

Kansas State University, Manhattan—FREEZE DRYER

#53487

Department of Corrections—ELECTRICAL SUPPLIES, Lansing (Kansas State Penitentiary)

#53490

Kansas State University, Manhattan—REVOLVERS

#53491

University of Kansas, Lawrence—TANKS

#A-4631

Department of Human Resources—ROOF REPLACEMENT AND SKYLIGHT REMOVAL FOR JOB SERVICE CENTER AT SALINA

FRIDAY, MAY 6, 1983

#53432

Department of Administration (Division of Printing), Topeka—SALE OF USED PHOTOTYPESETTER

#53492

Kansas State University, Manhattan—METAL DOORS, FRAMES AND HARDWARE

#53493

University of Kansas Medical Center, Kansas City—MEAT PRODUCTS

#53494

University of Kansas, Lawrence—ULTRAMICROTOME

#A-4504

Larned State Hospital, Larned—REPLACE AIR CONDITIONING EQUIPMENT IN DILLON BUILDING

TUESDAY, MAY 10, 1983

#53488

Department of Social and Rehabilitation Services, Topeka—PHARMACY COST STUDY

WEDNESDAY, MAY 11, 1983

#25551

Statewide—TIRES AND TUBES

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 001120

State of Kansas

ATTORNEY GENERAL

OPINION NO. 83-52

Agriculture—Wheat Act—Powers of Wheat Commission; Lobbying.

Legislature—State Governmental Ethics—Powers of Wheat Commission; Lobbying. Steven M. Graham, Administrator, Kansas Wheat Commission, Hutchinson, April 11, 1983.

The Kansas Wheat Commission may not contract for "lobbying" services. However, the Commission may contract with state or national organizations for educational services even where the educational research or product may be of incidental benefit in the lobbying activities of such organization. Cited herein: K.S.A. 2-2601, 2-2606, 46-225, 46-232. BJS

(continued)

OPINION NO. 83-53

Militia, Defense and Public Safety—Emergency Preparedness for Disasters—Authority of Counties to Enter Interjurisdictional Agreements. Marvin E. Henry, Emergency Preparedness Coordinator, Office of the Adjutant General, Topeka, April 11, 1983.

K.S.A. 48-930 authorizes counties to enter into interjurisdictional disaster agreements only after the governor has made certain findings and ordered counties to so act. However, both K.S.A. 1982 Supp. 19-101a and K.S.A. 19-212 *Eleventh*, authorize counties to enter into mutual aid agreements for disaster emergencies without gubernatorial directive, so long as such agreements are not contrary to local disaster emergency plans as approved by the division of emergency preparedness. Cited herein: K.S.A. 12-2901, K.S.A. 19-101a, 19-212, K.S.A. 1982 Supp. 48-928, K.S.A. 48-930. BJS

OPINION NO. 83-54

Counties and County Officers—Hospitals—Pension and Deferred Compensation Plans; Effect of Participating in Public Employees Retirement System. Stanley E. Antrim, Attorney for the Southwest Medical Center, Liberal, April 11, 1983.

A county hospital organized and operated pursuant to K.S.A. 19-1801 *et seq.* may, at the discretion of the board of trustees, establish and fund pension and deferred compensation plans for its employees. If it desires, the board may affiliate with the Kansas Public Employees Retirement System (KPERs) by submitting an application for affiliation under K.S.A. 1982 Supp. 74-4910. Such an application must be approved by a two-thirds vote of the board of trustees, and is irrevocable once it is filed with KPERs. Cited herein: K.S.A. 19-1803, 19-1804, K.S.A. 1982 Supp. 74-4902, 74-4910. JSS

OPINION NO. 83-55

Banks and Banking—Banking Code; Deposit of Public Moneys—Security for Deposits of Public Funds. James R. Cobler, Director, Division of Accounts and Reports, Department of Administration, Topeka, April 11, 1983.

Subsection (a) of K.S.A. 9-1403 provides that, during periods of peak deposits occurring at tax paying time and tax distributing time, the amount of security required by K.S.A. 9-1402 for deposits of public moneys in certain financial institutions shall be reduced by one-half of the required amount. Thus, during such periods of peak deposits, the amount of securities required to be deposited and maintained by a depository institution to secure a deposit of public moneys, where the depository institution has agreed to pay on such deposit a rate of interest greater than the average yield before taxes received on ninety-one day U.S. treasury bills, shall be no less than 50% of the amount of the deposit. Cited herein: K.S.A. 9-1402, 9-1403. WRA

OPINION NO. 83-56

Counties and County Officers—Planning and Zoning—Zoning in Improvement Districts. Fred W. Rausch, Jr., Attorney for Lakeside Village Improvement District, Topeka, April 11, 1983.

The zoning authority granted by K.S.A. 1982 Supp. 19-2950 *et seq.* may be exercised only by an improvement district "which is located adjacent to any park or recreation area within Wabaunsee County." Further, no provision of the improvement district act, K.S.A. 19-2753 *et seq.*, grants authority to the board of directors of an improvement district to zone property within the district. Cited herein: K.S.A. 1982 Supp. 19-2753, 19-2765, 19-2950, 19-2951, 19-2955. TRH

OPINION NO. 83-57

Cities and Municipalities—General Provisions—Countywide Retailers' Sales Taxes; Pledging of Revenue Received. Darold D. Bolton, Marshall County Attorney, Marysville, April 12, 1983.

A county has no authority to adopt a resolution which modifies the statutory formula, prescribed in K.S.A. 12-192, for apportioning revenue received from a countywide retailers' sales tax. However, pursuant to K.S.A. 12-197, a county may adopt a resolution, according to the procedure prescribed by K.S.A. 19-117, pledging a portion of the county's share of a countywide retailers' sales tax (if such tax is approved by the voters) for services or improvements to be provided by the county within townships located in the county. Cited herein: K.S.A. 12-192, 12-197, K.S.A. 1982 Supp. 19-101a, K.S.A. 19-117. TRH

OPINION NO. 83-58

Schools—State Board of Education—Gifts and Bequests; Management and Expenditure through Trust Fund. Erle W. Francis, Kansas State Board of Education, Topeka, April 13, 1983.

The creation of an independent trust fund outside the state treasury, containing gifts, grants, donations or bequests and administered by state board of education members acting as trustees, is not contemplated by the existing statutes, and would require a separate enabling act by the legislature. Cited herein: K.S.A. 58-2431, 72-7518, 72-7518a, 75-4201, 75-4210a, Kan. Const., Art. 6, §§ 1, 2. JSS

ROBERT T. STEPHAN
Attorney General

Doc. No. 001104

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

SUPREME COURT DOCKET

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

Monday, April 25, 1983

Case Caption	Attorneys	Originating County
9:30 a.m.		
55,192 State of Kansas, Appellant, v. Joe N. Compton, Appellee.	Robert T. Stephan, Atty. Gen.; Philip D. Lunt, Co. Atty.	Pratt
55,218 State of Kansas, Appellant, v. Kelly R. Keenan, Appellee.	Richard N. Raleigh. Robert T. Stephan, Atty. Gen.; Gery N. Gorup, Asst. Dist. Atty.	Sedgwick
55,233 State of Kansas, Appellant, v. Thomas A. Williams, Appellee.	Stephen E. Robison. Robert T. Stephan, Atty. Gen.; Philip D. Lunt, Co. Atty.	Pratt
55,303 State of Kansas, Appellant, v. Jose A. Ramirez, Appellee.	Michael S. Holland. Robert T. Stephan, Atty. Gen.; Paul D. Handy, Co. Atty.	Finney
55,281 State of Kansas, Appellee. v. David L. Price, Appellant.	Dennis Bahr. Robert T. Stephan, Atty. Gen.; Kenneth R. Smith, Asst. Dist. Atty.	Shawnee
55,191 City of Kansas City, Kansas, Appellant, v. Alfred Griffin, Appellee.	William K. Rork. Kathryn Pruessner Peters, Asst. City Atty.	Wyandotte
55,197 State of Kansas, Appellant, v. Donald A. Reeves, Appellee.	Darrel Frogley. Robert T. Stephan, Atty. Gen.; Kyle G. Smith, Asst. Co. Atty.	Lyon
1:30 p.m.		
54,097 Ruth L. Hinds, Appellee, v. Board of Public Utilities of Kansas City, Kansas, et al., Appellants.	Jan A. Way. Scott A. Asner.	Wyandotte ON PETITION FOR REVIEW
54,297 Margaret Green, Appellee. v. State Farm Mutual Automobile Insurance Company, Appellant.	Donald W. Vasos. Jerry G. Elliott; William P. Coates, Jr.	Wyandotte
54,867 Green Acres, a Kansas Partnership, Appellee, v. Lee H. West, et al., Appellants.	Richard L. Reid.	Wyandotte
55,217 State of Kansas, Appellant, v. Clemens C. Nott, Jr., a/k/a Dean Nott, Appellee.	Jerry M. Kaplan. Robert T. Stephan, Atty. Gen.; William C. O'Keefe, Co. Atty.	Nemaha
	James A. Patton.	

CONSOLIDATED

(continued)

Tuesday, April 26, 1983

9:30 a.m.

- | | | | |
|--------|---|---|----------|
| 55,228 | State of Kansas, Appellee, | Robert T. Stephan, Atty. Gen.;
Clark V. Owens, Dist. Atty. | Sedgwick |
| | v. | | |
| | Danny D. Harrison, Appellant. | Kenton D. Wirth. | |
| 55,141 | State of Kansas, Appellant, | Robert T. Stephan, Atty. Gen.;
Geary N. Gorup, Asst. Dist. Atty. | Sedgwick |
| | v. | | |
| | Ronald E. Mourning, Appellee. | Kiehl Rathbun. | |
| 54,985 | State of Kansas, Appellee, | Robert T. Stephan, Atty. Gen.;
Geary N. Gorup, Asst. Dist. Atty. | Sedgwick |
| | v. | | |
| | Jimmy L. Sefers, Appellant. | Harold E. Flaigle. | |
| 55,116 | State of Kansas, Appellant, | Robert T. Stephan, Atty. Gen.;
Geary N. Gorup, Asst. Dist. Atty. | Sedgwick |
| | v. | | |
| | Brian E. Creekmore, Brian R. McCoy,
Richard T. Sherry, and Eugene A. Finley,
Appellees. | David M. Rapp;
Daniel E. Monnat;
Roger Falk;
Nola Tedesco. | |

1:30 p.m.

- | | | | |
|--------|---|---|----------|
| 54,977 | State of Kansas, Appellant, | Robert T. Stephan, Atty. Gen.;
Geary N. Gorup, Asst. Dist. Atty. | Sedgwick |
| | v. | | |
| | Brian D. Kirkland, Appellee. | Patrick L. Connolly. | |
| 54,809 | State of Kansas, Appellee, | Robert T. Stephan, Atty. Gen.;
Clark Owens, Dist. Atty. | Sedgwick |
| | v. | | |
| | Rolando Iglesias, Enrique Tamayo and
Ricardo Tamayo, Appellants. | Willard L. Thompson, Jr. | |
| 53,627 | Bernd B. Szoboszlay, Appellant, | Lawrence H. Vogel. | Geary |
| | v. | | |
| | Mrs. Glessner, Appellee. | Mark Edwards. | |
| 54,962 | Claude Gieger, Appellee, | David P. Troup. | Geary |
| | v. | | |
| | Heinz C. Wallace, Appellant. | Roger D. Thompson. | |

Wednesday, April 27, 1983

9:30 a.m.

- | | | | |
|--------|---|---|---------|
| 54,224 | (Consolidated with 54,644; 54,645; 54,648; 54,649;
54,650; 54,651; 54,652; 54,653; 54,692; 55,152) | John W. Lungstrum;
Charles D. McAtee;
Larry Austin;
Lance W. Burr;
Ira Dennis Hawver;
Winton A. Winter, Jr.;
David J. Berkowitz;
Lee M. Smithyman;
Paul H. Hulsey;
Ann Hoover. | Douglas |
| | Edgar Dale Kearney and Helen C.
Kearney, d/b/a Pier I Import Associates
Store, et al., Appellees, | | |
| | v. | | |
| | Kansas Public Service Company, a
Corporation, et al., Appellants. | Justice B. King;
Olin Petefish;
Glenn McCann. | |

(continued)

54,467	Mary Ettus, Appellee, v. Orkin Exterminating Company, Inc., et al., Appellants.	George E. Erickson, Jr.; Leonard M. Robinson. Charles L. Davis, Jr.; Thomas W. Regan; Myron L. Listrom.	Shawnee
55,263	Nancy Lou Bohl, Appellee, v. Robert J. Bohl, Appellant.	Gerald L. Goodell; John W. Brand. Charles S. Fisher, Jr.	Shawnee
55,412	Paul M. Dutoit, et al., Appellants, v. The Board of County Commissioners of Johnson County, Kansas, et al., Appellees.	Jon C. Christlieb; Donald C. Ramsay; Peggy Grant-Cobb. James G. Butler, Jr.; Terry M. Roehl.	Johnson
<i>1:30 p.m.</i>			
55,012	In the Matter of the Estate of Herman R. Werning, Deceased.	Charles S. Arthur; Paul E. Miller. Donn J. Everett; Dan H. Myers.	Riley
54,475	The Estate of Herman A. Werning, Deceased, Appellee, v. Union National Bank & Trust Company of Manhattan, et al., Appellants.	Paul E. Miller. Charles S. Arthur; Dan H. Myers.	Riley
54,159	State of Kansas, Appellee, v. Dennis M. Shepherd, Appellant.	Robert T. Stephan, Atty. Gen.; Michael B. Buser, Asst. Dist. Atty. Michael D. Reed.	Johnson
Consolidated w/ 54,403	State of Kansas, Appellee, v. Dennis M. Shepherd, Appellant.	Robert T. Stephan, Atty. Gen.; Michael B. Buser, Asst. Dist. Atty. Michael D. Reed.	Johnson
54,896	State of Kansas, Appellee, v. Burle Hill, Appellant.	Robert T. Stephan, Atty. Gen.; Frederick R. Smith, Co. Atty. Vernon D. Grassie.	Crawford

*Thursday, April 28, 1983**9:30 a.m.*

54,735	In the Matter of the Adoption of Gerold Roe Rice and Scarlet Rae Rice.	Carla Roberts.	Kingman
54,095	Earl D. Thompson and Mary Ann Thompson, Appellants, v. Mid-Century Insurance and American States Insurance, Appellees.	Patrick E. McKenna. W. J. Fitzpatrick.	Montgomery ON PETITION FOR REVIEW
54,399	Sterling Waggener, Appellant, v. Seever Systems, Inc., Appellee.	Nelson E. Toburen; Randall D. Palmer. Douglas S. Wright.	Shawnee
54,320	United Northwest Federal Credit Union, Appellee, v. William H. Arens, and Katherine Arens, Appellants.	Gary D. McAllister. Harold T. McCubbin. Kenneth C. Havner.	Norton

(continued)

1:30 p.m.

- | | | | |
|--------|--|---|---------------------------------------|
| 54,444 | Barbara Holmes, Executor of the Estate of Elmer Holmes, Deceased, et al., Appellees,
v.
Kewanee Oil Company, Appellant. | W. Luke Chapin.

Walker A. Hendrix. | Barber |
| 54,534 | (Consolidated with 54,804, 54,805, 54,806)
Carl F. Matzen, et al., Appellees.

v.
Cities Service Oil Company and Cities Service Company, et al., Appellants. | Dale M. Stucky;
Bernard Nordling;
Glenn D. Young, Jr.;
Gerald Sawatzky;
Gary R. Hathaway.

John E. Robertson;
Robert F. LeBlanc;
Robert G. Sachse;
Paul N. Kiel;
Richard Jones;
Robert J. Roth;
Jack D. Sage. | Haskell
Grant
Seward
Stevens |
| 54,435 | In the Matter of the Arbitration Between Johns Construction Company, Inc., and Unified School District #210, Hugoton, Kansas. | Kerry McQueen. | Stevens |
| 55,347 | Kurt Bailey, Appellant,
v.
USD No. 345, Appellee. | Paul A. Wolf.
A. Rodman Johnson.

Robert D. Hecht. | Shawnee |

Friday, April 29, 1983

9:30 a.m.

- | | | | |
|--------|--|--|----------|
| 54,980 | State of Kansas, Appellee,
v.
Craig Rosine, Appellee. | Robert T. Stephan, Atty. Gen.;
Gene M. Olander, Dist. Atty.

Kenneth Carpenter. | Shawnee |
| 55,006 | State of Kansas, Appellee,
v.
Daniel Scott, Appellant. | Robert T. Stephan, Atty. Gen.;
Gene M. Olander, Dist. Atty.

Kenneth Carpenter. | Shawnee |
| 55,066 | In the Matter of the Complaint Against William V. Dixon, Jr. | Arno Windscheffel.

James W. Wallace. | Original |

LEWIS C. CARTER
Clerk of the Appellate Courts

State of Kansas

BOARD OF REGENTS

NOTICE TO ALL PERSONS HAVING AN INTEREST IN THE REGULATIONS GOVERNING TRAFFIC AND PARKING ON THE ROADS, STREETS, DRIVEWAYS AND PARKING FACILITIES AT THE UNIVERSITY OF KANSAS MEDICAL CENTER

Notice is hereby given to all interested parties that on May 16, 1983 at 3:00 p.m. C.D.T., at the University of Kansas Medical Center, Battenfeld Auditorium, Olathe and Rainbow Boulevard, Kansas City, Kansas, a public hearing will be held concerning the adoption by the Board of Regents of regulations governing traffic and parking on the roads, streets, driveways and parking facilities at the University of Kansas Medical Center. The following is a summary of the substance of the rules and proposed changes.

1. *Parking, general regulations.* The current regulations specify restrictions on vehicles operated on campus and define who is considered a student. The proposed change would put limitations on the use of permits on the Lawrence Campus.

2. *Same, student, faculty, staff, and employee.* The current regulations establish the types of parking permits available, how permits are used and the replacement of lost or stolen permits. The proposed amendment to the existing rules calls for the deletion of certain permits, changes in existing permits and addition to other types of permits.

3. *Same, visitors.* The current regulations specify conditions under which visitors may legally park on the University of Kansas Medical Center campus. No amendments are proposed.

4. *Same, special, restricted area.* The current regulations specify certain restricted parking areas for the handicapped and specific types of patients and outpatients. No amendments are proposed.

5. *Same, access to lots and zones.* The current regulations specify the times and locations for parking restrictions and specifies which lots each permit entitles a person to park. The proposed amendments to the existing rules would modify the types of permits issued and lot restrictions on certain permits.

6. *Same, violations of regulations.* The current regulations specify the penalties for misuse of parking areas. The proposed amendment deletes a violation from the list.

7. *Payment of fees for violations.* The current regulations specify where fines are to be paid, late payment penalty, conditions under which a vehicle may be removed from campus. The proposed amendment provides for alternatives to paying outstanding fines and collecting fines.

8. *Parking, appeals.* The current regulations establish the procedure for appeals from a charge of misuse of a parking area. No amendments are proposed.

9. *Permit fees.* The current regulations establish the procedure for permit rates and refund procedures. The proposed amendment specifies minimal rate increases for certain categories of permits.

10. *Parking, bicycles.* The current regulations specify restrictions on parking bicycles on campus. No amendments are proposed.

Interested persons will be given a reasonable opportunity at the hearing to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted but must be received prior to the hearing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to A. J. Yarmat, Ph.D., Assoc. Vice Chancellor Academic Affairs; Room A-201, University of Kansas Medical Center; 39th and Rainbow Blvd; Kansas City, Kansas 66103.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 001106

State of Kansas

BOARD OF REGENTS

NOTICE TO ALL PERSONS HAVING AN INTEREST IN THE REGULATIONS GOVERNING TRAFFIC AND PARKING ON THE ROADS, STREETS, DRIVEWAYS AND PARKING FACILITIES AT THE UNIVERSITY OF KANSAS

Notice is hereby given to all interested parties that on May 9, 1983, at 3:00 p.m. C.D.T., in the Kansas Union Building, Council Room, University of Kansas, Lawrence, Kansas, a public hearing will be held concerning the adoption by the Board of Regents of regulations governing traffic and parking on the roads, streets, driveways and parking facilities at the University of Kansas. The following is a summary of the substance of the rules and proposed changes; while certain sections of the regulations have been renumbered and reorganized, the only substantive changes in the regulations are noted as follows:

1. *GENERAL REGULATIONS.* The current regulations specify who is subject to these rules and regulations, and that all vehicles must have a valid parking permit, and hours of access to the central campus. No amendments are proposed.

2. *DEFINITIONS.* The current regulations specify, for the purpose of these regulations, the definitions of student, faculty, staff, visitors, residence hall visitor, medical permit, handicapped permit, moped parking and motorcycle. No amendments are proposed.

3. *VISITOR PARKING.* The current regulations specify conditions under which visitors may legally park at the University of Kansas. The proposed amendment to the existing rule modifies the established rate paid for parking at football and basketball games from \$3.00 for oversized vehicles to a rate not to exceed \$3.50 and \$2.00 for other vehicles to a rate not to exceed \$2.50 per event per vehicle.

4. *PARKING PERMITS.* The current regulations establish procedures pertaining to parking permits

(continued)

and the types of parking permits available. The proposed amendments include the elimination of brown zone permits, and car pool permits to go from \$20.00 annual fee to \$5.00 assessed to each vehicle participating in the pool.

5. **STUDENT, FACULTY, AND STAFF PARKING.** The current regulations establish procedures by which parking permits for vehicles may be obtained and appealed, and procedures for new employees. No amendments are proposed.

6. **PERMIT FEES.** The current regulations specify the fees charged for parking permits. The proposed amendments include a charge of \$10.00 in lieu of the prescribed charge for motorcycle permits when the owner has a valid permit on a vehicle, and for car pool, a fee of \$5.00 instead of \$20.00, to be assessed on each vehicle participating in the pool.

7. **CONTROL OF PARKING LOTS AND ZONES.** The current regulations specify times and locations for parking restrictions at the University of Kansas. The proposed amendment is the elimination of brown zones.

8. **VIOLATIONS.** The current regulations specify the penalties for misuse of parking areas. No amendments are proposed.

9. **PAYMENT OF FEES FOR VIOLATIONS.** The current regulations specify the method and procedure for payment of violation notices, late payment, what constitutes excessive violations and consequences of excessive violations and towing and impoundment procedures. No amendments are proposed.

10. **APPEAL OF VIOLATION NOTICES.** The current regulations establish the procedure for appeals from a charge of misuse of parking area. No amendments are proposed.

11. **STATUTORY AUTHORIZATION.** The current regulations establish the authorization of the Board of Regents to promulgate regulations for the control of parking and traffic on the University of Kansas campus and to establish misuse fees for violations of the regulations. No amendments are proposed.

Interested persons will be given a reasonable opportunity at the hearing to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted prior to the hearing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to Edwyna Gilbert, Associate Professor, Curriculum and Instruction, and English, University of Kansas, Bailey Hall Room 205A, Lawrence, Kansas 66045.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 001105

State of Kansas

BOARD OF REGENTS

NOTICE TO ALL PERSONS HAVING AN INTEREST IN THE REGULATIONS GOVERNING TRAFFIC AND PARKING ON THE ROADS, STREETS, DRIVEWAYS AND PARKING FACILITIES AT WICHITA STATE UNIVERSITY

Notice is hereby given to all interested parties that on May 10, 1983, at 3:00 p.m. C.D.T., at the Campus Activities Center, Room #307, Wichita State University, a public hearing will be held concerning the adoption by the Administration of Wichita State University of regulations governing traffic and parking on the roads, streets, driveways and parking facilities at Wichita State University. The following is a summary of the substance of the rules and proposed changes.

Article 1—Policy. Current regulations specify the purpose of the traffic and parking regulations and provide for the development of the regulations by the University Traffic Policy Committee. Current regulations also specify that Wichita State University assumes no responsibility or liability for the care and/or protection of any vehicle while on University property. Proposed amendment will modify wording without altering meaning of existing rules. The purpose of the proposed amendment is for clarification of statements and to insure compliance with KSA 74-3209 *et seq.*

Article 2—Definitions. Current regulations specify the meanings of words and phrases as used in the traffic rules and regulations. No amendments are proposed.

Article 3—General Information. Current regulations specify individual responsibility for compliance with traffic and parking regulations, prohibit major repairs to vehicles on University property, specify certain areas where parking is prohibited and provide for the removal of vehicles constituting a hazard or abandoned vehicles. No amendments are proposed.

Article 4—Registration of Vehicles. The current regulations specify the conditions under which faculty, staff, students and visitors must register vehicles and display parking permits. The current regulations also establish the procedure by which parking permits for vehicles may be obtained, the types of permits available, and parking fees assessed to Faculty, Staff, and Students. Proposed amendments will require that current permits must be removed from any vehicle disposed of, sold, or traded. The proposal will permit the person to whom the permit is issued to cancel the permit by removing the permit from the registered vehicle at the time the vehicle is disposed of and thus avoid any future violations being charged to the permit. It is proposed that the Faculty and Staff parking fee schedule will be adjusted. The proposed parking fee schedule will provide a more equitable assessment of parking fees for Faculty and Staff.

Article 5—Parking Regulations. Current regulations specify where and when vehicles may be parked and

(continued)

also provide certain restrictions, conditions, and limitations during certain times. Provisions are also specified for removal of vehicles from campus. Proposed amendment to the existing rules further defines the parking areas designated for motorcycles only. The amendment is necessary to clarify the exact areas in which motorcycles may be parked.

Article 6—Traffic Regulations. Current regulations regulate the conduct of vehicles and pedestrians on campus. No amendments are proposed.

Article 7—Violations. The current regulations specify prohibited acts and specify the penalties for misuse of parking areas and moving violations. The proposed amendment will increase the penalty for parking in a reserved area. The increase is necessitated by the need to insure available parking in areas reserved for specific need.

Article 8—All Payment of Violation Notices and Fines. The current regulation specifies where violation fines are to be paid and penalties for failure to pay violation fines. No amendments are proposed.

Article 9—Appeal of Violation Notices. The current regulations establish the procedure for appeals from a charge of misuse of parking or traffic violation. No amendments are proposed.

Article 10—Bicycles/Tricycles. The current regulations specify the provisions for operating and parking bicycles/tricycles on campus. No amendments are proposed.

Interested persons will be given a reasonable opportunity to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted but must be received prior to the hearing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to Milton L. Myers, Chief of University Police, Wichita State University, 1845 Fairmount, Wichita, Kansas 67208.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 001117

State of Kansas

BOARD OF REGENTS

NOTICE TO ALL PERSONS HAVING AN INTEREST IN THE REGULATIONS GOVERNING TRAFFIC AND PARKING ON THE ROADS, STREETS, DRIVEWAYS AND PARKING FACILITIES AT KANSAS TECHNICAL INSTITUTE

Notice is hereby given to all interested parties that on May 10, 1983, at 9:00 a.m. C.D.T., in the Resource Center Conference Room, Kansas Technical Institute, Salina, Kansas, a public hearing will be held concerning the adoption by Kansas Technical Institute of regulations governing traffic and parking on the roads, streets, driveways and parking facilities at Kansas Technical Institute. The following is a summary of the

substance of the rules in sections that have proposed changes and those proposed changes.

Visitors to the KTI Campus. The current regulations specify that visitors may apply for a temporary or visitor parking permit at the Business Office. The addition to this section is that vehicles on campus without parking permits are subject to a violation notification.

KTI Parking Permits. The current regulations specify that permits are required for all vehicles operated and/or parking on the KTI Campus. The clarification to this section is that Parking Permits are combination identification decals and annual parking permits for students, faculty and staff. Also, it is clarified that parking permits expire annually after the new issue is available for purchase on June 1st. Exceptions to KTI Parking Permit requirements are: Board of Regents Permits, State of Kansas licensed vehicles, and easily identifiable business service vehicles.

Parking Fees. The current regulations establish the fees charged for parking permits. The proposed amendments are to include a Night Student Permit (after 5:00 p.m. only)—\$3.00 fee and to eliminate the Designated Reserved Permit—\$10.00 fee.

KTI Campus Parking Regulations. The current regulations define the parking area privileges for each type of permit. Clarification of Handicapped Parking in this section specifies that only vehicles specifically identified are allowed.

KTI Campus Traffic and Parking Violations. The current regulations show a general list of violations for which a misuse fee will be assessed. The proposed amendments eliminate the nonremoval of expired permits as a violation and add that Night Student Permit parking on campus during regular daytime classes is a violation.

Interested persons will be given a reasonable opportunity at the hearing to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted but must be received prior to the hearing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to James A. Friesen, Director of Operational Affairs, Kansas Technical Institute, 2409 Scanlan Ave., Salina, Kansas 67401.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 001099

State of Kansas

BOARD OF REGENTS

**NOTICE TO ALL PERSONS HAVING AN
INTEREST IN THE REGULATIONS
GOVERNING TRAFFIC AND PARKING
ON THE ROADS, STREETS, DRIVEWAYS
AND PARKING FACILITIES AT
THE EMPORIA STATE UNIVERSITY**

Notice is hereby given to all interested parties that on May 11, 1983, at 3:30 p.m. C.D.T., at the Memorial Union Messenger Room, located on the Emporia State University Campus, 1200 Commercial Street, Emporia, Kansas, a public hearing will be held concerning the adoption of regulations governing traffic and parking on the roads, streets, driveways and parking facilities at the Emporia State University. The following is a summary of the substance of the rules and proposed changes.

I. Parking, effective when. The regulations specify the times and locations for parking restrictions at Emporia State University. No amendments are proposed.

II. Same, prohibited when. The regulations specify locations in which parking is prohibited and provides for a permit issued by the office of the Kansas Board of Regents. No amendments are proposed.

III. Same, visitors. These regulations specify conditions under which visitors may legally park on the Emporia State University campus. No amendments are proposed.

IV. Same, parking permits. The regulations establish the procedure by which parking permits for vehicles may be obtained, the types of parking permits available, and the fees charged for such permits. The procedure for acquiring a "Handicapped" permit, "Service Vehicle" permit and "Special Duty" permits. No amendments are proposed.

V. Same, acts prohibited. These regulations specify prohibited acts for which misuse penalties may be assessed. No amendments are proposed.

VI. Same, misuse of areas. The regulations specify the penalties for misuse of parking areas. No amendments are proposed.

VII. Same, appeals. The regulations establish the procedure for appeals from a charge of misuse of a parking area. No amendments are proposed.

VIII. Same, permits. The regulations specify the location for parking permits on the vehicle. No amendments are proposed.

IX. Same, signs and markings. These regulations authorize use of signs and markings, and establishment of other restrictions necessary to the best use of roads, streets, driveways, and parking facilities. No amendments are proposed.

X. Speed limit. The regulations establish the legal speed limit for all vehicles operated on the campus of Emporia State University. No amendments are proposed.

XI. Vehicles and pedestrians, conduct. These regulations regulate the conduct of vehicles and pedestrians on the Emporia State University campus. The proposed amendment would specify parking and use

of bicycles, mopeds, motor bicycles and motor scooters on the Emporia State University campus.

XII. Vehicles, operation and condition, traffic code. The regulations specify when the provisions of the state traffic code apply to the operation of vehicles on the Emporia State University campus. No amendments are proposed.

XIII. Parking permits and misuse of areas, disposition of fees for. The regulations specify who may issue parking tickets, where towing fees, misuse fees, and fees charged for parking permits shall be deposited, and how much fees shall be used. No amendments are proposed.

XIV. Parking, misuse of, removal of vehicles. The current regulations specify the conditions under which a vehicle may be removed from the Emporia State University campus. The proposed amendment is for a charge of \$5.00 when the wheel locking device is used.

Interested persons will be given a reasonable opportunity at the hearing to present their views concerning the adoption of the proposed amendments to the existing regulations. Written comments may also be submitted but must be received prior to the hearing. Written comments or a request for a copy of the proposed regulations and a copy of the financial impact statement of such changes should be submitted to Dr. John R. Webb; Room 209, Plumb Hall; Emporia State University; Emporia, Kansas 66801.

WILLIAM R. KAUFFMAN
General Counsel
Board of Regents

Doc. No. 001107

(Published in the KANSAS REGISTER, April 21, 1983.)

NOTICE OF REDEMPTION

**CITY OF GARNETT, KANSAS
MUNICIPAL TEMPORARY NOTES
SERIES 1982
DATED JULY 1, 1982**

NOTICE IS HEREBY GIVEN to the holders of the Municipal Temporary Notes, Series 1982, of the City of Garnett, Kansas (the "City"), dated July 1, 1982, numbered 1 to 31, inclusive, and maturing on July 1, 1984, that the City hereby calls said notes for redemption on June 1, 1983. On such date, each of the aforesaid notes shall become due and payable at the office of the City Treasurer in the City of Garnett, Kansas, at a redemption price equal to 100% of the principal thereof, plus accrued interest thereon to June 1, 1983, and from and after such redemption date interest shall cease to accrue and be payable on said notes.

Dated this 13th day of April 1983.

City of Garnett, Kansas
By JOYCE E. MARTIN
City Clerk

Doc. No. 001103

(Published in the KANSAS REGISTER, April 21, 1983.)

NOTICE OF BOND SALE
\$2,418,000
JOHNSON COUNTY, KANSAS
Sewer Bonds
Series 1983

(General Obligations Payable from Unlimited Ad Valorem Taxes)

Sealed bids will be received by the Board of County Commissioners of Johnson County, Kansas (the "County"), in the Commissioners' Hearing Room, Johnson County Courthouse, Kansas Avenue and Santa Fe Street, Olathe, Kansas 66061, until 10:30 o'clock A.M., C.D.T., on

Thursday, April 28, 1983

at which time said bids will be publicly opened for the purchase of four issues of Sewer Bonds, Series 1983, of the County, aggregating the principal amount of \$2,418,000 (the "Bonds").

All of the Bonds will be negotiable coupon bonds dated May 1, 1983, and will be in the denomination of \$1,000 or \$5,000 each. The Bonds will mature in the principal amounts on September 1 in each year as follows:

<i>Year</i>	<i>Principal Amount</i>
1984	\$129,000
1985	124,000
1986	124,000
1987	124,000
1988	124,000
1989	124,000
1990	124,000
1991	124,000
1992	124,000
1993	119,000
1994	119,000
1995	119,000
1996	119,000
1997	118,000
1998	118,000
1999	118,000
2000	118,000
2001	118,000
2002	118,000
2003	113,000

Interest on the Bonds will be payable semiannually on March 1 and September 1 in each year commencing March 1, 1984. Both principal of and interest on the Bonds will be payable in lawful money of the United States of America at the Office of the State Treasurer in the City of Topeka, Kansas, or, subject to the County's approval of the paying agency charges, at a Kansas bank having trust powers as defined by statute. The purchaser may also request designation, subject to the same County approval, of any bank having trust powers as defined by statute and located in a federal reserve city as a co-paying agent with the Kansas bank so designated.

The Bonds maturing in the year 1996 and thereafter may, at the option of the County, be called for re-

demption and payment prior to maturity as a whole or in part in inverse numerical order on September 1, 1995, or on any interest payment date thereafter at the principal amount of the Bonds so called for redemption, together with accrued interest thereon to date of redemption.

All of the Bonds will constitute general obligations of Johnson County, Kansas payable as to both principal and interest from special assessments levied against property benefited in the County and, if not so paid, from ad valorem taxes which may be levied without limitation as to rate or amount on all the taxable tangible property within the County.

Bids will be received on the aggregate amount of Bonds bearing such rate or rates of interest as may be specified by the bidders subject to the following conditions: The same rate shall apply to all Bonds maturing in the same year. Not more than five different rates shall be specified, the repetition of a rate not being considered a different rate. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No rate shall exceed the 20 Bond Index of tax exempt municipal bonds published by the *Weekly Bond Buyer*, in New York, New York on April 25, 1983, plus 2%. The difference between the highest rate specified and the lowest rate specified in any bid shall not exceed 2%. No bid providing for supplemental coupons will be considered.

No bid of less than the aggregate principal amount of the Bonds plus accrued interest thereon to the date of their delivery will be considered. Each bid shall specify the total interest cost to the County during the life of the Bonds on the basis of such bid, the premium, if any, offered by the bidder, the net interest cost to the County on the basis of such bid, and the average annual net interest rate on the basis of such bid. The best interest cost shall be determined by subtracting the amount of the premium, if any, from the total interest cost. The County shall be entitled to rely on the stated net interest cost in awarding the Bonds. If there is any discrepancy between the net interest cost and the average annual net interest rate, the specified net interest cost shall govern and the coupon rates specified in the bid shall be adjusted accordingly.

The Bonds are being issued pursuant to the authority of K.S.A. 19-2704a to 19-2715e, inclusive, and all acts amendatory thereof and supplemental thereto, for the purpose of providing funds to pay the cost of sewer improvements in certain sewer districts in the County.

The County will pay for printing and registering the Bonds and will deliver the same properly executed and registered to the successful bidder on or before June 15, 1983, at such bank or trust company located in the United States as may be specified by the successful bidder. The Bonds will be sold subject to the final approving opinion of GAAR & BELL, Overland Park, Kansas, Bond Counsel, which will be furnished and paid for by the County and will be printed on the Bonds. The successful bidder will be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the Bonds and the usual

(continued)

(Published in the KANSAS REGISTER, April 21, 1983.)

NOTICE OF BOND SALE
\$2,600,000
SEWAGE SYSTEM REVENUE BONDS
SERIES 1983
OF THE
CITY OF HUTCHINSON, KANSAS
(AMBAC INSURED)

Sealed Bids. Sealed bids will be received by the Board of Commissioners, of the City of Hutchinson, Kansas (the "City"), at the City Hall, 125 E. Avenue "B," Hutchinson, Kansas 67501, until 10:00 o'clock a.m., Central Daylight Time, on

Tuesday, April 26, 1983

at which time and place said bids will be publicly opened for the purchase of \$2,600,000 principal amount of Sewage System Revenue Bonds, Series 1983 (the "Bonds"), of the City hereinafter described. The Board of Commissioners of the City will review said bids and act on the acceptance of the best bid at a meeting of the Board of Commissioners to be held at said time and place.

Details of the Bonds. The Bonds will be negotiable coupon bonds in the denomination of \$5,000 each and dated May 1, 1983. The successful bidder will have the option of specifying whether the Bonds will be issued as serial bonds or as part serial and part term bonds, said Bonds becoming due on November 1 in the years in the principal amounts as follows:

SERIAL BONDS OPTION

Year	Principal
1983	\$ 75,000
1984	35,000
1985	40,000
1986	50,000
1987	50,000
1988	50,000
1989	50,000
1990	50,000
1991	50,000
1992	50,000
1993	75,000
1994	75,000
1995	75,000
1996	75,000
1997	100,000
1998	100,000
1999	100,000
2000	125,000
2001	125,000
2002	150,000
2003	150,000
2004	175,000
2005	175,000
2006	200,000
2007	225,000
2008	175,000

(continued)

closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity.

At the request of the successful bidder, CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such number on any of the Bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the successful bidder thereof to accept delivery of and pay for the Bonds in accordance with the terms of its bid and this Notice of Bond Sale. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid for by the County.

Payment for the Bonds shall be made in Federal Reserve or equivalent funds, to be immediately available on the day of delivery of the Bonds to the successful bidder.

Each bid shall be accompanied by a good faith deposit in the form of a cashier's or certified check in the amount of \$48,360 made payable to the order of the Treasurer of Johnson County, Kansas. Such check will be held by the County pending payment for and delivery of the Bonds to the successful bidder. In the event a bidder whose bid is accepted shall fail to carry out its contract of purchase, the amount of said deposit shall be retained by the County as liquidated damages. No interest will be paid on the deposit made by the successful bidder.

All bids must be submitted on forms which may be obtained from the undersigned. No additions or alterations in such forms shall be made, and any erasures may cause rejection of any bid. The County reserves the right to waive irregularities and to reject any or all bids.

Mailed bids should be addressed to the undersigned County Clerk and marked "Bid for Purchase of Bonds." Bids also may be delivered to said officer at said address at or immediately prior to 10:30 o'clock A.M., C.D.T. on April 28, 1983.

The adjusted equalized assessed valuation of all tangible taxable property in Johnson County, Kansas, according to the assessment as of August 25, 1982, is \$1,101,712,287. The total outstanding bonded indebtedness of Johnson County, Kansas, as of this date, including the Bonds of the County herein offered for sale, is \$62,404,164.67. In addition, the County has outstanding, as of this date \$28,905,245 of temporary notes, of which \$2,672,350 will be retired from the proceeds of the Bonds and paid assessments. The corresponding amount of indebtedness of said County as of May 1, 1983, the date of the Bonds herein offered for sale, is projected to remain substantially the same.

The outstanding general obligation bonds of Johnson County, Kansas, are rated "Aa" by Moody's Investors Service, Inc., and said County has applied for a rating on the Bonds herein offered for sale.

DATED this 15th day of April, 1983.

DONALD J. CURRY
County Clerk

Johnson County Courthouse
Kansas Avenue & Santa Fe Street
Olathe, Kansas 66061
(913/782-5000)

SERIAL AND TERM BONDS OPTION

SERIAL BONDS

Year	Principal
1983	\$ 75,000
1984	35,000
1985	40,000
1986	50,000
1987	50,000
1988	50,000
1989	50,000
1990	50,000
1991	50,000
1992	50,000
1993	75,000
1994	75,000
1995	75,000
1996	75,000
1997	100,000
1998	100,000
1999	100,000
2000	125,000
2001	125,000

TERM BONDS

Year	Principal
2008	\$1,250,000

The term bonds are subject to mandatory redemption at the principal amount thereof plus accrued interest thereon to the date called for redemption, without premium, on November 1 in the years in the principal amount as follows:

Year	Principal
2002	\$150,000
2003	150,000
2004	175,000
2005	175,000
2006	200,000
2007	225,000

(Leaving \$175,000 principal amount of the Bonds to mature November 1, 2008.)

The Bonds will bear interest from the date thereof at rates to be determined when said Bonds are sold as hereinafter provided, and said interest will be payable semiannually on May 1 and November 1 in each year, beginning on November 1, 1983.

Place of Payment. Both principal of and interest on the Bonds will be payable in lawful money of the United States of America at the office of the State Treasurer of the State of Kansas in the City of Topeka, Kansas.

Redemption of Bonds. The Bonds maturing November 1, 1993, and thereafter may, at the option of the City, be called for redemption prior to maturity as a whole or in part, in inverse numerical order on November 1, 1992, or on any date thereafter, at the principal amount thereof plus accrued interest thereon to the date fixed for redemption and payment, without premium.

In the event of any such redemption, the City will give written notice of its intention to redeem and pay said bonds or any of them, the same being described

by number, said notice to be given by United States registered mail addressed to the State Treasurer of the State of Kansas and to the original purchaser of said bonds, said notices to be mailed not less than thirty days prior to the date fixed for redemption. Notice of the City's intention to redeem and pay any bonds shall also be published in the official newspaper of the State of Kansas, not less than thirty days prior to the date fixed for redemption.

Authorization, Purpose and Security for the Bonds. The Bonds are being issued pursuant to K.S.A. 10-1201 to 10-1212, as amended, and K.S.A. 10-116a, as amended, for the purpose of providing funds to improve and extend the existing sanitary sewer system; to refund the City's Sewage Treatment Plant and System Revenue Bonds, Series 1958-A of which \$570,000 principal amount currently remains outstanding (the "1958-A Bonds"); to refund the City's Sewer System Revenue Bonds, Series 1981, of which \$540,000 principal amount currently remains outstanding; and to fund certain reserves. The Bonds will be subordinate with respect to the payment of principal and interest and in all other respects to the 1958-A Bonds until the 1958-A Bonds are redeemed and paid which is expected to be on June 1, 1983. In the event, the 1958-A Bonds are not redeemed on June 1, 1983, the Bonds will be refunded prior to November 1, 1983. The Bonds will be payable solely from the net revenues derived and to be derived by the City from the operation of its sewage system, including revenues from improvements and extensions of said sewage system hereafter constructed or acquired by the City. The Bonds will not be nor constitute a general obligation of the City, and the City will not have the right or authority to levy taxes to pay any of the principal or interest on the Bonds.

Conditions of Bids. Bids will be received on the Bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The Bonds will be sold in one block on an "all or none" basis. The same rate shall apply to all Bonds maturing in the same year. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1%. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by *The Weekly Bond Buyer*, in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%, and the difference between the highest and lowest interest rates specified in any bid shall not exceed 2%. No bid less than 98% of the principal amount of the Bonds plus accrued interest thereon to the date of their delivery will be considered, and no bid providing for supplemental interest coupons will 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, the discount, if any, the net interest cost to the City on the basis of such bid and the average annual net interest rate to the City on the basis of such bid.

Basis of Award. The award of the Bonds will be made on the basis of the lowest net interest cost to the

(continued)

City, which shall be determined by subtracting the amount of the premium, if any, from or adding the amount of the discount, if any, to the total interest costs to the City and shall be stated as a dollar amount in the bid. The City shall be entitled to rely upon such dollar amount as stated in the bid as the basis for determining the lowest net interest cost bid. If there is any discrepancy between said net interest cost and coupon rates specified, the specified coupon rates shall govern, and the net interest cost specified in the bid shall be adjusted accordingly.

Delivery of and Payment for the Bonds. The City will pay for printing and registering the Bonds and will deliver the same properly executed and registered to the successful bidder within 30 days from the date of sale, at such bank or trust company located in the contiguous United States as may be specified by the successful bidder without cost to the successful bidder. Payment for the Bonds shall be made in federal funds or other funds which shall be available to the City on the same day as delivery of the Bonds. The successful bidder will be furnished with a certified transcript evidencing the authorization and issuance of the Bonds and the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of the delivery of the Bonds affecting their validity.

Legal Opinion. The Bonds will be sold subject to the approving legal opinion of Gaar & Bell, Overland Park, Kansas, Bond Counsel, which opinion will be furnished and paid for by the City and will be printed on the Bonds.

CUSIP Numbers. At the request of the successful bidder, CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of the successful bid and this Notice of Bond Sale. All expenses in relation to the printing of CUSIP numbers on the Bonds, including the CUSIP Service Bureau charge in the assignment of said numbers, will be paid for by the City.

Good Faith Deposit. Each bid must be accompanied by a good faith deposit in the form of a cashier's or certified check in the amount of \$52,000 made payable to the order of the Treasurer of the City of Hutchinson, Kansas. Such check or the proceeds thereof will be held by the Treasurer pending payment for and delivery of the Bonds to the successful bidder. In the event a bidder whose bid is accepted shall fail to carry out its contract of purchase, the amount of said deposit shall be retained by the City as liquidated damages. No interest will be paid on the deposit made by the successful bidder.

Bond Insurance. American Municipal Bond Assurance Corporation ("AMBAC") has issued a Commitment for Municipal Bond Insurance covering the Bonds. All bids shall be conditioned upon the issuance, effective as of the date on which the Bonds are issued, of a policy of insurance by AMBAC guaranteeing the payment of principal and interest on the

Bonds. Each bond will bear a legend referring to the insurance. The purchaser, holder or owner is not authorized to make any statement regarding the insurance beyond those set out here and in the bond legend.

Bond Ratings. The City has applied to Standard & Poor's Corporation for a rating on the Bonds. It is expected that Standard and Poor's will assign its rating of "AAA" to this issue of bonds on the understanding that the standard policy of AMBAC, insuring the timely payment of the principal of and interest on the Bonds, will be issued by AMBAC upon delivery of the Bonds.

Official Statement. Upon the sale of the Bonds, the City will adopt an Official Statement in substantially the form as the Preliminary Official Statement, subject to minor amendments and supplementation. Copies of the City's Preliminary Official Statement relating to the Bonds may be obtained from the City Clerk or the City's Financial Advisor, Shearson/American Express Inc., 2345 Grand Avenue, Suite 1600, Kansas City, Missouri 64108 (816/346-6114). Upon request, a reasonable number of copies of the Official Statement will be made available to the successful bidder without charge. Additional copies may be obtained at the expense of such bidder.

Bid Forms. All bids shall be subject to the terms and conditions contained in this Notice of Bond Sale and must be made on the forms which may be obtained from the City Clerk. No additions or alterations shall be made to such forms and any erasures may cause rejection of any bid. The right is reserved to waive irregularities and reject any and all bids.

All bids will be opened and read at a meeting of the Board of Commissioners to be held as aforesaid and at said meeting the Board of Commissioners will act on the bids received.

Submission of Bids. Bids shall be submitted in sealed envelopes addressed to the undersigned City Clerk, City Hall, 125 E. Avenue "B," Hutchinson, Kansas 67501, and marked "Proposal for the Purchase of Sewage System Revenue Bonds." Bids may be mailed or delivered in person to the undersigned at the City Hall up to 10:00 o'clock a.m., C.D.T., on April 26, 1983.

DATED this 12th day of April 1983.

CITY OF HUTCHINSON, KANSAS
VERNON STALLMAN
City Clerk
City Hall
125 E. Avenue "B"
P. O. Box 1567
Hutchinson, Kansas 67501
(316/665-2614)

Doc. No. 001085

(Published in the KANSAS REGISTER, April 21, 1983.)

**NOTICE OF BOND SALE
\$550,000.00
CITY OF ATCHISON
ATCHISON COUNTY, KANSAS
GENERAL OBLIGATION LIBRARY BONDS
SERIES A, 1983**

Pursuant to K.S.A. 10-106, written SEALED BIDS will be received by the Governing Body of the City of Atchison, Atchison County, Kansas, at the office of the City Clerk, City Hall, 515 Kansas Avenue, Atchison, Kansas 66002 on:

MAY 16, 1983

at 4:30 o'clock p.m., local time, for the sale of 110 General Obligation Library Bonds, Series A, 1983, of said City in the aggregate amount of \$550,000.00, at which time said bids will be publicly opened. All of the said bonds will be negotiable coupon bonds; be in the denomination of \$5,000.00 each, be dated April 1, 1983, and mature serially as follows:

MATURITY DATE	AMOUNT MATURING
October 1, 1984	\$25,000.00
October 1, 1985	\$35,000.00
October 1, 1986	\$35,000.00
October 1, 1987	\$35,000.00
October 1, 1988	\$35,000.00
October 1, 1989	\$35,000.00
October 1, 1990	\$35,000.00
October 1, 1991	\$35,000.00
October 1, 1992	\$40,000.00
October 1, 1993	\$40,000.00
October 1, 1994	\$40,000.00
October 1, 1995	\$40,000.00
October 1, 1996	\$40,000.00
October 1, 1997	\$40,000.00
October 1, 1998	\$40,000.00

No bond shall be callable prior to its stated maturity.

This issue of \$550,000.00, Series A, 1983, Bonds is issued pursuant to K.S.A. 12-1736 *et seq.*, and 10-101 *et seq.*, to finance the costs of library 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 on one-twentieth of one percent and no interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by the *Weekly Bond Buyer*, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2%, and the difference between the highest and lowest interest rates specified in any bid shall not exceed 2%. No bid of less than par and accrued interest, to date of delivery 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, 1984, 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 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 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 \$23,128,637.00, including motor vehicle valuation of \$1,306,675.00 and motor vehicle dealers' inventory valuation of \$14,500.00, and a bonded indebtedness of \$1,858,261.20, including this issue of \$550,000.00. Said bonds are being issued for the purpose of paying costs of library improvements in said City.

Said bonds will be delivered to the purchaser on or before June 30, 1983, 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.

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Bids will be submitted on official bid forms (or their equivalent) which may be obtained from the City Clerk, City Hall, 515 Kansas Avenue, Atchison, Kansas 66002.

GOVERNING BODY OF THE CITY OF
ATCHISON, ATCHISON COUNTY, KANSAS

DOUGLAS MERRITT
Mayor

Attest: MARK THELEN
City Clerk

(Seal)

Doc. No. 001102

(Published in the KANSAS REGISTER, April 21, 1983.)

NOTICE OF BOND SALE

\$133,000.00

GENERAL OBLIGATION
SEWER SYSTEM BONDS

SERIES 1983

OF THE

CITY OF LITTLE RIVER, KANSAS

The CITY OF LITTLE RIVER, KANSAS will receive sealed bids at the OFFICE OF THE CITY CLERK, CITY HALL, LITTLE RIVER, KANSAS, until 7:30 o'clock P.M., C.D.T., on

MONDAY, MAY 9, 1983

for \$133,000.00 par value GENERAL OBLIGATION SEWER SYSTEM BONDS of the City, at which time and place such bids will be publicly opened. No oral or auction bids will be considered.

All of the Bonds will be negotiable coupon Bonds, will be in denominations of \$5,000.00 each, except Bond No. 1 in the amount of \$3,000.00, and the Bonds will be dated June 1, 1983. The Bonds will mature serially in accordance with the following schedule:

AMOUNT	MATURITY
\$ 8,000	December 1, 1984
10,000	December 1, 1985
10,000	December 1, 1986
10,000	December 1, 1987
15,000	December 1, 1988
15,000	December 1, 1989
15,000	December 1, 1990
15,000	December 1, 1991
15,000	December 1, 1992
20,000	December 1, 1993

Interest on the Bonds will first be payable on JUNE 1, 1984, and thereafter semiannually on the first days of DECEMBER and JUNE in each year until the Bonds are fully paid. Both the principal of and interest on the Bonds will be payable to bearer at the Office of the State Treasurer in the City of Topeka, Kansas.

Proposals will be received on the Bonds bearing such rate or rates of interest, not exceeding Five (5) different interest rates, as may be specified by the bidder. The repetition of a rate will not constitute one of said maximum number of rates. The same rate shall apply to all Bonds of the same maturity. Each interest rate specified shall be in an even multiple of one-

eighth (1/8) or one-twentieth (1/20) of one percent (1%). The difference between the highest and lowest coupon rates specified in any bid shall not exceed two and one-half percent (2½%). No interest rate shall exceed the maximum interest rate allowed by Kansas law; said rate being two percent (2%) above the Bond Buyer's 20 Bond Index, published in the *Weekly Bond Buyer* on Monday, May 2, 1983, and no bid of less than par and accrued interest will be considered. Bids involving the use of extra or supplemental coupons will not be considered. Bids for less than the entire issue of Bonds will not be considered.

Bids shall be submitted on the OFFICIAL BID FORM furnished by the City, and shall be addressed to the City at CITY HALL, LITTLE RIVER, KANSAS 67457, ATTENTION: DOROTHY J. GOODRICK, CITY CLERK, and shall be plainly marked BOND BID. All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct; and the City will be entitled to rely on the certificate of correctness of the bidder. Each bid must be accompanied by a certified or cashier's check equal to two percent (2%) of the total amount of the bid, and shall be payable to TREASURER, CITY OF LITTLE RIVER, KANSAS. In the event a bidder whose bid is accepted shall fail to carry out his Contract of Purchase, said deposit shall be retained by the City as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

The Bonds, duly printed, executed and registered, will be furnished and paid for by the City; and the Bonds will be sold subject to the unqualified approving opinion of GAAR & BELL, Bond Counsel, of Wichita, Kansas, whose opinion will be paid for by the City. The purchaser will be furnished with a complete Transcript of Proceedings evidencing the authorization and issuance of the Bonds; and the usual closing proofs, which will include a Certificate that there is no litigation pending or threatened at the time of delivery of the Bonds affecting their validity. Delivery of the Bonds will be made to the successful bidder on or before JUNE 23, 1983, at any bank in the STATE OF KANSAS or KANSAS CITY, MISSOURI, at the expense of the City. Delivery elsewhere will be made at the expense of the purchaser.

It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bonds nor any error with respect thereto shall constitute cause for a failure by the successful bidder to accept delivery of and pay for the Bonds in accordance with the terms of its Contract and this Notice of Bond Sale. All expenses in connection with the printing of CUSIP numbers on the Bonds shall be paid for by the City.

The Bonds will constitute general obligations of the City, payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable, tangible property within the territorial limits of the City. The Bonds are being issued for the purpose of making

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improvements to the wastewater treatment facility and sanitary sewer system in the City of Little River, Kansas.

The sealed bids for the Bonds shall be opened publicly and only at the time and place specified in this Notice; and the Bonds will be sold to the best bidder. The City reserves the right to reject any and/or all of the bids, and to waive any irregularities. Unless all bids are rejected, the Bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the City; and the net interest cost will be determined by deducting the amount of any premium paid from the aggregate amount of interest upon all of the Bonds from their date until their respective maturities.

Assessed valuation figures for the City of Little River, Kansas, for the year 1982, are as follows:

Equalized Assessed Valuation of Taxable, Tangible Property	\$743,335.00
Tangible Valuation of Motor Vehicles	\$243,822.00
Tangible Valuation of Motor Vehicle Dealers' Inventory	\$ -0-

Equalized Assessed Tangible Valuation for Computation of Bonded Debt Limitations	\$987,157.00
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The total bonded indebtedness of the City of Little River, Kansas, at the date hereof, is this issue only, in the amount of \$133,000.00. The City currently has \$150,000.00 Temporary Notes outstanding which will be retired from the proceeds of the Bonds of this issue.

DATED April 11, 1983.

DOROTHY J. GOODRICK
City Clerk
City of Little River, Kansas

Doc. No. 001101

(Published in the KANSAS REGISTER, April 21, 1983.)

NOTICE OF BOND SALE
\$93,000.00
UNIFIED SCHOOL DISTRICT NO. 504
LABETTE COUNTY, KANSAS
GENERAL OBLIGATION CAPITAL OUTLAY
LEVY BONDS
SERIES A, 1983

Pursuant to K.S.A. 10-106, written SEALED BIDS will be received by the Board of Education of Unified School District No. 504, Labette County, Kansas, at the office of the Clerk of the Board of Education, P.O. Box 129, Oswego, Kansas 67356 on:

MAY 9, 1983

at 7:30 o'clock p.m., local time, for the sale of 18 General Obligation Capital Outlay Levy Bonds, Series A, 1983, of said School District in the aggregate amount of \$93,000.00, at which time said bids will be publicly opened. All of the said bonds will be negotiable coupon bonds; be in the denomination of \$5,000.00 each, except Bond No. 1 in the amount of

\$8,000.00; be dated April 1, 1983, and will mature serially as follows:

<i>Maturity Date</i>	<i>Amount Maturing</i>
October 1, 1984	\$28,000.00
October 1, 1985	\$30,000.00
October 1, 1986	\$35,000.00

No bond shall be callable prior to its stated maturity.

This issue of \$93,000.00, Series A, 1983, Bonds is issued pursuant to K.S.A. 72-8801 et seq., and 10-101 et seq., to finance the costs of school building improvements in said School District.

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 three 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 a rate equal to the 20 bond index of tax exempt municipal bonds published by the *Weekly Bond Buyer*, in New York, New York, on the Monday next preceding the day on which the Bonds are sold, plus 2%, and the difference between the highest and lowest interest rates specified in any bid shall not exceed 2%. No bid of less than par and accrued interest, to date of delivery 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 School District 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 School District on the basis of such bid. It shall be understood that the School District 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, 1984, 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 School District. Said bonds, duly executed and registered, will be delivered by the School District 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 by the School District.

All of said bonds will constitute general obligations of said School District payable under present law both as to principal and interest 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 School District.

Said School District has an assessed taxable, tangi-

(continued)

ble valuation of \$9,169,070.00, and a bonded indebtedness of \$193,000.00, including this issue of \$93,000.00, which is being issued for the purpose of paying costs of school building improvements in said School District.

Said bonds will be delivered to the purchaser on or before June 30, 1983, at any bank in Wichita or Topeka, Kansas, or Kansas City, Missouri, at the expense of the School District. 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 School District and, unless paid from other sources, are payable from ad valorem taxes levied upon all the taxable, tangible property within the School District 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 School District in an amount equal to two percent of the total amount of such bid. The School District 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 School District 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 Clerk of the Board of Education, P.O. Box 129, Oswego, Kansas 67356.

**BOARD OF EDUCATION OF UNIFIED
SCHOOL DISTRICT NO. 504, LABETTE
COUNTY, KANSAS**

VERNON W. CORRELL
President

ATTEST: JANE TENER
Clerk

Doc. No. 001118

State of Kansas

STATE CORPORATION COMMISSION

**NOTICE PERTAINING TO
MOTOR CARRIER HEARINGS
BEFORE THE**

STATE CORPORATION COMMISSION

Applications set for hearing are to be heard before the *State Corporation Commission, State Office Building, 4th Floor, Topeka, Kansas, commencing at 10:00 a.m. unless otherwise noticed.*

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 4th Floor, State Office Building, Topeka, Kansas, 66612, or telephone (913) 296-3352 or 296-2110.

Your attention is invited to Kansas Administrative Regulations (K.A.R.) 82-1-228, "Rules of Practice and Procedure Before the Commission."

**The Following Application is being RENOTICED for
May 31, 1983—TOPEKA, KANSAS**

***Application for Transfer of Certificate of
Convenience and Necessity:***

Overland Body Tow, Inc.) Docket No. 123,675 M
7928 Foster)

Overland Park, KS 66204) Route No. 16824
TO:

Sam's Overland Body, Inc.
Overland Park, KS

Applicant's Attorney: D. S. Hulst, Box 225, Lawrence,
KS 66044

***Transportation of wrecked and disabled
motor vehicles,***

Between all points within Johnson County boundaries, including all cities therein.

**Applications set for May 31, 1983—
TOPEKA, KANSAS**

***Application for Certificate of Convenience
and Necessity:***

George Parsons) Docket No. 136,939 M
Box 25)
Collyer, KS 67631)

Applicant's Attorney: E. Jay Deines, 110 N. Main,
Wakeeney, KS 67672

***To transport houses, granaries, garages, storage
structures, and barns,***

Between all points & places in Trego County, KS.
Also, between all points & places in Trego County, KS, on the one hand & all points and places in Graham, Sheridan, Gove, Ellis, Ness, Lane, Rush & Rooks Counties, KS.

(continued)

Application for Extension of Certificate of Convenience and Necessity:

Otis C. Schaffer) Docket No. 135,696 M
 1510 St. John)
 Garden City, KS 67846) Route No. 21096

Applicant's Attorney: None

To transport alfalfa meal and alfalfa pellets; soybeans and soy-bean meal; oats, corn and sorghums, Between all points & places in the state of KS.

Application for Abandonment of Certificate of Convenience and Necessity:

David Wayne Freeman) Docket No. 122,523 M
 RR 1, Box 11AAA)
 LeRoy, KS 66857) Route No. 16431

**Applications set for June 1, 1983—
 TOPEKA, KANSAS**

Application for Certificate of Convenience and Necessity:

Emiel DeWilde & Michael) Docket No. 137,256 M
 De Wilde, dba)
 De Wilde Trucking)
 Rt. 1)
 Grantville, KS 66429)

Applicant's Attorney: Robert Tilton, 1324 Topeka Blvd., Topeka, KS 66612

To transport feed, seed, grain, fertilizer, pet food, lumber, fencing, posts, gates, cattle-guards, and farm commodities,

To, from & between all points & places in KS east of U.S. Hwy 81.

Application for Transfer of Certificate of Convenience and Necessity:

Terry Talbot, dba) Docket No. 41,389 M
 Talbot Enterprises)
 Box 12)
 Pleasanton, KS 66075) Route No. 3819

TO:

Thomas R. Wilcox, dba
 Wilcox Service
 P. O. Box 254
 Pleasanton, KS 66075

Applicant's Attorney: Clyde N. Christey, 1010 Tyler St., Suite 110-L, Topeka, KS 66612

Wrecked or disabled motor vehicles, trailer, farm tractors and self-propelled harvesting machines,

Between all points & places in Linn County; that portion of Miami County south of US Hwy 169 & KS Hwy 68; that portion of Anderson County east of US Hwy 59 & US Hwy 169; that portion of Allen County east of US Hwy 59 & north of US Hwy 54; & that portion of Bourbon County north of US Hwy 54.

Also,

Between all points & places within the above described territory, on the one hand, & all points & places within the state of KS, on the other hand.

Application for Transfer of Certificate of Convenience and Necessity:

Emerald Delivery Systems,) Docket No. 131,850 M.
 Inc.)
 5244 Winner Rd.)
 Kansas City, MO 64127) Route No. 19423

TO:

The Fox-Vliet Drug Company
 Dallas, TX

Applicant's Attorney: Alex M. Lewandowski, Suite 600 Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105-1961

General commodities,

Over irregular routes, between all points in KS.
RESTRICTED HOWEVER,

Against the transportation of parcels weighing more than 100 pounds.

Application for Certificate of Convenience and Necessity:

Kenneth Augustine, dba) Docket No. 137,253 M
 Augustine & Son)
 1661 W. Republic, Lot 2)
 Salina, KS 67401)

Applicant's Attorney: None

To transport grain,

Between all points & places in KS.

**Applications set for June 2, 1983—
 TOPEKA, KANSAS**

Application for Extension of Certificate of Convenience and Necessity:

Gerald M. Carter, dba) Docket No. 110,827 M
 Carter Delivery Service)
 55 Random Rd.)
 Hutchinson, KS 67501) Route No. 12717

Applicant's Attorney: William Mitchell, 119 W. Sherman, P. O. Box 604, Hutchinson, KS 67501

To transport general commodities, except those of unusual value; dangerous explosives; household goods as defined by "Practices of Motor Common Carriers of Household Goods," M.C.C. 467; Commodities requiring special equipment and commodities injurious or contaminating to other lading; and furniture or household appliances,

Between all points & places within Reno, Rice, McPherson, Harvey & Stafford Counties, KS.

Also,

Between all points & places within Reno, Rice, McPherson, Harvey, & Stafford Counties, KS, on the

(continued)

one hand & all points & places in the state of KS, on the other hand.

Application for Certificate of Convenience and Necessity:

Walley K. Winstead, dba) Docket No. 137,254 M
Winstead's 24 Hour)
Wrecker Service &)
Auto Sales)
782 Cherokee St.)
Leavenworth, KS 66048)

Applicant's Attorney: Michael J. Waite, 520 S. 4th St., Chambers Bldg., Leavenworth, KS 66048

To transport wrecked and disabled vehicles,

Between all points & places in Leavenworth, Wyandotte, Johnson, Jefferson & Atchison Counties, KS.

Also, between all points & places in the afore listed counties, on the one hand & all points & places in the state of KS, on the other.

Application for Extension of Certificate of Convenience and Necessity:

Dick Brothers Fertilizer,) Docket No. 134,938 M
Inc.)
Box 157)
Silver Lake, KS) Route No. 20470

Applicant's Attorney: Bob W. Storey, Suite 310, Columbian Title Bldg., 820 Quincy, Topeka, KS 66612

To transport grain, livestock, feed, and feed ingredients,

Between all points & places in KS.

Application for Extension of Certificate of Convenience and Necessity:

Southwest Freight Lines,) Docket No. 135,430 M
Inc.)
1400 Kansas Ave.)
Kansas City, KS) Route No. 20825

Applicant's Attorney: Don Hults, Box 225, Lawrence, KS 66044

To transport meats, meat products, meat by-products, and articles distributed by meat packing houses, including equipment, materials and supplies used in the conduct of the business of such meat packing houses or facilities thereof:

Between all points & places in Finney, Ford, Barton, Sedgwick & Lyons Counties, KS on the one hand & on the other, all points & places in the state of KS.

**Applications set for June 7, 1983—
TOPEKA, KANSAS**

Application for Extension of Certificate of Convenience and Necessity:

Emporia Motor Freight,) Docket No. 56,841 M
Inc.)
P. O. Box 1103)
Emporia, KS) Route No. 4980

Applicant's Attorney: John L. Richeson, Second & Main, P. O. Box 7, Ottawa, KS 66067

To transport household goods,

Between all points & places in the state of KS.

Application for Intrastate Contract Carrier Permit:

Farmers Oil Co., Inc.) Docket No. 137,132 M
801 West Main)
Anthony, KS 67003

Applicant's Attorney: Brad T. Murphree, 614 Century Plaza Bldg., Wichita, KS 67202

Butane and propane,

Between facilities utilized or operated by Derby Refining Co., on the one hand, and, on the other, all points & places in the state of KS.

Under contract with Derby Refining Co.

Application for Certificate of Convenience and Necessity:

Triangle Trucking, Inc.) Docket No. 137,255 M
2854 Scanlan)
Salina, KS 67401)

Applicant's Attorney: John E. Jandera, 641 Harrison St., P. O. Box 1979, Topeka, KS 66601

To transport food and related products,

Between all points & places in the state of KS.

Application for Certificate of Convenience and Necessity:

Kenneth D. Garst, dba) Docket No. 137,257 M
Ken's Wrecker Service)
Box 83)
Glasco, KS 67445)

Applicant's Attorney: William B. Barker, 641 Harrison St., P. O. Box 1979, Topeka, KS 66601

To transport wrecked and disabled vehicles,

Between points in Mitchell County (on & east of Hwy K-14), Ottawa County, & Cloud County, on the one hand, & on the other, all points & places in KS.

(continued)

Applications set for June 8, 1983—

TOPEKA, KANSAS

Application for Intrastate Contract Carrier Permit:

Higgins Trans., Ltd.) Docket No. 137,130 M
 P. O. Box 637)
 Richland Center, WI 53581)

Applicant's Attorney: D. S. Hults, Box 225, Lawrence,
 KS 66044

General commodities,

From Lawrence, KS, to points & places in the state
 of KS.

Under contract with K-Mart Corp., of Lawrence, KS.

Application for Intrastate Contract Carrier Permit:

Elbert Swartzendruber) Docket No. 137,131 M
 114½ W. 6th St.)
 Newton, KS 67114)

Applicant's Attorney: None

Refuse equipment,

From Hesston, KS, to all points & places in KS.
 Under contract with Heppner's Refuse Systems,
 Inc., of Hesston, KS.

Shop equipment,

From Hesston, KS, to all points & places in KS.
 Under contract with The Job Shop, of Hesston, KS.

Shop equipment,

From Hesston, KS, to all points & places in KS.
 Under contract with Hesston Machine & Welding,
 of Hesston, KS.

The following Application is being RENOTICED for
 June 8, 1983—TOPEKA, KANSAS

**Application to Transfer Certificate of
 Convenience and Necessity:**

Elmer J. Naasz) Docket No. 26,694 M
 Rt. 1)
 Wellington, KS 67152) Route No. 2027

TO:

L. B. White
 920 S. Cherry
 Wellington, KS 67152

Applicant's Attorney: Tom L. Schwinn, 204 S. Wash-
 ington Ave., Box 549, Wellington, KS 67152

*Livestock, new and used farm machinery, set-up,
 farm feed, mill feed, grain, emigrant farm movables,
 nursery stock, grains and alfalfa,*

Between points & places in all of & beginning at a
 point at the southeast corner of Cowley County, KS,
 Cowley, Sumner, Harper, Barber, Pratt, Kingman,
 Sedgwick, Butler, Reno, Harvey, & McPherson
 Counties & from a point on the Pratt-Stafford County
 line east of Byers, thence north on county roads be-
 tween St. John & Stafford on a semi-circle to a point
 just east of Silica thence north on county roads on a
 semi-circle to a point just north of Lindsborg, thence

south on county roads on a semi-circle to a point just
 south of Tampa, thence south on county roads on a
 semi-circle to the east line of Butler County, thence
 south on the east line of Cowley County to the point of
 beginning encompassing parts of Stafford, Barton,
 Rice, Marion & Chase Counties, KS.

Also,

Between all points & places in the afore described
 area & afore listed counties, on the one hand & all
 points & places in the state of KS, on the other.

WILLIAM E. GREEN
 Administrator
 Transportation Division

Doc. No. 001119

State of Kansas**PERMANENT ADMINISTRATIVE
 REGULATIONS****NOTICE**

The following are permanent administrative regu-
 lations which were adopted by a state agency pursuant
 to K.S.A. 1982 Supp. 77-415 *et seq.* **These regulations
 are scheduled to become effective May 1, 1983, 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 5, 1983 issue of the *Register*
 will contain a complete index to regulations effective
 May 1, and any legislative actions on them.

**HIGHWAY PATROL
 ADMINISTRATIVE REGULATIONS****Article 1.—MOTOR VEHICLE
 INSPECTIONS**

37-1-1. Definitions. As used in these rules and
 regulations, unless the context clearly requires other-
 wise, the following words and phrases shall have the
 meanings ascribed to them in this section:

(a) "Approval certificate" means a written document
 which is given to the vehicle owner and which shows
 that the vehicle meets the inspection requirements.

(b) "Rejection notice" means a written document
 which is given to the vehicle owner and which shows
 that the vehicle does not meet the inspection require-
 ments.

(c) "Qualified inspector or mechanic" means any
 person who:

- (1) Is at least 18 years of age;
- (2) Has at least one year mechanical experience or a
 certificate from a mechanics trade school;
- (3) Has a valid operator's license.

(d) "Revocation of a station permit" means the re-
 scinding of an inspection permit for a specified period
 of time as ordered by the superintendent or the su-
 perintendent's duly authorized agent.

(e) "Spot inspection" means any location where

(continued)

signs are displayed requiring drivers to stop and submit their vehicles and equipment to an inspection of the mechanical condition thereof by members of the Kansas highway patrol.

(f) "Random inspection" means any routine stopping and inspection of a vehicle, believed to have defective equipment, by a member of the Kansas highway patrol.

(g) Class "A" Permit means an inspection station capable of inspecting all motor vehicles.

(h) Class "B" permit means an inspection station capable of inspecting all passenger cars and small trucks with a single rear axle and single wheels.

(i) Class "C" permit means an inspection station capable of inspecting trucks only.

(j) Class "D" permit means an inspection station capable of inspecting all types of motorcycles.

(k) As used in these rules and regulations, the words and phrases defined in K.S.A. 8-1401 *et. seq.* and K.S.A. 8-1750 and amendments thereto shall have the meanings respectively ascribed to them therein. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-2. Inspection responsibilities. (a) The owner or operator of every automotive service agency who is issued an inspection permit shall be obligated to conduct the business of the inspection station honestly, and efficiently and to act in the best interest of traffic safety. It shall be the responsibility of the permittee to insure that each vehicle is inspected properly and thoroughly by a qualified inspector or mechanic and that the operation of the inspection station is in accordance with these rules and regulations. It shall be the duty of the permittee to place vehicular safety foremost as this is the primary intent of the vehicle safety inspection law and the regulations issued pursuant to the inspection law.

(b) It shall also be the responsibility of each owner or operator of a public inspection station to inspect every vehicle submitted for inspection within a reasonable period of time. Reasonable time shall be defined as:

(1) Immediate inspection, if no inspection is being conducted at that time;

(2) The next free appointment time, if prior appointments have been made causing the inspection area to be busy for a set period of time. (Refer to Rule 37-1-3(b)(4) and 37-1-3(d); or

(3) Upon the return of the qualified inspector or mechanic, if the delay for inspection is due to meal break, illness or annual vacation of the inspector or mechanic. The owner or operator shall state this and advise the driver as to when the inspection could be made, by giving date and time.

(c) The Kansas highway patrol shall be responsible for inspections and investigations of the official inspection stations and inspecting mechanics to determine if the provisions of the inspection law and regulations are being complied with and to take appropriate action against those who do not. Members

of the Kansas highway patrol may conduct unscheduled, periodic inspections or investigations of inspection stations and inspectors or mechanics.

(d) Inspection station owners and inspecting personnel who fail to adhere to the inspection law and its provisions shall be subject to prosecution and revocation of their inspection permits.

The following violations may result in prosecution or revocation of an inspection permit:

(1) refusing to inspect a vehicle;

(2) inspection of unauthorized vehicles by a private station;

(3) improper and incomplete inspection;

(4) inspection by unauthorized personnel;

(5) the loan, sale or giving of a certificate without inspection;

(6) failure to comply with hours of operation;

(7) the lack of or absence of a qualified inspector or mechanic;

(8) inspection of vehicles at an unapproved location;

(9) charging inspection fees in excess of the amount allowed for each class;

(10) improper display of signs, poster and permits;

(11) improper usage or filing of forms;

(12) failure to keep inspection station records for a period of one year;

(13) failure to properly safeguard inspection supplies. Properly safeguarded means storage of supplies in a locked compartment;

(14) an inadequate supply of required equipment;

(15) charging repair fees without making repairs;

(16) performing mechanical work in the inspection area in a manner that interferes with or prohibits an inspection;

(17) failure to maintain a sufficient number of inspection certificates;

(18) creating or maintaining fraudulent records;

(19) failure to complete the reverse side of rejection certificate;

(20) making mechanical repairs without the owner's authorization;

(21) issuing an approval certificate for a previously rejected vehicle before repairs are made;

(22) failure to accurately copy the vehicle identification number from V.I.N. plate on vehicle;

(23) failure to maintain and have in good working order all required equipment;

(24) failure to maintain good character, financial or moral conduct;

(25) failure to comply with motor vehicle inspection rules and regulations.

(e) Before any inspection station permit is revoked by the superintendent of the Kansas highway patrol, the permittee will be given the opportunity for a hearing as provided in K.S.A. 8-1751(c).

(f) All inspections pursuant to this act shall be made in substantial compliance with the procedures and standards set forth in the "Kansas Motor Vehicle Inspection Manual" which has been prepared by the Kansas highway patrol. A copy and revisions of that manual shall be furnished to all official inspection station applicants. (Authorized by and implementing

(continued)

K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-3. Inspection station requirements. (a) Inspection facilities. Every inspection station shall have an approved designated inside or outside inspection area.

(b) Inside inspection area. All inspections shall be conducted in the approved, designated inside inspection area.

(1) An inside inspection area shall be of sufficient length and width to accommodate the type of vehicle which the inspection station is classified to inspect pursuant to paragraph (g) of this regulation.

(2) The inspection area shall be sufficiently lighted, adequately heated and properly ventilated.

(3) The floor shall be substantially level and constructed of a hard material. Dirt, gravel or sagging wood floors shall not be accepted.

(4) If a station has only one inspection area, no major mechanical repair work that would prohibit vacation of the space shall be permitted in the inspection area during normal business hours. Minor mechanical repair work may be made if the vehicle undergoing the repair can be readily removed from the inspection area.

(c) Outside inspection area. Large vehicles may be inspected in an outside inspection area, during clement weather only.

(1) The inspection area shall be substantially level and constructed of hard material, such as asphalt or concrete.

(2) The inspection area shall be a part of, and adjacent to, the official vehicle inspection station.

(d) Hours of operation. The normal business hours of every public inspection station shall be at least eight continuous hours per day, five days per week.

(e) Inspecting personnel. Every public inspection station shall have on duty at least one qualified inspector or mechanic to perform inspections during the station's normal business hours; except for a reasonable period of time due to meal break, illness or annual vacation.

(f) During normal business hours, inspection station operators shall be obligated to inspect a motor vehicle within a reasonable length of time, as defined in 37-1-2 (b). An inspection station operator shall reinspect a vehicle within a reasonable length of time whenever a motor vehicle is returned for a reinspection within the 30 day period.

(g) Station classification. Inspection stations shall be approved in the following classifications:

(1) A Class "A" permit shall be issued to stations capable of inspecting all motor vehicles.

(A) The minimum space requirements shall be 12 feet by 45 feet, if equipped with an approved headlight tester, or testing stations of sufficient size for the vehicle and an additional 25 feet from lamps to screen, if equipped with approved screen and intensity meter.

(B) Height of the door and ceiling shall be adequate to allow for entrance into the inspection area and raising of the vehicle for all classes of permits.

(2) A Class "B" permit shall be issued to stations capable of inspecting all passenger cars and small trucks with a single rear axle and single wheels.

(A) The minimum space requirement shall be 10 feet by 25 feet, if equipped with an approved headlight tester, or a testing station of sufficient size for the vehicle and an additional 25 feet from lamps to screen, if equipped with approved screen and intensity meter.

(3) A Class "C" permit shall be issued to stations capable of inspecting trucks only.

(A) The minimum space requirement shall be 12 feet by 45 feet, if equipped with an approved headlight tester, or testing station of sufficient size for the vehicle and an additional 25 feet from lamps to screen, if equipped with approved screen and intensity meter.

(4) A Class "D" permit shall be issued to stations capable of inspecting all types of motorcycles.

(A) The minimum space requirement shall be 5 feet by 20 feet, if equipped with an approved headlight tester, or a testing station of sufficient size for the vehicle and an additional 25 feet from lamps to screen, if equipped with approved screen and intensity meter.

(h) Equipment requirements.

(1) Class A, Class B and Class C inspection stations shall have the following equipment.

(A) Brake performance. One of the following methods of testing the service brake performance shall be required: A portable decelerometer, a drive-on-and-stop or a roller type brake testing machine, or the prescribed road test;

(B) Brake lining gauge. A gauge shall be used to determine the remaining thickness in fractions of an inch for bonded or riveted linings;

(C) Disc brake pad gauge. Some type of gauging device shall be required to accurately measure the thickness of the metal shoe and the remaining thickness of the brake pad while the pad is within the caliper assembly;

(D) Ball joint gauge or dial indicator. A ball joint gauge or dial indicator shall be required to accurately measure any looseness in the load carrying ball joint. The gauge or indicator shall be adapted to measure vertical (up and down) and horizontal (side) movement;

(E) Lift or jack. A lift or jack (bumper jacks not accepted), capable of properly hoisting a vehicle to check ball joints, exhaust systems, suspension linkage, and wheel play shall be required. If a lift is used, it shall be of the type which allows the front wheels to be suspended by lifting under the outer extremity of a motor vehicle's lower control arm, cross member or frame;

(F) Device to determine side-slip or toe. A device to determine the amount of toe or side-slip shall be required. A drive-on type alignment tester; a side-slip indicator, capable of determining the amount of side-slip per mile of forward travel; or a separate toe gauge or a toe device, which is a part of a front end alignment machine, may be used;

(G) A light testing or aiming device, screen or mechanical aimers; and

(H) Additional equipment. All Class A, B, C, in-

(continued)

spection stations shall have the following equipment, which shall be arranged and located at or near the inside inspection area:

- (i) A scraper to remove old rejection certificates;
- (ii) A measuring device to accurately determine the amount of steering wheel play, the length of cracks or area of discoloration in the glass of a motor vehicle and the height of light mountings on any vehicle;
- (iii) An open face paper punch having a one and one-fourth inch reach with one-eighth inch round die to validate rejection certificates;
- (iv) Tread depth gauge; and
- (v) Hand tools necessary for work on motor vehicles.

(2) Class "D" inspection stations shall have the following equipment:

(A) Brake performance. One of the following methods of testing the service brake performance shall be required: A portable decelerometer, a drive-on-and-stop or a roller type brake testing machine, or the prescribed road test;

(B) Disc brake pad gauge. Some type of gauging device shall be required to accurately measure the thickness of the metal shoe and the remaining thickness of the brake pad while the pad is within the caliper assembly;

(C) Lift or jack. A lift or jack capable of properly hoisting a vehicle to check suspension linkage shall be required.

(D) Device to determine side-slip. A device to determine the amount of side-slip shall be required.

(E) Light testing or aiming device, screen or mechanical aimers.

(F) Additional equipment. All Class "D" inspection stations shall have the following equipment which shall be arranged and located at or near the inside inspection area.

(i) Punch. An open face paper punch having a one and one-fourth inch reach with one-eighth inch round die to validate rejection certificates.

(ii) Tread depth gauge.

(iii) Hand tools necessary for work on motor vehicles. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-4. Public inspection station. (a) A public official motor vehicle inspection station permit shall be issued to any person, if their facilities, equipment and personnel fulfill the requirements for an official inspection station.

(b) A new permit shall not be issued if the motor vehicle inspection station's present permit is under revocation for any offense as set forth in K.S.A. 8-1751.

(c) A public inspection station shall inspect all vehicles for the public according to its station classification A, B, C or D. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-5. Private inspection stations. (a) A private

official vehicle inspection station permit shall be issued to any association, person, partnership, corporation and subsidiary corporation or governmental entity, providing their facilities, equipment and personnel meet the requirements prescribed for a public inspection station.

(b) A private inspection station shall inspect only vehicles registered or to be registered, titled or to be titled, in the name of the person or organization described on the application for a permit or vehicles which are maintained under a written maintenance agreement of one year duration.

(c) Before any vehicles which are maintained under a written maintenance agreement can be inspected, a copy of the maintenance agreement shall accompany the application for a private station permit or shall be on file with the superintendent.

(d) The requirements of subsection (b) above shall not apply to a "dealer" licensed as a private inspection station. The "dealer" may inspect vehicles which are offered for sale or trade by that dealership.

(e) From and after January 1, 1983 any inspection station licensed as a private inspection station that renews a permit which originally was issued prior to January 1, 1983 may be issued a permit of the same class as the original permit.

(f) From and after January 1, 1983 all new or reinstatement applications for a motor vehicle inspection station shall be issued a permit as a public or contract station only. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-5a. Contract station. (a) A contract official vehicle inspection station permit shall be issued to any person who provides their facilities, equipment and personnel for the sole purpose of inspecting vehicles owned by any person, as defined, that has entered into a written contract for the purpose of having their vehicles inspected. The contract shall be for at least six months duration. (Authorized by and implementing K.S.A. 8-1752; effective, T-83-46, Dec. 8, 1982; effective May 1, 1983.)

37-1-6. Inspection regulations. Inspection certificates: (a) The "A" series certificates will be issued for passenger cars, small trucks and trucks. Inspection certificates shall be sold only in complete books of 20 certificates at a cost of \$10.00 per book.

(b) The "M" series certificates shall be issued for motorcycles. The "M" certificates shall be sold only in complete books of 20 certificates at a cost of \$10.00 per book.

(c) An inspection certificate shall be issued immediately following an inspection if the qualified inspector or mechanic determines that the vehicle meets the inspection requirements.

(d) Stations shall issue inspection certificates from only one book at a time, starting with their lowest numbered book and lowest numbered certificate in each book.

(continued)

(e) All covers from used books of certificates shall be retained by the inspection station, with yellow copies intact, for one year.

(f) When reordering inspection certificates, the requisition form provided shall be accompanied by a check or money order made payable to the "Kansas Highway Patrol" in the correct amount for the number of books ordered. The requisition and check or money order shall be mailed to the Kansas highway patrol state headquarters. If a personal check is returned for reason of non-payment, personal checks shall no longer be accepted from that station. Cash shall not be accepted for the inspection certificate fee under any circumstances.

(g) Inspection certificates issued to an inspection station shall be used only by that station. Inspection certificates shall be kept under lock to prevent them from being lost, damaged or stolen. All stations shall keep a sufficient number of inspection certificates on hand to meet their needs. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-7. Approval. (a) If each item of equipment to be inspected meets the inspection requirements, an inspection certificate shall be issued.

(b) The vehicle inspection certificates shall be completely and accurately filled out and shall be distributed as follows:

(1) Pink copy—highway patrol copy. Mail to Kansas highway patrol by the 15th day of the following month;

(2) White copy—owner or operator;

(3) Gold copy—owner to give to county treasurer; and

(4) Yellow copy—station copy to be kept on file in sequential order for one year, attached in the cover.

(c) If the approval is issued, after a rejection from a member of the Kansas highway patrol or an inspection station, the rejection number shall be placed in the space provided on the vehicle inspection certificate and on the rejection stub of the rejection certificate, if available. The rejection stub shall be attached to the approval pink copy. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-8. Rejection. (a) If an item or items of equipment or any of its components do not meet the minimum inspection standards, the vehicle shall be rejected and the item or items or component or components shall be checked in the appropriate portion of the rejection certificate.

(1) The vehicle owner shall be informed that the owner may repair the defects personally or have them repaired at any place of the owner's choice. The owner shall have the right to remove the vehicle to such a place for needed repair.

(2) If any repairs are to be made by the inspection station, the vehicle owner shall be provided with a

written estimate of the total cost of the repairs, and the vehicle owner shall authorize the station to make the repairs by signing the estimate.

(3) When a vehicle is returned for reinspection after repairs are made, the owner shall present the rejection notice (white copy and rejection certificate stub if available).

(4) A reinspection shall consist of only those items of equipment or components that were originally rejected, if reinspected within 30 days.

(5) If the rejected vehicle is returned to the inspection station which made the original inspection for a reinspection within 30 days, no additional inspection fee shall be charged.

(6) If upon presenting the rejected vehicle for reinspection as described in paragraph (3), (4) and (5) it is found that the original inspection station is closed by reason of permit revocation, or that it is no longer in business, that vehicle may be presented to the area motor vehicle inspection trooper of the Kansas highway patrol for reinspection. If approved, and upon payment of the 50¢ approval certificate fee, the vehicle shall be issued an approval certificate as defined in Rule 37-1-7.

(b) The rejection certificates shall be completely and accurately filled out and shall be distributed as follows:

(1) Pink copy—highway patrol copy. Mail to the Kansas highway patrol by the 15th day of the following month.

(2) White copy—owner or operator of vehicle.

(3) Yellow copy—station copy to be kept on file in sequential order for one year, attached in the cover.

(c) The qualified inspector or mechanic shall: (1) remove the stub portion and present it to the owner or operator of the inspected vehicle, (2) punch the month, day and year from rejection certificate; and

(3) affix the certificate to the inside lower left hand corner of the vehicle's windshield. In the case of a motorcycle, the rejection certificate shall be carried on the person of the operator and exhibited on the demand of any police officer.

(d) If an inspection station inspects a motor vehicle for which a certificate of rejection has been issued by another inspection station and does not discover all or some of the defects alleged by the certificate, it shall be the duty of the inspection station performing the second inspection to notify the superintendent of the discrepancy. The superintendent shall cause an inspection to be made of the motor vehicle in question and resolve the controversy. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-9. Spot or random inspection. (a) If any motor vehicle is found to be in an unsafe condition as a result of any spot or random inspection pursuant to this act or if the equipment required by law to be on the vehicle is not present or is not in good condition and properly adjusted, the member of the highway patrol conducting the inspection shall issue a rejection certificate.

(continued)

(b) The highway patrol member shall block out the month, day and year of the inspection on the rejection certificate and affix the certificate to the inside lower left hand corner of the vehicle's windshield. In the case of a motorcycle, the rejection certificate shall be carried on the person of the operator and exhibited on the demand of any police officer.

(c) The operator or owner of a motor vehicle rejected by any member of the highway patrol shall within 30 days make or have repairs made on equipment rejected and have the motor vehicle inspected by an official inspection station, paying the fee required for the inspection.

(d) When a vehicle is presented for inspection after rejection resulting from a spot or random inspection, the owner or operator shall present the rejection notice (white copy and rejection certificate stub, if available) at an official inspection station.

(e) All motor vehicles rejected in a spot or random inspection conducted by the Kansas highway patrol, shall be reinspected by a qualified inspector or mechanic at an official inspection station. The inspector or mechanic shall give a complete inspection before issuing an approval certificate. If the inspector or mechanic observes any equipment required by state statute or rules and regulations to be out of proper adjustment or not present that was not detected in the spot or random inspection, the inspector or mechanic shall scrape off the rejection certificate issued by the Kansas highway patrol and issue a rejection certificate listing total rejections found in the complete inspection. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-10. Fee schedule for motor vehicle inspections. The following fees shall be authorized for the conduct of motor vehicle inspections as required by this act:

- | | |
|--|--------|
| (a) Passenger vehicles and small trucks with a single rear axle and single rear wheels | \$5.00 |
| (b) Straight trucks with dual rear wheels, tandem axles or both | \$5.00 |
| (c) Truck tractor | \$5.00 |
| (d) Motorcycles | \$3.00 |
| (e) Motorized motor homes | \$5.00 |

If the motor vehicle passes the inspection, \$.50 shall be added to the above charges to cover the cost of the approval certificate issued. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-11. Miscellaneous. (a) A charge, as established by the fee schedule, shall be made for each inspection. Every inspection for which a fee is charged shall be a complete and proper inspection before a vehicle may be approved or rejected.

(b) Every item of vehicular equipment that is required to be inspected shall be inspected according to

prescribed procedures before an approval certificate or rejection notice is issued.

(c) All inspections shall be conducted at the inspection station and in the station's approved inspection area. Under no circumstances shall an inspection be performed at any other location.

(d) The inspection of a vehicle shall be made only by an individual who is qualified as an inspector or mechanic, except a person not qualified as an inspector or mechanic may assist by operating the lights and signalling devices.

(e) Only a qualified inspector or mechanic shall issue an approval certificate or rejection notice.

(f) An owner, operator or employee of an inspection station shall not furnish, loan, give or sell an approval certificate to any person except to those entitled to receive it.

(g) Inspection certificates which are lost or stolen shall be reported immediately to the Kansas highway patrol.

(h) All current manuals, bulletins or other regulations issued by the superintendent of the Kansas highway patrol, shall be read and initialled by the station owner or operator, and each inspector or mechanic, and shall be available at all times for ready reference.

(i) A permit issued to an inspection station shall not be transferred or used at any other location. Any change in ownership or location shall cancel the appointment of that station and another permit fee shall be required before the station can continue operation as an inspection station under another owner or at a different location. The Kansas highway patrol shall be notified immediately when this occurs or when a station discontinues operation.

(j) If a station owner has more than one place of business, a separate permit shall be obtained for each inspection station.

(k) The fee for a permit to operate a public, private or contract inspection station shall be \$25.00 per year. Each permit issued under this section shall expire one year from the date of its issuance, and application for its renewal shall be submitted prior to that time. Checks or money orders shall be made payable to the Kansas highway patrol. Cash shall not be accepted for the permit fee under any circumstances.

(l) Up-to-date inspection records shall be available during normal business hours for examination by any member of the Kansas highway patrol.

(m) When a person authorized to purchase inspection certificates resigns or is dismissed, the station owner or operator shall report this change when contacted by the area inspector trooper of the Kansas highway patrol.

(n) The station permit shall be framed under clean glass and displayed in a conspicuous location.

(o) The official sign, issued by the highway patrol, designating the station as a public inspection station shall be displayed in a location visible to the travelling public.

(p) If the highway patrol is asked to settle a difference of opinion between the vehicle owner and an

(continued)

inspection station or an inspector or mechanic concerning the inspection standards and procedures, the highway patrol's decision as to whether the vehicle should be approved or rejected shall be final.

(q) When an inspection station permit has been revoked, or when a station discontinues operation, all inspection supplies shall be released to an inspector trooper of the Kansas highway patrol. Unless all supplies are accounted for, a station permit shall not be reinstated at the end of the revocation period and the station owner or operator who discontinued the inspection station shall, on application, be denied another station permit.

(r) A fee of \$7.50 for the station sign and \$3.00 for the inspection manual shall be collected from stations who discontinue operation or who have their permit revoked and fail to surrender these items when the station is closed out. (Authorized by and implementing K.S.A. 8-1752; effective, E-74-65, Jan. 1, 1975; effective, E-76-48, Oct. 1, 1975; amended, E-77-22, May 1, 1976; effective Feb. 15, 1977; amended, T-83-46, Dec. 8, 1982; amended May 1, 1983.)

37-1-12. Standards for motor vehicle inspection. The standard entitled "Kansas Motor Vehicle Inspection, Required—Procedures—Standards," sections A, B, C, including all charts, figures and pictures regarding those sections, as developed by the Kansas highway patrol, excluding all introduction and content pages, and footnotes number 1 through 51, dated 1982, is adopted by reference. (Authorized by and implementing K.S.A. 8-1752; effective, T-83-46, Dec. 8, 1982; effective May 1, 1983.)

COL. DAVID L. HORNBAKER
Superintendent

Doc. No. 001063

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. 1982 Supp. 77-415 *et seq.* *These regulations are scheduled to become effective May 1, 1983, 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 5, 1983 issue of the *Register* will contain a complete index to regulations effective May 1, and any legislative actions on them.

**DEPARTMENT OF HUMAN RESOURCES
ADMINISTRATIVE REGULATIONS**

Article 20.—WAGE PAYMENTS AND PROCEDURES FOR ENFORCEMENT

49-20-1. Definitions. (a) Authorized deductions, "accruing to the benefit of the employee," as used in K.S.A. 44-319(a)(3), shall mean deductions from an

employee's pay for which the employer has received a signed authorization from the employee for lawful deductions that do not in any way waive, set aside or contravene any rights created in K.S.A. 44-313 *et seq.*, as amended.

(1) Authorized deductions shall include:

(A) Contributions to and recovery of overpayments under employee welfare and pension plans;

(B) contributions made under a collective bargaining agreement to employee welfare and pension plans that are not subject to the federal welfare and pension plans disclosure act. Such plans include, but are not limited to, group insurance plans, hospitalization insurance, life insurance plans approved by the Kansas commissioner of insurance, group hospitalization and medical service programs offered by nonprofit hospitalization and medical service organizations, and group medical insurance plans;

(C) deductions authorized in writing by employees or deduction by employers under a collective bargaining agreement for payments into:

(i) Company-operated thrift plans; or

(ii) stock option or stock purchase plans to buy securities of the employing or an affiliated corporation at market price or less, provided such securities are listed on a stock exchange or are marketable over the counter;

(D) deductions by employers for payment into employee personal savings accounts. Such payments include, but are not limited to, payments into credit unions, savings fund societies, savings and loan associations, building and loan associations, savings departments of banks for Christmas, vacations or other purposes, and payments for United States government bonds;

(E) contributions by the employee for charitable purposes;

(F) contributions to labor organizations for purposes of dues, assessments, initiation fees and other charges; and

(G) the actual cost to the employer of meals and lodging obtained from the employer, if the cost is not wages earned.

(2) The following deductions shall not be considered authorized deductions "accruing to the benefit of the employee" within the meaning of K.S.A. 44-319(a)(3):

(A) Deductions made for cash and inventory shortages; breakage; returned checks or bad credit card sales; losses to employers resulting from burglaries, robberies, or alleged negligent acts.

(B) deductions made for uniforms, special tools or special equipment which are not necessary to the performance of the assigned duties and are customarily supplied by the employer;

(C) any other deduction not set out by K.S.A. 44-313 *et seq.* or permitted by these rules and regulations.

(3) The following deductions shall not require written authorization by the employee as provided by K.S.A. 44-319(a)(3):

(A) Deductions which the employer is required or empowered to make:

(i) By state or federal law; or

(continued)

(ii) by court order lawfully issued, to the extent permitted by that law (K.S.A. 44-319(a)(1));

(B) deductions for medical, surgical, or hospital care and services paid for by the employer which are without any financial benefit to the employer and which are duly recorded in accounts maintained by the employer (K.S.A. 44-319(a)(2));

(C) deductions made to correct wage overpayments resulting from employer error when the error alone has resulted in the overpayment. However, if the deduction rate is to exceed the overpayment rate, the employer shall be required to obtain signed authorization of the employee before making any such deduction;

(D) deduction for cash advances made upon the written request or by signed agreement of the employee and made as part payment of future wages to be earned;

(E) deduction for excess cash expense allowances or advances made to the employee which are not justified by expense receipts returned to the employer, to the extent of any unexpended cash expense advances not returned to the employer.

(b) "Plan of payment," as used in K.S.A. 44-314, shall mean a method agreed to in advance by an employee in which the employer makes bank deposits for the employee on or before the regular payday in an amount equal to the payroll amount, plus any additional amount required by the depository as a service charge, upon which the employee may draw an amount equivalent to the employee's wages less authorized deductions. Under such a plan of payment, the employer shall give a statement of earnings to the employee and the bank shall provide one free check to the employee.

(c) "Binding settlement agreement," as contemplated by K.S.A. 44-316(b), shall mean an agreement approved by the secretary of human resources or the secretary's authorized representative either prior to or subsequent to an administrative hearing conducted pursuant to K.S.A. 44-322a. Once an appeal from an administrative order has been filed with the district court pursuant to K.S.A. 60-2101, and prior to court decision, any binding settlement agreement between the parties, as defined herein shall be valid only if approved by the hearing officer or that officer's authorized representative.

(d) "Or other basis," within the meaning of K.S.A. 44-313(c), shall include all agreed compensation for services for which the conditions required for entitlement, eligibility, accrual or earning have been met by the employee. Such compensation may include, but is not limited to, profit sharing, fringe benefits, or compensation due as a result of services performed under an employment contract that has a wage rate required or implied by state or federal law. Conditions subsequent to such entitlement, eligibility, accrual or earning resulting in a forfeiture or loss of such earned wage shall be ineffective and unenforceable.

(e) "Allowed or permitted to work," within the meaning of K.S.A. 44-313(b), shall not include an independent contractor, as defined by rules, regulations, and interpretations of the United States secretary of

labor for the purposes of the fair labor standards act. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-313 to 44-315, 44-316 to 44-321, 44-322, 44-322a, 44-323, 44-324, 44-325, 44-326; effective, E-73-23, July 7, 1973; amended, E-73-29, Sep. 28, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 21.—PROCEDURES

49-21-1. Filing of complaints. (a) Any complainant may file a claim, stating the details of the alleged nonpayment of earned wages, on official forms of the division of labor-management relations and employment standards. Any claim or claims filed by an attorney on behalf of the employee or employees shall constitute a proper filing.

(b) An assignment of the complainant's claim and an agreement to agree to settlement, shall be accepted from the complainant. That assignment shall have its effect only after the claim is determined to be valid in a hearing and after an amount owing, including damages if applicable, has been determined.

The secretary or the secretary's authorized representative may reassign any claim back to the complainant when the complainant has retained a private attorney during the hearing process. The private attorney shall have the responsibility to defend an appeal to district court or to bring any action to enforce that order in the court.

The secretary may reassign a claim when the amount is so small as to allow action by the complainant in the small claims court. In cases to be enforced through small claims court, the secretary or the secretary's authorized representative, upon request, shall furnish to the complainant any evidence contained in the administrative file or assistance as may be determined proper by the secretary or the secretary's authorized representative.

(c) There shall be no limit on the amount of claim that may be accepted by the secretary of human resources. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-324; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

49-21-2. Processing claims. (a) Service of claim. A copy of the claim shall be mailed to the employer by United States mail.

(b) Investigation. (1) The investigator shall determine that each claim is within jurisdiction of the Kansas wage payment statutes to the best extent possible prior to service of the claim upon the employer.

(2) The notice of claim shall contain citation of the statute alleged to have been violated with a brief description of the nature of the violation.

(3) The employer shall be notified of a specified date on which a response is required, not to exceed 20 days. Extensions of the response period may be extended for good and sufficient reasons at the discretion of the secretary or the secretary's authorized representative.

(4) The employer shall respond on forms provided

(continued)

by the division of labor-management relations and employment standards within the time specified in the notice of claim or within 10 days of receipt of the claim, whichever is longer. Any response which is incomplete and that does not answer the allegations of the claim shall not be considered to have satisfied the response requirement.

(5) Failure on the part of the employer to respond to a claim shall be considered as establishing a dispute and a hearing may be set without further investigation. The investigator in all claims shall have the full authority and power of the secretary as provided in K.S.A. 44-322.

(6) When the evidence shows there is probable cause to believe that a violation has occurred, the investigator shall attempt to obtain payment or settlement through conciliation of the parties to the dispute.

Determination of an alleged violation shall be based upon:

(A) The lawful provisions of the employment agreement or contract between the employer and employee;

(B) evidence of work performed; and

(C) proof of payment for work performed under the agreement or contract.

Any agreement by the parties or any requirement by the employer to contravene, set aside or waive any provision or any right created under the act shall be in violation of the act and equivalent to nonpayment of earned wages. Any provision contained in the employment agreement or contract that violates any provision or right created by this act shall not be enforceable, regardless of whether the parties have mutually assented to the provision.

Any conditional wage payment requiring a release from further claim for balances alleged to be owed by the employer shall be a violation of K.S.A. 44-321 and therefore null and void unless that release is part of a binding settlement agreement as described in the act and defined herein.

(7) When evidence fails to support the alleged claim, the investigator, after giving 30 days notice to the claimant of the need for further evidence, may dismiss such claim as unmeritorious if such evidence is not submitted.

(8) In claims where a dispute has been determined to exist and payment or settlement is not obtained, the investigator shall prepare the case for hearing. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-321, 44-322, 44-322a, 44-324; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

49-21-3. Hearings. (a) Authority of the hearing officer. (1) The hearing officer shall be appointed by the secretary of human resources and shall have the power and authority, in conducting hearings in the name of the secretary, as provided in K.S.A. 44-322:

(A) To administer oaths and examine witnesses under oath;

(B) to issue compulsory process to compel the attendance of witnesses or the production of papers,

books, accounts, records, payrolls, documents or other exhibits relating to claims for unpaid wages; and

(C) to receive depositions and affidavits in the process of the hearing.

(2) The hearing officer shall have authority to conduct the hearing and shall have the discretion to rule on the admissibility of evidence and the examination of witnesses, and to determine the extent to which the rules of evidence will apply.

(3) The hearing officer shall have the discretion to weigh the evidence presented, to make findings of fact and conclusions of law, and to issue orders based on those findings and conclusions. The hearing officer shall explain his or her decision in memorandum form and the memorandum shall accompany the order.

(4) The hearing officer may require good and sufficient reason before granting any continuance or postponement of any hearing for which proper service has been made and may refuse any such request when, in the hearing officer's judgment, the request:

(A) Would cause hardship or undue delay on the adverse party; or

(B) would not allow time for reasonable notice to the parties and witnesses.

(b) Notice of hearing. (1) All parties to the dispute shall be given 10 days written notice of the time and place of the hearing by personal service or by certified mail, return receipt requested. The notice shall contain a brief description of the alleged violations to be determined and shall state that each party may be represented by counsel, may call witnesses on its behalf, may cross-examine adverse witnesses, and may introduce evidence in support of its position.

(2) Subpoenas issued to require the attendance of witnesses or the production of evidence may be served personally or by certified mail, return receipt requested. Either party may request the use of a subpoena to require the production of evidence or the appearance of a witness by making the request no later than five days before the hearing date. Each request shall be specific so as to properly identify the evidence or person to be subpoenaed. Failure to obtain service of any such subpoena shall not be cause for a continuance or postponement of any hearing if improper service is made by the parties to the dispute, when the requesting party has failed to provide accurate or complete information so as to allow such service or when the request does not allow sufficient time to obtain proper service. Final determination of the merits of any such request shall rest with the hearing officer.

(c) Hearing procedures. (1) The burden of proof shall rest with the claimant as to proving that services were performed within an established employment agreement for which payment has not been made. The burden shall be satisfied by testimony or other evidence. Once the claimant has established that an employment agreement existed and that services were performed, the burden of proof to establish payment for those services shall rest with the respondent.

(2) Strict rules of evidence shall not apply and the hearing officer shall have discretion to rule on ques-

(continued)

tions of evidence. All evidence shall be relevant and material to the dispute, and the hearing officer shall determine when a party exceeds the bounds of relevancy. In such a case, the hearing officer may request that the evidence be made relevant to the dispute.

(3) The hearing officer shall make and maintain a tape recording of the hearing until the tape has been duly transcribed and certified to the court as required. Any party desiring a copy of the transcript may make a request to the hearing officer, and upon payment of a reasonable fee as established by the secretary, a transcript shall be furnished to the party by the department of human resources. Any party to the hearing wishing to make a separate record may do so at its own expense, provided that the party furnishes a copy to the secretary of human resources and to the adverse party as soon as it is available from the person making such a record.

(4) Either party to the dispute may be represented by counsel and may call any witness or cross-examine any witness as it feels necessary.

(5) The record on appeal shall consist of the complaint, any response thereto by the employer, any reply by the claimant to the employer's response, the transcript of the proceedings before the administrative tribunal, any exhibits introduced at the hearing, and the order entered by the hearing officer.

That portion of the entire record which is to be filed with the clerk of the district court shall be determined and prepared for filing in accordance with these regulations, but the district court may order any or all additional parts of the entire record to be filed.

(d) Findings of fact, conclusions of law and order.

(1) The findings of fact shall set forth all facts:

- (A) That are supported by the evidence;
- (B) which are relevant to the issues of the claim; and
- (C) that are necessary to support conclusions of law.

(2) The order shall be issued by the hearing officer within 45 days of the hearing and shall include, if required by the facts, any damages assessed because of respondent's willful violation. The order shall contain a certificate of service and shall be served upon each party to the dispute either personally or by certified mail, return receipt requested. The order shall contain a statement that unless the order is satisfied or an appeal is taken to the district court in accordance with K.S.A. 60-2101 within 30 days after entry of the decision, the case will be:

(A) Referred to the secretary of human resources or the secretary's authorized representative for enforcement;

(B) reassigned to the claimant for action in the court through private counsel; or

(C) reassigned to the claimant for action in the small claims court.

(e) Reciprocal enforcement agreement with other states. The secretary of human resources may enter into agreements with other states to collect wages from out-of-state employers and to perform reciprocal services in the state of Kansas for those other states as follows:

(1) The secretary may agree to assist other states in

the investigation of claims filed in the foreign state claiming unpaid wages from a Kansas employer to the extent allowed in K.S.A. 44-322.

(2) The secretary may request other states that are party to the reciprocal agreement to assist in the investigation of Kansas claims filed by employees performing services in Kansas when the employer is located in a foreign state.

(3) The secretary may agree to execute judgments for wage payment in Kansas for other states when the employer is a Kansas employer and to request other states party to the agreement to execute Kansas judgments for wages in those foreign states when the services were performed in Kansas and the employer is located in a foreign state.

(4) The secretary may accept for enforcement claims of an employee in a foreign state when the employee is represented by a private attorney and when the attorney has made application through the state's office having jurisdiction of the wage payment laws to certify same to the secretary of human resources for enforcement.

(5) Determination of claims shall be made by the state having jurisdiction according to the lawful requirements of that state. (Authorized by K.S.A. 44-325; implementing K.S.A. 44-322a, 44-324, 44-327; effective, E-73-23, July 7, 1973; effective Jan. 1, 1974; amended, E-78-38, Dec. 29, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 46.—BOILER INSURANCE, ADMINISTRATION

49-46-1. Insurance company requirements. (a)

Each company insuring one or more boilers located in this state shall perform an inspection, at the times prescribed in K.S.A. 44-923(c) or K.A.R. 49-48-1, of each boiler insured by the company.

(b) If an insurance company fails or refuses to inspect a boiler insured by that company, as required by K.S.A. 44-923(c) and subsection (a) of this regulation, the secretary shall cause the boiler to be inspected by the chief inspector or a deputy inspector. The appropriate fee specified in K.S.A. 44-926 shall be charged for any inspection conducted under this subsection and shall be paid by the owner or user of the boiler.

(c) All insurance companies shall notify the chief inspector, within 30 days, of all boilers on which insurance is written, cancelled, not renewed, or suspended because of unsafe conditions.

(d) In the event a boiler explosion occurs, the owner or user or insurance inspector shall promptly notify the chief inspector by telephone, telegraph or messenger. Neither the boiler, nor any parts of it, shall be removed or disturbed before permission has been given by the chief inspector, except for the purpose of saving human life, limiting consequential damage, or arson investigation. (Authorized by K.S.A. 1982 Supp. 44-916; implementing K.S.A. 44-920, 44-923; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981; amended, T-83-41, Nov. 23, 1982; amended May 1, 1983.)

(continued)

Article 48.—FREQUENCY OF INSPECTION

48-48-1. Certificate inspections; type and frequency. Certificate inspections shall be made pursuant to the following schedule.

(a) Power boilers and high pressure, high temperature water boilers shall receive an annual certificate inspection which shall be an internal inspection, where construction permits, or as complete an inspection as possible where construction does not permit internal inspection. However, an external inspection may, at the discretion of the inspector, serve as a certificate inspection during the initial year of operation for any new boiler. Such boilers shall also be externally inspected while under pressure, if possible. Upon written request by the owner or user of a power boiler or high pressure, high temperature water boiler, the secretary may grant an extension between internal inspections, not to exceed 24 months, with the external inspection on alternate years to be accepted as a certificate inspection, if the following conditions are met:

- (1) Agreement between the secretary and the insurance company responsible for the inspection that an extension be granted;
(2) a continuous boiler water treatment program under competent supervision is in effect for the purpose of controlling and limiting corrosion and deposits on the waterside surfaces;
(3) complete records are available showing the dates the boilers have been out of service, and the reason therefore, since the last internal inspection. The records shall show the nature of any repair or repairs and the reasons for the repairs; and
(4) the report of the last certificate inspection shows no reason why the boiler can not be operated safely.

(b) Low pressure steam and steel hot water heating boilers, as defined by K.S.A. 44-914, shall receive an annual external certificate inspection, except that low pressure steam heating boilers, the construction of which allows internal inspection, shall receive an internal certificate inspection every three years.

(c) Low pressure hot water supply boilers shall receive an external certificate inspection every three years.

(d) The secretary may, upon written request of an insurance company and with the agreement of the owner or user of a boiler, extend the period of validity of a certificate for a period not to exceed 90 days. (Authorized by K.S.A. 1982 Supp. 44-916; implementing K.S.A. 44-923; effective, E-81-38, Dec. 10, 1980; effective May 1, 1981; amended, T-83-41, Nov. 23, 1982; amended May 1, 1983.)

Article 49.—FEE SCHEDULE FOR BOILER INSPECTIONS

49-49-1. (a) Inspection fees:

- (1) Power boilers and high pressure, high temperature water boilers:
Mini boilers \$12.00
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
(2) Heating boilers:
Heating boilers without a manhole \$12.00
Heating boilers with a manhole \$18.00
Hot water supply boilers \$12.00
(3) External inspections: (Power Boilers)
Boilers of 50 sq. ft. of heating surface or less \$12.00
Boilers over 50 sq. ft. of heating surface \$15.00

(4) 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.

(5) All other inspections, including shop inspections, special inspections and inspections of second-hand or used boilers, made by the chief or deputy inspector shall be charged fees of not less than the rate for 1/2 day, plus all expenses, including traveling and hotel.

(b) Certificate fee.

(1) Certificate fee shall be \$10.00.

(Authorized by K.S.A. 1982 Supp. 44-916; implementing K.S.A. 1982 Supp. 44-926; effective, T-83-41, Nov. 23, 1982; effective May 1, 1983.)

HARVEY L. LUDWICK, Ed.D.
Secretary

Doc. No. 001064

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. 1982 Supp. 77-415 et seq. These regulations are scheduled to become effective May 1, 1983, 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 5, 1983 issue of the Register will contain a complete index to regulations effective May 1, and any legislative actions on them.

DEPARTMENT OF HUMAN RESOURCES— DIVISION OF EMPLOYMENT ADMINISTRATIVE REGULATIONS

Article 1.—MEANING OF TERMS

50-1-3. Definitions relating primarily to unemployment compensation contributions. (a) Wages paid. "Wages paid" include both wages actually received by the worker and wages constructively paid. Wages are constructively paid when they are:

(continued)

(1) credited to the account of or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made;

(2) made available so that they may be drawn upon by the worker at any time; and

(3) brought within the worker's own control and disposition, although not then actually reduced to possession.

(b) Market. The term "market" means the place or point where and when the producer or grower of the commodity customarily parts with economic interest in its future form or destiny.

(c) Newspaper carriers. Newspaper carriers are individuals who purchase newspapers at a wholesale price from the publisher for sale, provide their own means of transportation, pay their own expenses, make their own collections, solicit their own customers, receive no salary, wages or other remuneration from the publisher, are not controlled or directed in the details, means or manner of operation by the publisher and whose earnings are derived solely from the resale at a profit of the newspapers. Newspaper carriers shall not be deemed employees of the publisher within the meaning of the Kansas employment security law.

(d) Governmental entity. "Governmental entity" means the State of Kansas, its political sub-divisions, and their instrumentalities.

(e) Contributing employer. "Contributing employer," as defined in K.S.A. 44-703(y), includes any governmental entity electing to become a contributing employer, or any employer other than a reimbursing employer or rated governmental employer, which makes payments to the employment security fund as provided by K.S.A. 44-710, as amended.

(f) Reimbursing employer. "Reimbursing employer," as defined in K.S.A. 44-703(x), includes any governmental entity or eligible non-profit organization or groups of organizations which elect to make payments in lieu of contributions to the employment security fund as provided by K.S.A. 44-710(e)(1).

(g) Predecessor employer. "Predecessor employer" means an employer, as described in K.S.A. 44-703(h), who has previously operated a business or portion of a business with employment to which another employer has succeeded. (Authorized by and implementing K.S.A. 44-703, 44-714(a); effective Jan. 1, 1966; amended Jan. 1, 1972; amended May 1, 1980; amended May 1, 1983.)

50-1-5. Meaning of terms relating to successor classification. The following terms are used when determining whether an employing unit is to be classified as a successor employer when acquiring the business of a predecessor employer in accordance with K.S.A. 44-703(h)(4) and 44-710a(b)(1).

(a) Employing enterprises. "Employing enterprises" means those business locations with employment.

(b) Organization. "Organization" means employees or employee positions required to continue the business.

(c) Trade. "Trade" means the clientele or customers which frequent the business.

(d) Business. "Business" means the goods sold, the services provided or some combination thereof.

(e) Assets. "Assets" means all items which are necessary to the normal operations of the day-to-day business. (Authorized by K.S.A. 44-714; implementing K.S.A. 44-703, 44-710a; effective May 1, 1983.)

Article 2.—UNEMPLOYMENT INSURANCE; CONTRIBUTING, REIMBURSING AND RATED GOVERNMENTAL EMPLOYMENT

50-2-3. Payment of contributions and benefit cost payments. (a) Contributions and benefit cost payments with respect to wage payments. Contributions and benefit cost payments shall be payable for each calendar quarter with respect to wages paid during that calendar quarter.

(b) Contributions and benefit cost payments when payable. Except as otherwise provided in this regulation, contributions and benefit cost payments shall become due on, and shall be paid on or before, the 25th day following the close of the calendar quarter in which the wages are paid.

(c) First contribution and benefit cost payment. The first contribution and benefit cost payment of any employing unit which becomes an employer at any time during the calendar year shall, except as otherwise provided in this regulation, become due on, and shall be paid on or before, the 25th day following the close of the quarter in which the employing unit becomes an employer and shall include contributions and benefit cost payments with respect to all wages paid during that calendar year up to and including the last day of that calendar quarter.

(d) Contributions and benefit cost payments—payment on notice of liability. Whenever the secretary or the secretary's authorized representative has, in writing, advised an employing unit that it has been determined not to be an employer or that services performed for it do not constitute employment, and when a legal obligation on the part of that unit to pay contributions and benefit cost payments is subsequently established, accrued contributions and benefit cost payments shall become due and interest shall accrue thereon 10 days after the employing unit is informed of its liability.

(e) Assessment of penalty and interest on newly subject employers. New employers subject to this act who fail to file wage reports and pay contributions and benefit cost payments due within the 10-day period authorized by K.S.A. 44-717(a) shall be assessed penalty and interest from the first contribution and benefit cost payment due date shown on the form "notice of establishment or change" mailed to the employer.

(f) First contribution and benefit cost payment—payment; elective coverage. The first contribution and benefit cost payment of any employing unit which elects to become an employer or to have nonsubject services performed for it deemed employment shall upon notice of approval of that election by the secretary become due on, and shall be paid, except as otherwise provided by this regulation, on or before the

(continued)

25th day following the close of the calendar quarter which includes:

- (1) The effective date of such election; or
- (2) The date of approval, whichever is later.

The first payment shall include contributions and benefit cost payments with respect to all wages for services covered by the election paid on and after the effective date and up to and including the last day of such calendar quarters.

(g) Saturdays, Sundays and holidays. When the regular payment day for any employer falls on Saturday, Sunday or a legal holiday, the payment shall be due and payable on the first regular business day following the payment day.

(h) Mail payments. Payments received through the mail shall be deemed to have been made on the date received by the division of employment, 401 Topeka avenue, Topeka, Kansas.

(i) Payment by check. When payment is made by check, the checks shall be payable to the Kansas employment security fund.

(j) Past due payments. Any employer who fails to pay any applicable contributions, payment in lieu of contributions or benefit cost payment when due shall be subject to the interest, penalty and actions provisions of K.S.A. 44-717. (Authorized by and implementing K.S.A. 44-710(a), 44-717; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1974; amended May 1, 1980; amended May 1, 1983.)

50-2-7. (Authorized by K.S.A. 44-714(a); effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1983.)

50-2-8. (Authorized by K.S.A. 44-710b(d); effective Jan. 1, 1966; amended May 1, 1980; revoked May 1, 1983.)

50-2-17. Classification of employers by industrial activity. All employers subject to the Kansas employment security law shall be classified by industrial activity in accordance with the requirements set out in the standard industrial classification manual, prepared by the statistical policy division of the executive office of the president—office of management and budget, published in 1972 and available for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (Authorized by and implementing K.S.A. 44-710a; effective May 1, 1983.)

50-2-18. Surety bond or surety deposit requirements for reimbursing employers. Each employer who elects to become liable for payments in lieu of contributions in accordance with K.S.A. 44-710(e)(1) shall be required to file with the secretary a surety bond or surety deposit as set forth in K.S.A. 44-710(e)(2)(F). (a) *Minimum time period.* The bond or deposit shall be required for a minimum period of four complete calendar years. If, at the close of that time period (or such like time period), the employer has a history of timely reporting and prompt payment of reimbursing employer's quarterly benefit charges, the secretary shall no longer require the surety bond or deposit.

(b) *Termination or inactivity.* Any reimbursing

employer who ceases to be an employer under the Kansas employment security law while a surety bond or deposit is in effect shall be required to maintain that bond or deposit for a minimum period of three years after required reporting of wages ends.

(c) *Surety amount when wages not paid during four calendar quarters immediately preceding effective date of election.* The surety amount shall not exceed 3.6% of an estimate of the organization's taxable wages for a four calendar quarter period. If an organization has an increase in employment during the time a surety bond or deposit is required, the secretary or the secretary's authorized representative may require the organization to increase the amount of the bond or deposit. The employer shall be notified of the increase within 60 days after the beginning of the calendar year in which the change is to be effective and the employer shall have 30 days from the date of mailing of the notice to file the increased surety bond or deposit. (Authorized by and implementing K.S.A. 44-710(e); effective May 1, 1983.)

50-2-19. Contribution appeal process for employers. The following provisions shall govern the appeal process provided to resolve any protest to any determination pursuant to K.S.A. 44-703, 44-710, 44-710a, 44-710b and 44-710d. (a) *Request for administrative review.* The administrative review shall be made by the chief of contributions or the chief of contributions' authorized representative based upon facts presented or upon additional facts furnished by the employer or secured by the agency. An appeal of the chief of contributions' or the chief's authorized representative's determination shall not stay the enforcement of the order made unless the chief of contributions or the authorized representative orders a suspension of enforcement.

(1) *Notice of liability determinations.* The secretary of human resources or the secretary's authorized representative shall notify each employer of any determination made pursuant to K.S.A. 44-703 and amendments thereto, including but not restricted to, employer liability; employer-employee relationships; wages; agricultural labor and domestic service. That determination shall become conclusive and binding upon the employer, unless within 20 days after the mailing of notice of the determination to the employer's last known address, or within 15 days after the delivery of that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons an administrative review is desired.

(2) *Notice of contribution rate or benefit cost rate.* The secretary of human resources or the secretary's authorized representative shall notify each contributing employer of its rate of contributions and each rated governmental employer of its benefit cost rate for any calendar year pursuant to K.S.A. 44-710, 44-710a and 44-710d. Those determinations shall become conclusive and binding upon the employer, unless within 15 days after the mailing of notice to the employer's last known address, or within 15 days after the delivery of

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that notice, the employer requests, in writing, an administrative review. The request shall set forth the reasons a review is requested.

(3) *Notice of benefit payments.* Notice shall be given annually to each contributing employer and each rated governmental employer of the benefits paid and charged to its account during the 12-month period immediately preceding the computation date. Notice shall be given quarterly to each reimbursing employer of the reimbursable benefits paid during the previous calendar quarter. Each employer shall have 20 days from the mailing of the notice to the employer's last known address, or within 15 days after delivery of the notice to the employer, to request in writing an administrative review to protest the correctness of the *pro rata* charges of benefit payments to the employer's account. Nothing in this regulation shall be construed to permit the protest of the eligibility of a claimant to receive benefits under K.S.A. 44-705 or to protest a prior determination of chargeability at the time a valid new claim is presented under K.S.A. 44-710(c). In the absence of the request in writing for an administrative review, the benefits paid and charged to the employer's account shall become conclusive and binding upon the employer for all purposes.

(4) *Notice of transfer of experience rating factors.* Notice shall be given to the predecessor and successor employer of the transfer of experience rating factors of a predecessor employer whose business has been acquired by a successor employer as defined in K.S.A. 44-710a(b). That determination shall become conclusive and binding upon the predecessor and the successor, unless within 20 days after mailing of notice thereof to the predecessor's and successor's last known address, or within 15 days after the delivery of the notice, the predecessor employer, the successor employer or both request, in writing, an administrative review.

(b) *Request for administrative hearing.* (1) The employer shall be notified within 60 days of the results of the administrative review, in writing, by the chief of contributions or an authorized representative. The results of the administrative review shall become conclusive and binding upon the employer unless, within 20 days after the mailing of notice thereof to the employer's last known address, or within 15 days after the delivery of that notice, the employer requests, in writing, an administrative hearing. The request shall include the reasons a hearing is desired.

(2) If the secretary of human resources or the secretary's authorized representative grants an administrative hearing, the employer shall be notified of that determination within 10 days and shall be granted an opportunity for a fair hearing before the secretary or an authorized representative.

(3) At the administrative hearing, which shall be held in Topeka, the employer shall be entitled to be present; to be represented by counsel or by a designated representative of the employer's choice, at the employer's own expense; to present oral testimony or written evidence or both; to examine witnesses and

documents; to cross-examine witnesses; and to offer rebuttal testimony or evidence.

(4) Witnesses may be subpoenaed to present books, papers, records, etc. or to give oral testimony as provided in K.S.A. 44-714(h), (i) and (j).

(c) *Judicial review.* The employer shall be notified within 30 days of the secretary's findings as a result of the administrative hearing. An appeal may be taken from the order of the secretary or an authorized representative pursuant to K.S.A. 44-710b(b) or K.S.A. 1982 Supp. 60-2101(d), whichever is applicable. (Authorized by K.S.A. 44-714; implementing K.S.A. 44-703, 44-710, 44-710a, 44-710b, 44-710d; effective May 1, 1983.)

50-2-20. Notice of effective date of election or termination of reimbursing employer status. Any governmental entity, nonprofit organization or any group of nonprofit organizations identified in K.S.A. 44-710(e)(1), shall be notified by mail of the effective date of their election to become a reimbursing employer for a minimum period of four complete calendar years. An employer shall also be notified by mail of the effective date of the termination of the reimbursing employer payment option when applicable. Employers terminating their reimbursing employer status shall remain liable for reimbursing payments until all wage credits on file as a reimbursing employer are no longer used in determining benefit entitlement. (Authorized by and implementing K.S.A. 44-710(e)(1)(E); effective May 1, 1983.)

50-2-21. Computation of employer contribution rates. (a) The terms "total wages" and "taxable wages" used in this section shall refer to all payrolls reported and received by September 1, following the computation date of June 30 for all employment during the fiscal year ending on the computation date. The director of data processing shall provide such certified payroll information as of September 30, required for the computation delineated in this section.

(b) *Planned yield.* The approximate amount of the planned yield for the ensuing calendar year shall be computed as follows:

(1) The planned yield on total wages in column B of schedule III, K.S.A. 44-710a(2) shall be determined by the reserve fund ratio in column A of the same schedule. The reserve fund ratio shall be computed by dividing the total assets of the employment security fund, as of July 31, following the computation date and as certified by the chief of management, by the total payrolls for the preceding fiscal year ended June 30, as certified by the director of data processing.

(2) The average rate of contributions shall be determined by multiplying the ratio of total to taxable payrolls for the preceding fiscal year ended June 30 by the planned yield computed in paragraph (b)(1) of this section.

(3) The approximate amount of the planned yield for the ensuing calendar year shall be the taxable wages for the previous fiscal year ended June 30, multiplied by the average rate of contributions computed in paragraph (b)(2) of this section, rounded to the nearest \$100,000.00.

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(c) *Estimated yield from ineligible employer accounts.*

(1) Estimated contributions for industry-rated employers.

(A) The computation shall be made utilizing a certified tabulation provided by the director of data processing entitled "all accounts except reimbursing—cross classification by rate and industry." The computation procedure shall be identical for the average rate for all industries and for each industry division. The rate of the preceding calendar year for each rate group and the industry division shall be cumulatively multiplied times the taxable wages in each corresponding rate group for that industry division. The cumulative total shall be divided by the total taxable wages in that industry to determine the industry rate. The assigned rate for each industry shall be the computed rate or the average rate of all employers, whichever is higher, not to exceed the statutory maximum nor less than a 1.0% rate.

(B) The average rate for all industries shall be computed by cumulatively multiplying the calculated rate of each industry division times the total taxable wages for that industry division and dividing the cumulative total by the total taxable wages for all industry divisions.

(C) The estimated contributions for each specially rated industry division and all other divisions shall be computed by multiplying the taxable wages for the corresponding industry divisions or all other industry divisions by the appropriate assigned rate.

(2) The total estimated yield for active ineligible accounts shall be the sum of the estimated contributions for industry-rated employers.

(3) Negative balance employers as defined in K.S.A. 44-710a(d) shall pay at the statutory maximum tax rate. In addition, negative balance employers shall be assessed a surcharge based on the size of the employer's negative reserve ratio. The director of data processing shall provide a certified listing of all negative balance employers. The listing shall contain the reserve ratio, number of employers, and taxable wages for the fiscal year ended June 30. All negative balance employers will then be identified as shown in schedule II of K.S.A. 44-710a. The estimated contributions of negative balance employers shall be computed by adding the surcharge as shown in schedule II of K.S.A. 44-710a to the existing statutory maximum and multiplying the sum times the taxable wages of each group. The resultant cumulative product will then reflect the estimated yield from negative balance employers.

(d) *Required yield from eligible employer accounts.* The required yield for eligible employer accounts shall be the approximate amount of the average yield, developed in (b)(3) of this section less the total estimated yield of active ineligible employer accounts computed in (c)(2) of this section and less the total estimated yield of negative balance employers computed in (c)(3) of this section.

(e) *Rate adjustment for active eligible employer accounts.*

(1) The director of data processing shall provide a certified array of all active eligible employer accounts

in accordance with schedule I, K.S.A. 44-710a. The tabulation shall include:

- (A) The lowest reserve ratio in each rate group;
- (B) the number of employers in each rate group;
- (C) the amount of taxable wages in each rate group;
- (D) the cumulative amount of taxable wages for all accounts from the first through each succeeding rate group; and

(E) The final total taxable payrolls for the fiscal year ended June 30, for all active eligible employer accounts.

(2) The average rate required shall be the required yield for eligible employer accounts, determined in paragraph (d) of this section, divided by the total taxable payrolls listed in paragraph (e)(1)(E) of this section.

(3) The average rate required shall be divided by the average estimated yield of the array to develop an adjustment factor. The average estimated yield of the array shall be computed by cumulatively multiplying the taxable payrolls in each rate group by the experience factor denoted for each rate group in schedule I, K.S.A. 44-710a(2) and dividing by the total taxable payrolls for active accounts. The experience factor for each rate group in schedule I shall then be multiplied by the adjustment factor to determine the adjusted tax rate for each rate group, with the statutory maximum as an upper limit.

(4) The taxable payrolls for each rate group shall be multiplied by the adjusted tax rate computed for each rate group to determine the estimated contributions for each rate group.

(A) Should the adjusted tax rate reached the statutory maximum at a rate group numerically lower than group 21, or if group 21 computes to higher than the statutory maximum, the adjusted tax rates shall be adjusted further. Only rate groups 19, 20 and 21 may be placed at the statutory maximum. Any other rate groups below 19 which compute to the maximum shall be reduced in increments of .01%. The estimated additional contribution incurred because of the statutory maximum limit of groups 19-21 and the step down in .01% increments to additional groups shall be prorated over rate groups other than those that are unadjustable. The taxable payrolls and estimated contributions of the unadjustable groups shall be subtracted, respectively, from the totals of all groups and the balances used in the readjustment.

(B) The readjustment shall be accomplished by dividing the total estimated contributions of the adjustable groups by the total taxable payrolls of the adjustable rate groups to determine the required rate of yield for those groups. The estimated rate of yield for these rate groups shall be computed by cumulatively multiplying the experience factor by the corresponding taxable payroll in each rate group and dividing the cumulative total by the total taxable wages of these rate groups. The required rate of yield shall be divided by the estimated rate of yield for the adjustable groups to determine the final adjustment factor.

(C) The experience factors of all rate groups in schedule I shall be multiplied by the final adjustment

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factor to determine the final effective contribution rates for all eligible contributing employers, limited to the statutory maximum and those, if applicable, to the step-down procedure.

(f) A computation and listing of the effective employer contribution rates shall be prepared by the chief, research and analysis, and submitted to the executive director. (Authorized by and implementing K.S.A. 44-710; effective May 1, 1983.)

Article 3.—UNEMPLOYMENT INSURANCE BENEFITS

50-3-1. Employing unit requirements. (a) Benefit posters. Each employer shall post and maintain an unemployment benefit poster and the certificate of registration as an employer in a conspicuous place in each plant, branch or establishment maintained by that employer. The division shall furnish each employer sufficient copies of the poster and certificate to enable compliance with this regulation.

(b) Notice of partial unemployment. Immediately after the termination of any week in which an employer because of lack of work has furnished any worker in his or her employ less than four full days of work, and if the earnings for that work are less than the maximum weekly benefit amount established for the current calendar year by the secretary in accordance with K.S.A. 44-704(b), the employer shall give each affected worker a notice of partial unemployment. That notice shall be in the form prescribed by the division. No form or notice as described shall be required with respect to any worker if the employer has been notified of the weekly benefit amount and the allowance of benefits to that worker.

(c) Request for separation information by the division. Employing units shall furnish separation information to the division in response to a request for that information covering a specific worker. An employing unit shall, within 48 hours following receipt of a request from the division for separation information covering a specific worker, completely fill out the request and return it to the specified address.

(d) Notice of labor dispute. In all cases of unemployment due to a strike, lockout or other labor dispute, the employer shall at once fill out notice of labor dispute, in the form prescribed by the division, setting forth the approximate number of workers affected. The original form and a duplicate shall be mailed to the division's administrative office in Topeka, Kansas.

(e) List of workers affected by labor dispute. Upon request by the division, an employing unit shall furnish the division with a list showing the names and social security numbers of all workers ordinarily performing services in the department or establishment where unemployment is or was caused by a strike, lockout or other labor dispute.

(f) Refusal of work. Whenever a worker who is currently claiming benefits for unemployment refuses an offer of work made by an employing unit, that employing unit shall immediately report the refusal by furnishing a completed notice of refusal of work to the division. That notice shall be in the form prescribed

by the division and shall furnish the name and social security account number of the worker, nature of the work and duties required of the worker, location of the work, date that work would begin, duration of the work, wages, hours, union requirements, how the offer was made, date of offer, date of refusal, reason given by the worker for refusal, and any other information as required by the form.

(g) Low earnings report. The employing unit shall, immediately after the termination of each payroll period, furnish each worker in its employ who has made a claim for benefits for partial unemployment with a low earnings report, in the form as prescribed by the division, for each week during the worker's current benefit year in which the worker was employed less than full time because full-time work was not available and in which the worker earned less than that worker's weekly benefit amount. The employing unit shall continue to make these reports for each such week until otherwise notified by the division.

Payroll byproducts. The employing unit may, in lieu of the prescribed low earnings report, if authorized by the division, furnish written evidence concerning the partial unemployment of a worker by means of a pay envelope, pay-check stub or copy thereof, or other suitable medium approved by the division, if the information contained in that medium is in ink or type-written, and it shows:

- (1) The name of the employing unit;
- (2) the name and social security account number of the worker;
- (3) the amount of wages earned by weeks and the ending date of each such week;
- (4) the following certification (individual or rubber stamp): "I certify that the above amount represents reduced earnings in a week of less than full-time work because of lack of work."; and
- (5) A signature (actual or facsimile) by the employing unit to the above certification, or other positive identification of the authority supplying the evidence.

(h) Information pertaining to workers scheduled for mass layoff. Upon receiving a request from the division, an employer shall furnish the division with a list of employees scheduled to be involved in a mass layoff showing the name, home address, social security number and scheduled date of layoff for each employee. In addition, if the layoff is of an indefinite duration, the employer shall issue an unemployment insurance claim packet furnished by the division to each employee involved in the layoff.

If the duration of the layoff is not expected to exceed four weeks, the employer shall issue to each employee involved in the layoff a form furnished by the division entitled "notice of temporary unemployment." This form, if completed and delivered or mailed to the division within 16 days, will serve as a new or additional application or claim and a registration for work.

(i) Employing unit response to notice of allowed initial claim. The division shall notify the claimant most recent employing unit of the examiner's determination respecting each allowed initial claim. That notice shall include identification of the worker and of

(continued)

the last employing unit, the ending date of last employment and the reason for separation, all as certified by the worker. Any employing unit, upon receipt of a notice of allowed initial claim, shall immediately verify the accuracy of the worker's certifications and, if any error is found, shall furnish the division corrected information within 16 days following the date the notice was mailed to the employer.

(j) Employer response to base period employer notice. Any employer receiving a base period employer notice who desires to request reconsideration of a charge to the employer's experience rating account shall, within 16 days from the date the notice was mailed to the employer, complete and mail to the division's administrative office in Topeka, Kansas, a "notice of separation and request for reconsideration under section 44-710(c), Kansas employment security law." The division shall furnish a notice of separation and request for reconsideration form with each base period notice. The employer may request reconsideration upon that form, and shall enter:

(1) A contention that the worker was separated from most recent employment with that employer, prior to filing a new application for benefits, either because the individual was discharged for misconduct connected with the individual's employment or voluntarily left without good cause attributable to the individual's employment; or

(2) The employer's contention that the worker was a part-time employee during the base period and is continuing in that part-time employment.

The employer shall also provide a complete explanation of the circumstances; the date of separation, if any; the signature and title of the person completing the form for the employer; the employer's firm name and address; the date the form is completed; and any other information required by the form.

(k) Reports to verify earnings. The division is authorized to require special reports from any employing unit to verify earnings of individuals who have performed services for that employing unit when that information is needed for any purpose connected with the orderly administration of the benefit provisions of the unemployment insurance law of any state or of the federal government. In response to a request to verify earnings, any employing unit shall, within three days from the date the request is received, unless a longer interval for reply is specified in the request, furnish all of the information requested and in the form stipulated. (Authorized by and implementing K.S.A. 44-705(a) and (b), 44-709(a), 44-710(c), 44-714(a) and (f); effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; amended May 1, 1983.)

50-3-2. Initial claims for benefits; intrastate workers. (a) Reporting to file initial claim. An unemployed worker shall report in person to a representative of the division at any district unemployment insurance office or itinerant office utilized by the division to file an initial claim. If that worker lives outside a county in which an office is located, the worker shall be permitted to file an initial claim by mail.

(b) Effective date of initial claim. The effective date

of an initial claim shall be the first day of the calendar week in which the filing date, as defined in section (c) of this regulation, occurs, unless otherwise provided. The effective date of initial claims for partial unemployment shall be the first day of the first week of less than full-time work. The ending date of that week shall not be more 14 days prior to the filing date of the claim. When filing occurs with respect to a week which overlaps a preceding benefit year, the effective date shall be the first day immediately following the expiration date of the preceding benefit year.

(c) Filing date of initial claims.

(1) Claim filed in person at a local job service office. The filing date of initial claims filed by workers during a visit in person to a district office or itinerant office shall be the actual date of the visit.

(2) Claims filed in person at an itinerant office. The filing date of initial claims filed by workers during a visit to an itinerant office shall be the first date of the worker's unemployment, if that worker has reported to file an initial claim no later than the first time the itinerant office was open following the first date of unemployment. Otherwise, the filing date shall be the actual date of the visit.

(3) Deferred filing. When a worker visits a district office or an itinerant office for the purpose of filing an initial claim, is given claim forms for completion and directed by a division representative to complete and return the forms to the district office or the itinerant office, the filing date of the initial claim shall be the actual date of the visit. If the completed claim forms are not returned or mailed to the district office or the itinerant office before the end of the calendar week following the actual date of the visit, the filing date of the initial claim shall be the actual date the completed forms were received in the district office or itinerant office.

(4) Claim filed by mail. The filing date of initial claims filed by mail by workers living outside a county in which the district office or itinerant office is located, shall be the date the worker mailed a written request to the division for claim forms. If the worker fails to return the completed forms to the district office by the end of the calendar week following the week in which the forms were mailed to the worker, the filing date of the initial claim shall be the actual date the forms were received in the district claims office.

(d) Late filed initial claim.

(1) By totally or part-totally unemployed workers. If the effective date of an initial claim, established in accordance with section (b) of this regulation, is later than the first day of the calendar week in which the worker became unemployed because of a late filing date, and the worker establishes good cause for late reporting in accordance with K.A.R. 50-3-4(a) and files the initial claim in person during the second consecutive week in which the individual is unemployed, or for workers served by an itinerant office, in person or by mail, during the week following the week in which the itinerant office was open, then the effective date of the claim shall be the first day of the week in which the worker became unemployed.

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(2) By partially unemployed workers. If a worker is late reporting to file an initial claim and establishes good cause for the late reporting in accordance with K.A.R. 50-3-4(b), and if the worker files the initial claim by the end of the calendar week following the week after the employee has received notice of potential rights to benefits and of the employee's earnings during the period of partial and temporary unemployment, the effective date of the employee's claim shall be the first day of the week in which the individual became unemployed; this effective date shall not apply, in any case when the initial claim is filed more than 13 weeks following the close of the benefit year.

(e) New claims. A new claim for benefits shall be filed on a form entitled "unemployment insurance application" which shall set forth that the worker has registered for work, the dates and reasons for separation from recent employment, and any other information as prescribed by the division in the form. A new claim for benefits filed by a partially unemployed or temporarily unemployed worker shall constitute that employee's registration for work. Claims personnel shall give each claimant necessary and appropriate assistance as they reasonably can, including referral to the public employment office most accessible to the employee.

Those employees temporarily unemployed, partially unemployed or affiliated with a union which customarily places their members in employment may be excused from registration for work. A mutual exchange of information regarding services to claimants shall be maintained between the public employment office most accessible to the employee and claims personnel.

(f) Additional claims. A worker having previously established a benefit year which has not ended shall reinstate the claim by filing an additional claim if the employee has earned wages equal to or in excess of the employee's weekly benefit amount or has failed to continue the claim for one or more consecutive weeks and has had intervening employment. The additional claim shall be filed on a form entitled "additional unemployment insurance application" which shall set forth that the worker has registered for work, the date and reasons for separation from recent employment, and such other information as the division may prescribe in the content of the forms. An additional claim for benefits filed by a partially unemployed or temporarily unemployed worker shall constitute that employee's registration for work. (Authorized by and implementing K.S.A. 44-709(a); effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1974; amended May 1, 1980; amended May 1, 1983.)

50-3-5. Benefit payments; interstate workers. (a) Interstate cooperation. The division of employment shall cooperate with other states adopting a similar regulation for the payment of benefits to interstate claimants.

(b) Registration for work.

(1) Registration in agent state. Each interstate claimant shall be registered for work at a public employment office in the agent state when and as re-

quired by the law, regulations, and procedures of the agent state. That registration shall be accepted as meeting the registration requirements of the liable state.

(2) Reports by agent state. Each agent state shall duly report, to the liable state in question, whether each interstate claimant meets the registration requirements of the agent state.

(c) Benefit rights of interstate claimants. If a claimant files a claim against any state, and if it is determined by that state that the claimant has available benefit credits in the state, then claims shall be filed only against the state as long as benefit credits are available in that state. Thereafter, the claimant shall file claims against any other state in which there are available benefit credits. For the purposes of this regulation, benefit credits shall be deemed to be unavailable whenever benefits have been exhausted, terminated, or postponed for an indefinite period or for the entire period in which benefits would otherwise be payable, or whenever benefits are affected by the application of a seasonal restriction.

(d) Claims for benefits.

(1) Claims for benefits or a waiting period shall be filed by interstate claimants on uniform interstate claim forms and in accordance with uniform procedures developed pursuant to the interstate benefit payment plan. Claims shall be filed in accordance with the type of week in use in the agent state. Any adjustments required to fit the type of week used by the liable state shall be made by the liable state on the basis of consecutive claims filed.

(2) Claims shall be filed in accordance with agent state regulations for intrastate claims in local employment offices or at an itinerant office, or by mail.

(A) With respect to claims for weeks of unemployment in which an individual was not working for the individual's regular employer, the liable state shall, in circumstances which it considers good cause, accept a continued claim filed up to one week, or one reporting period late. If a claimant files more than one reporting period late, an initial claim shall be used to begin a claim series and no continued claim for a past period shall be accepted.

(B) With respect to weeks of unemployment during which an individual is attached to the individual's regular employer, the liable state shall accept any claim which is filed within the time limit applicable to these claims under the law of the agent state.

(e) Determination of claimants. The agent state shall, in connection with each claim filed by an interstate claimant, ascertain and report to the liable state in question such facts relating to the claimant's availability for work and eligibility for benefits as are readily determinable in and by the agent state.

(1) Investigation and reports. The agent state's responsibility and authority in connection with the determination of interstate claims shall be limited to investigation and reporting of relevant facts.

(2) The agent state shall not refuse to take an interstate claim.

(f) Appellate procedure. The agent state shall afford

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all reasonable cooperation in the taking of evidence and the holding of hearings in connection with appealed interstate benefit claims.

With respect to the time limits imposed by the law of a liable state upon the filing of an appeal in connection with a disputed benefit claim, an appeal made by an interstate claimant shall be deemed to have been made and communicated to the liable state on the date when it is received by any qualified officer of the agent state.

(g) Interstate claims taken in and for Canada. All of the provisions of this regulation shall apply to claims taken in and for Canada. (Authorized by and implementing K.S.A. 44-714(k); effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1980; modified, L. 1981, ch. 421, May 1, 1981; amended May 1, 1983.)

HARVEY L. LUDWICK, Ed.D.
Secretary

Doc. No. 001065

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. 1982 Supp. 77-415 *et seq.* *These regulations are scheduled to become effective May 1, 1983, 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 5, 1983 issue of the *Register* will contain a complete index to regulations effective May 1, and any legislative actions on them.

**DEPARTMENT OF
HUMAN RESOURCES—
DIVISION OF
WORKERS' COMPENSATION
ADMINISTRATIVE REGULATIONS**

Article 1.—FORMS

51-1-1. Forms. Forms filed with the division of workers' compensation, whether they are forms designated to be furnished by the division of workers' compensation or forms which are designated to be procured by the party filing the forms, shall be forms prescribed by or substitute forms approved by the director of workers' compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505, 44-508, 44-510b, 44-527, 44-532, 44-534, 44-534a, 44-542a, 44-543, 44-557, 44-567; effective Jan. 1, 1966; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1983.)

51-1-2. (Authorized by K.S.A. 1977 Supp. 44-505, 44-557, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended Jan. 1, 1974; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-3. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-4. (Authorized by K.S.A. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-5. (Authorized by K.S.A. 44-527, K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-6. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-7. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended

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Jan. 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-8. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-8a. (Authorized by K.S.A. 1977 Supp. 44-534a, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-10. (Authorized by K.S.A. 1977 Supp. 44-505, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-10a. (Authorized by K.S.A. 1977 Supp. 44-505, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-11a. (Authorized by K.S.A. 1977 Supp. 44-542a, 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-11b. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-12a. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-12b. (Authorized by K.S.A. 1977 Supp. 44-573; effective, E-74-31, July 1, 1974; effective May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-20. (Authorized by K.S.A. 1977 Supp. 44-573, 44-5a21; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-22. Form 88, notice of handicapped employee. Upon application to and approval by the director, a form other than form 88 may be used by employers to report the names of handicapped employees. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-567; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended July 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended May 1, 1983.)

51-1-23. (Authorized by K.S.A. 1977 Supp. 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-1-24. (Authorized by K.S.A. 1977 Supp. 44-510b, 44-573; effective May 1, 1978; revoked May 1, 1983.)

51-1-25. (Authorized by K.S.A. 1977 Supp. 44-532, 44-573; effective May 1, 1978; revoked May 1, 1983.)

Article 2.—FEES

51-2-2. (Authorized by K.S.A. 1972 Supp. 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; revoked May 1, 1983.)

51-2-4. Distribution of transcripts of hearing or deposition. (a) Each shorthand reporter who takes and transcribes the proceedings at a hearing, or testimony at a deposition, which is to be used as evidence in a claim before the division of workers' compensation shall furnish the original transcript of that hearing or deposition to the administrative law judge, one copy to the employer, insurance carrier or their attorney, and one copy to the claimant or the claimant's attorney.

(b) In cases involving the workers' compensation fund, the reporter shall also furnish one copy of the transcript of hearing or deposition to the attorney representing that fund.

(c) In settlement cases the reporter shall furnish the original transcript to the director within two weeks. The transcript of the settlement hearing shall constitute a written final award. Copies of the settlement transcript shall be furnished to other parties only on request. Settlement transcripts shall be bound only by stapling without front or back covers. Reporters' fees in settlement cases shall be paid by the respondent unless otherwise indicated in the settlement.

(d) The fees of the reporter for hearings and depositions, including all copies furnished as provided herein in this regulation, shall be paid by the respondent upon completion of the transcript by the reporter. The fees shall be assessed by the administrative law judge in the final award. If the fees are assessed against a party other than the respondent, and if the respondent has paid the fees, the party against whom they are assessed shall make the necessary reimbursement.

(e) The director shall make a determination of the accuracy of a reporter fee if the accuracy is challenged by a proper request. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-552; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1980; amended May 1, 1983.)

Article 3.—TERMINATION OF COMPENSABLE CASES

51-3-1. Methods of termination. Compensable cases shall be determined and terminated only by four modes of procedure under the act:

(a) by filing a settlement agreement, final receipt and release of liability as provided by K.S.A. 44-527;

(b) by hearing and written award;

(c) by joint petition and stipulation subject to 51-3-16; or

(d) by settlement hearing before an administrative

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law judge. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-521, 44-523, 44-534; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-3-2. Settlement agreement, final receipt and release of liability. A settlement agreement, final receipt and release of liability shall cover all compensation paid and it should not be taken until the disability has terminated, or in case of permanent partial disability, until a final determination of the percentage of that permanent partial disability may be definitely ascertained. No compromise settlements (agreements to a disability rating) shall be made on a final release; the accompanying physician's report shall be in conformity with the amount paid for the disability payment except when the rating is an average between the ratings expressed by the doctors.

Dates and figures required shall be specific and accurate, and only in exceptional instances where explanation is necessary may insertions or additions be made.

The final release shall be signed by the claimant and the signature shall be notarized. The final release form shall be accompanied by a physician's final report and by an accident report if the report has not already been filed with the division of workers' compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-527; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-3-4. Setting aside settlement agreement, final receipt and release of liability. If a proceeding to set aside a settlement agreement, final receipt and release of liability is to be commenced, it shall be done by filing with the Director an application containing all necessary facts, together with an application for hearing, in the same manner as the procedure required for a claim to determine compensation.

The test to determine if the settlement agreement, final receipt and release of liability should be set aside, shall be whether it provides compensation for the injuries sustained in the accident or the disability from occupational disease for which the claim was made. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-527; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-3-5. Closing compensable cases by hearing. If there is a dispute between the employer and the worker as to compensation due and hearings are held before the administrative law judge for a determination of the issues, upon completion of submission of their evidence, each party shall write to the administrative law judge and Director a letter submitting the case for decision. The administrative law judge shall not stay a decision due to the absence of a submission letter filed in a timely manner. The submission letter shall contain a list of the evidence to be considered by the administrative law judge in arriving at a decision. That list shall include:

(a) The dates and name of the administrative law judge for each hearing held and a list of exhibits submitted at each hearing;

(b) the date and name of witnesses in each deposition taken and a list of exhibits submitted at each deposition;

(c) a description of any stipulations entered into by the parties outside of a hearing or deposition;

(d) a list of any other exhibits which should be contained in the record;

(e) an itemization of all medical expenses which are in issue;

(f) an itemization of all medical expenses not in issue but which a party wishes itemized in the award; and

(g) a list of the issues to be decided by the administrative law judge together with a list of those items to which the parties have stipulated. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-523, 44-534; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-3-5a. Procedure for preliminary hearings. To make an application for preliminary hearing, the claimant shall file with the division of workers' compensation an application for preliminary hearing form, and an application for regular hearing form, along with a copy of the notice letter required by K.S.A. 44-534a. The notice letter shall be dated at least seven days prior to the date of the preliminary application.

If an administrative law judge has entered a preliminary award, a director's review pursuant to K.S.A. 44-551 shall not be entertained except if it is believed the administrative law judge exceeded the authority of an administrative law judge in entering the award. Compensation shall be awarded by the administrative law judge, if appropriate, for temporary total disability compensation and medical compensation from the date of receipt of the application for preliminary hearing by the division of workers' compensation. Except in highly unusual circumstances, the administrative law judge shall not award compensation for the period of time prior to the filing date of the application. Medical reports or any other records or statements shall be considered by the administrative law judge at the preliminary hearing. However, the reports shall not be considered as evidence when the administrative law judge makes a final award in the case, unless all parties stipulate to the reports, records or statements or unless the report, record or statement is later supported by the testimony of the physician, surgeon or other person making the report, record or statement. If medical reports are not available or have not been produced prior to preliminary hearing, either party shall be entitled to an ex parte order for production of the reports upon motion to the administrative law judge or Director.

If the award of the administrative law judge is not rendered within five days, the claimant's attorney shall notify the Director who shall make demand upon the administrative law judge for such an award.

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In no case shall the administrative law judge entertain an application for preliminary hearing when written notice has not been given to the respondent pursuant to K.S.A. 44-534a. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-534a; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1980; amended May 1, 1983.)

51-3-8. Pre-trial stipulations. The parties shall be prepared at the first hearing to agree on the claimant's average weekly wage except when the weekly wage is to be made an issue in the case. Prior to the first hearing taking place, the parties shall exchange medical information and confer as to what issues can be stipulated to and what issues are to be in dispute in the case. The following stipulations shall be used by the parties in every case:

QUESTIONS TO CLAIMANT

1. In what county is it claimed that claimant met with personal injury by accident? (If in a different county from that in which the hearing is held, then the parties shall stipulate that they consent to the conduct of the hearing in the county in which it is being held.)
2. Upon what date is it claimed that claimant met with personal injury by accident?

QUESTIONS TO RESPONDENT

3. Does respondent admit claimant met with personal injury by accident on the date alleged?
4. Does respondent admit claimant's alleged accidental injury "arose out of and in the course" of his employment?
5. Does respondent admit notice? (If respondent denies notice, does respondent claim prejudice?)
6. Does respondent admit the relationship of employer and employee existed?
7. Does respondent admit the parties are covered by the Kansas workmen's compensation act?
8. Does respondent admit claim was made?
9. Did the respondent have an insurance carrier on the date of the alleged accident? What is the name of the insurance company? Was the respondent self-insured?

QUESTIONS TO BOTH PARTIES

10. What was the average weekly wage?
11. Has any compensation been paid?
12. Has any medical or hospital treatment been furnished? Is claimant making claim for any future medical treatment or physical restoration?
13. Has claimant incurred any medical or hospital expense for which reimbursement is claimed?
14. What was the nature and extent of the disability suffered as a result of the alleged accident?
15. What medical and hospital expenses does the claimant have?
16. What are the additional dates of temporary total disability, if any are claimed?
17. Is there a need for the claimant to be referred for a vocational rehabilitation evaluation?
18. Is the workers' compensation fund to be impleaded as an additional party?
19. What witnesses will each party have testify at hearing or by deposition in the trial of the case?

The same stipulations shall be used in occupational disease cases with the exception that questions regarding "accidental injury" shall be changed to discover facts concerning "disability from occupational disease" or "disablement."

An informal pre-trial conference shall be held in each contested case prior to testimony being taken in a case. At these conferences the administrative law judge shall determine from the parties what issues have not been agreed upon. If the issues cannot be

resolved and an informal award entered, the stipulations and issues shall be made a part of the record.

The respondent shall be prepared to admit any and all facts which they cannot justifiably deny and to have payrolls available in proper form to answer any questions that might arise as to the average weekly wage. Evidence shall be confined to the matters actually ascertained to be in dispute. The administrative law judge shall not be bound by technical rules of procedure and may vary from the technical requirements when it is thought beneficial in ascertaining the true facts. Therefore, hearsay evidence may be admissible unless irrelevant or redundant.

All parties shall be given reasonable opportunity to be heard. The testimony taken at the hearing shall be reported and transcribed. That testimony, together with documentary evidence introduced, shall be filed with the division of workers' compensation, where the evidence shall become a permanent record. Any appealable interim award or order made by the administrative law judge shall be set forth in writing with copies mailed to the Director and all parties.

Permission to withdraw admissions or stipulations shall be decided by the administrative law judge, depending on the circumstances in each instance.

Subpoena forms shall be furnished by the director upon request. The party subpoenaing witnesses shall be responsible for the completion, service and costs in connection with the subpoenas. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-523, 44-551; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-3-9. Medical evidence record for settlements. The administrative law judge shall not issue a settlement award unless: (a) the claimant personally testifies; (b) medical testimony by a competent physician is introduced as evidence, either by the oral testimony of that physician, or through a documentary report of a recent physical examination of the claimant as to the extent of the claimant's disabilities; and (c) any other testimony as the administrative law judge may require for the proper determination of the extent of disability and the amount of compensation due, if any. If documentary evidence of a medical report covering physical examination of the claimant is introduced in evidence, the claimant shall be able to testify that the claimant has read that report or had the report read to him or her, and that the claimant fully understands the medical evidence as to disability.

If the injured worker submits to hospitalization, the records of the hospitalization and treatment, properly identified, may be received in evidence at a hearing on a claim.

Medical and hospital expenses shall be made part of the record. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-531; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1983.)

51-3-16. Closing cases by joint petition and stipulation. If the claimant resides out of the state of Kansas

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and it would be a hardship to require the claimant to return to the state of Kansas for hearing and if the parties agree to settlement, the claim may be closed by an award on joint petition and stipulation. Joint petition and stipulation may also be used in death cases where the liability and the entitlement to compensation is clearly defined.

The format to be followed in submitting a case on joint petition and stipulation shall be substantially as set out in a format furnished by the division of workers' compensation.

In cases involving death, the joint petition shall be accompanied by certified copies of the certificate of death, marriage certificate, birth certificates, copies of letters of guardianship and conservatorship, if appropriate; and copies of journal entries of divorce if a prior marriage puts question on a spouse's entitlement to compensation. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-531; effective Jan. 1, 1966; amended Jan. 1, 1973; amended May 1, 1978; amended May 1, 1983.)

51-3-17. Time and place for making payment of compensation. Employers and insurance carriers shall not be excused for unnecessarily delaying payment of compensation for the purpose of investigation. Compensation payments shall not be withheld pending negotiations for settlements. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-512; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1983.)

Article 4.—ATTORNEYS

51-4-1. Out-of-state attorneys. An attorney, admitted to the bar of Kansas, and who is regularly engaged in the practice of law in another state, shall associate local counsel and have that counsel present in any proceedings for the collection of compensation before the administrative law judge or director. This requirement shall not apply to the procedure with reference to the determination and termination of compensation cases by settlement agreement and final receipts and releases or by joint petition and stipulation. (Authorized by K.S.A. 44-573; implementing K.S.A. 7-104; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 5.—NOTICE OF ACCIDENT OR DISEASE

51-5-3. (Authorized by K.S.A. 1976 Supp. 44-573, 44-5a21; effective Jan. 1, 1974; amended Feb. 15, 1977; revoked May 1, 1983.)

Article 7.—MEASUREMENT OF DISABILITY

51-7-2. Days expressed as decimal. In computing compensation for fractional parts of a week, record: one day as .14 of a week; two days as .29; three days as .43; four days as .57; five days as .71; and six days as .86. Compensation due shall be determined on the basis of a seven-day week. When the last day of disability is on Sunday, compensation shall be paid for

that day of disability. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510c; effective Jan. 1, 1966; amended May 1, 1983.)

51-7-3. (Authorized by K.S.A. 1977 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-7-8. Computation of compensation. If a worker suffers a loss to a member, and in addition suffers other injuries contributing to the temporary total disability, compensation for the temporary total disability shall not be deductible from the scheduled amount for those weeks of temporary total disability attributable to the other injuries.

The weekly compensation rate for temporary total compensation shall be computed by multiplying .6667 times the worker's gross average weekly wage. This figure shall be subject to the statutory maximum set in K.S.A. 44-510c.

If a healing period of 10% of the schedule or partial schedule, not exceeding 15 weeks is granted, it shall be added to the weeks on the schedule or partial schedule prior to the following computations being made.

If a loss of use occurs to a scheduled member of the body, compensation shall be computed as follows: deduct the number of weeks of temporary total compensation from the schedule; multiply the difference by the percent of loss of use to the member; and multiply the result by the applicable weekly temporary total compensation rate.

If there is amputation of part of a finger, thumb or toe, multiply the percent of loss, as governed by K.S.A. 44-510d, by the weeks on the full schedule for that member; deduct the temporary total compensation; and multiply the remainder by the weekly temporary total compensation rate.

If there is an amputation of a scheduled member other than an amputation of part of a finger, thumb or toe, compensation is to be computed by: multiplying the number of weeks on the schedule by the worker's weekly temporary total compensation rate. The temporary total compensation previously paid shall be deducted from the total amount allowed for the member.

The weekly compensation rate for a permanent disability to the body as a whole shall be computed by multiplying the worker's gross average weekly wage computed pursuant to K.S.A. 44-511 by the worker's percent of disability and then multiplying this figure by .6667.

An injury involving the metacarpals shall be considered an injury to the hand; and injury involving the metatarsals shall be considered an injury to the foot.

If the injury results in loss of use of one or more fingers and also a loss of use of the hand, the compensation payable for the injury shall be on the schedule for the hand. Any percentage of permanent partial loss of use of the hand shall be at least sufficient to equal

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the compensation payable for the injuries to the finger or fingers alone.

An injury involving the hip joint and an injury involving the shoulder joint shall be computed on the basis of a disability to the body as a whole.

An injury at the joint on a scheduled member shall be considered a loss to the next higher schedule.

If the tip of a finger, thumb or toe is amputated and the amputation does not go through the bone and it is determined that a disability exists, the disability rating shall be based on a computation of a partial loss of use of the entire finger. (Authorized by K.S.A. 44-510d, 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-7-12. (Authorized by K.S.A. 1977 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; revoked May 1, 1983.)

51-7-13. (Authorized by K.S.A. 1972 Supp. 44-510d, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1973; revoked May 1, 1983.)

Article 8.—COMPENSATION FOR EYE INJURIES

51-8-2. Method of evaluation. Visual efficiency shall be defined as that degree or percentage of competence of the eye to accomplish its physiologic function.

Loss of binocular single vision shall be equivalent to the loss of use of one eye.

When both eyes are involved in a permanent visual disability, the efficiency of the co-ordinate function of both eyes shall be determined on the basis of permanent partial disability of the body as a whole.

To determine loss of visual efficiency, results of testing of central visual acuity, field of vision, muscle function and secondary visual efficiency elements shall be taken into account. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983.)

51-8-3. Maximum and minimum limits of the primary factors of vision. (a) The maximum efficiency of the primary functions of vision means that degree of sight with no loss of vision.

(1) Central visual acuity is measured by the ability to recognize letters or characters which subtend an angle of five minutes, each unit part of which subtends a one minute angle. A measurement of 20/20 (6/6 metric) Snellen shall be employed as the maximum acuity of central vision, or 100 percent acuity.

(2) Field of vision: A visual field having an area which extends from the point of fixation outward 85 degrees, down and out 85 degrees, down 65 degrees, down and in 50 degrees, inward 60 degrees, in and up 55 degrees, upward 45 degrees, and up and out 55 degrees shall be accepted as 100 percent industrial visual field efficiency.

(3) Muscle function: A maximum normal muscle

function shall be considered present when binocular single vision is present in all parts of the field of binocular fixation or when there is no limitation of motion in either eye.

(b) The minimum limit of the primary functions of vision, shall be established as that degree of deficiency which reduces vision to a state of industrial uselessness.

(1) Central visual acuity: A distance central visual acuity of 20/200 (6/60 metric) Snellen, and a near central visual acuity of 14/140 (35/350 metric) shall be deemed as industrial blindness.

(2) Field of vision: The minimum limit for this function is established as a concentric central contraction of the visual field to five degrees. This degree of contraction of the visual field shall be deemed a visual efficiency of zero.

(3) Muscle function: The minimum limit for this function is established by: (a) the presence of diplopia in all parts of the motor field; (b) the loss of binocular single vision; or (c) inability to rotate the eye to any point of fixation in the normal motor field. These conditions shall constitute zero visual efficiency. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983.)

51-8-4. Measurement of co-ordinate factors and the computation of partial losses. (a) *Central visual acuity.* Visual acuity shall be measured both for distance and for near vision using the Snellen notation; each eye shall be measured separately. Central visual acuity for distance shall be measured at a test distance of 20 feet, or six meters. Central visual acuity for near vision shall be measured at a test distance of 14 inches, or 35 centimeters. The best central visual acuity obtainable without the use of ophthalmic lenses shall be used in determining the degree of visual efficiency, except lenses for natural presbyopia or other lenses used prior to the injury.

Having determined the best central visual acuity for 20 feet and for 14 inches, the equivalent retained vision percentage shall be obtained from the following chart. The visual efficiency shall be ascertained by the weighted values assigned for central visual acuity at 20 feet and central visual acuity at 14 inches. A one-fold value shall be given the distance vision and a two-fold value shall be given for near vision.

The retained central visual acuity shall be obtained by: (1) multiplying the near vision percentage retained by two; (2) adding the product of (1) to the distance vision percentage retained; and (3) dividing that sum by three.

Visual acuity at 20 feet	Visual acuity at 14 inches	Percentage visual acuity retained
20/ 20	14/ 14	100.000
20/ 25	14/ 17.5	94.625
20/ 30	14/ 21	89.375
20/ 35	14/ 24.5	84.375
20/ 40	14/ 28	79.500
20/ 45	14/ 31.5	75.000
20/ 50	14/ 35	70.625
20/ 60	14/ 42	62.625

(continued)

20/ 70	14/ 49	55.000
20/ 80	14/ 56	48.125
20/ 90	14/ 63	41.750
20/100	14/ 70	36.125
20/120	14/ 84	26.125
20/140	14/ 98	17.750
20/160	14/112	10.750
20/180	14/126	4.875
20/200	14/140	0.000

(b) *Field of vision.* (1) The extent of the field of vision shall be determined by the use of the perimetric test methods. A white target which subtends a one degree angle under illumination of not less than seven foot candles shall be employed, and the result shall be plotted on an ordinary visual field chart.

(2) *An abnormal field.* The amount of radial contraction in the eight field sectors, measured in their principal meridians, shall be determined. The sum, in degrees, of the eight principal radii of the visual field, which normally is 500, shall be the visual field efficiency of one eye in percent when divided by five.

(c) *Muscle function.* Muscle function shall be measured in all parts of the motor field; recognized methods shall be used for testing. A maximum, normal extraocular muscle function is present when there is absence of diplopia (double vision) in all parts of the field of binocular fixation.

If diplopia is present, it shall be plotted on the motor field chart. This chart shall be divided into 20 rectangles, 20 by 25 degrees in size. The partial loss of muscle function due to diplopia shall be that proportional area which shows diplopia, as indicated on the plotted chart, compared with the entire motor field area. It shall be measured without corrective lenses, red glass, or prism. Five percent loss of muscle function shall be allotted for each of the 20 areas of the motor field in which diplopia is present. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983.)

51-8-5. Measurement of the secondary visual efficiency elements. For secondary visual efficiency element disabilities, additional compensation shall be allowed, but in no case shall the additional compensation make the total for loss in industrial visual efficiency greater than that provided by law for the total loss of the sight of one eye when only one eye is involved and that for permanent total disability of the body as a whole when both eyes are involved.

The amount of additional compensation shall be based on the percentage of loss of visual efficiency attributable to that secondary element. The percentage of loss shall be based on the opinion of the physician or other examiner rendering the examination and evaluation, taking into account the occupation of the claimant and the resulting effect of that secondary loss on employment. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983.)

51-8-6. Computation of loss of sight efficiency in one eye. The industrial visual efficiency of one eye shall be determined by: (a) obtaining the product of the computed co-ordinate efficiency values of central

visual acuity, of field vision, and of muscle function; (b) multiplying the product of central acuity retained by field of vision retained; and (c) multiplying that product by muscle function retained. That visual efficiency figure, which is expressed in a percentage, shall be subtracted from 100 percent to give the percentage of loss. To the percentage of visual loss, the percentage of loss due to secondary visual efficiency elements shall be added. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended May 1, 1978; amended May 1, 1983.)

51-8-7. Computation of industrial visual efficiency loss in the co-ordinate function of both eyes. If an employee has sustained a permanent partial disability involving both eyes, functional permanent partial general bodily disability shall be computed by: (a) multiplying the percentage of efficiency loss (primary and secondary) in the least injured eye by three; (b) adding the product of (a) to the percentage of efficiency loss (primary and secondary) in the other eye; and (c) dividing that sum by four. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-8-10. Compensation for loss of hearing. Compensation for loss of hearing shall be based on losses measured by pure tone audiometry, and verified by speech audiometry, and by speech discrimination scoring. The pure-tone audiogram shall be obtained with an audiometer calibrated to ANSI S3.6-1969 standards.

1. The average of the hearing threshold levels at 500, 1,000, 2,000, and 3,000 Hz shall be calculated.

2. The percent impairment shall be calculated by multiplying by 1.5% the amount by which the aforementioned average hearing threshold level exceeds 25 dB (low fence) up to a maximum of 100%, which is reached at 92 dB (high fence). The percent impairment shall be used with a single ear hearing loss.

3. The hearing handicap, a binaural assessment, shall then be calculated by multiplying the smaller percentage (better ear) by five, adding this figure to the larger percentage (poorer ear), and dividing the total by six. The binaural percent shall be used with bilateral hearing loss. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; amended May 1, 1983.)

51-8-11. (Authorized by K.S.A. 1977 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1978; revoked May 1, 1983.)

Article 9.—MEDICAL AND HOSPITAL

51-9-4. (Authorized by K.S.A. 1976 Supp. 44-510, 44-573; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1980; revoked May 1, 1983.)

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51-9-6. Neutral physician. If a neutral physician is appointed, the written report of that neutral physician shall be made a part of the record of hearing. Either party may cross examine each neutral physician so employed. The fee of the neutral physician giving such testimony shall be assessed as costs to a party at the administrative law judge's discretion. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-516; effective Jan. 1, 1966; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended May 1, 1978; amended May 1, 1983.)

51-9-11. Transportation to obtain medical treatment. It shall be the duty of the employer to provide transportation to obtain medical services to and from the home of the injured employee whether those services are outside the community in which the employee resides or within the community.

The employer shall reimburse the worker for the reasonable cost of transportation if: (a) an injured worker does not have a vehicle or reasonable access to a vehicle of a family member living in the worker's home; or (b) if the worker, because of the worker's physical condition, cannot drive and must therefore hire transportation to obtain medical treatment. Reimbursement may include, among other things, reimbursement for the cost of taxi service, other public transportation, ambulance service, if required by a physician, and the cost of hiring another individual to drive the worker for medical treatment. Any charges presented to the employer or insurance carrier for payment shall be a fair and reasonable amount based on the customary charges for those services.

If an injured worker drives his or her own vehicle or drives, or is driven in, a vehicle of a family member living in the home of the worker, and when any round trip exceeds five miles, the respondent and insurance carrier shall reimburse the worker for an amount comparable to the mileage expenses provided in K.S.A. 44-515.

In any dispute in regard to charges for mileage expenses, and on application by any party to the proceedings, the director shall determine the reasonable cost of transportation by a hearing before a workers' compensation administrative law judge. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510; effective May 1, 1980; amended May 1, 1983.)

Article 10.—DEATH CASES

51-10-6. Guardian or conservator. In death cases where there are dependent minors, and the amount due a minor dependent does not exceed \$2,000, the Director may order that compensation to be paid directly to the natural guardian of the minor dependent. If the Director is of the opinion that payment of that compensation should not be made to the natural guardian, the Director may then designate some other person to whom payment shall be made.

In every case where a claim is made for compensation by a minor worker and the director is requested to determine the amount of compensation due, the minor worker shall be represented at the hearing by a duly appointed guardian, conservator, natural guardian, or next friend.

In all cases involving dependent minors in which compensation due the minor is potentially in excess of \$2,000, the minor shall have appointed by a court of appropriate jurisdiction, a guardian or conservator to represent the minor's interests. Payments shall be directed to the guardian or conservator.

If the court which appoints the guardian or conservator requires the appointee to post a surety bond, the cost of that bond shall be paid by the employer. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-509, 44-513a; effective Jan. 1, 1966; amended Jan. 1, 1973; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 11.—WAGES

51-11-6. Computing employers gross payroll. In computing the gross annual payroll for an employer to determine whether they are subject to the workers' compensation act, all payroll paid by that employer to all workers shall be included. The computation shall include all payroll whether or not that payroll is paid to employees in the state of Kansas or outside the state of Kansas.

The provision in K.S.A. 44-505 excluding the payroll of workers who are members of the employer's family shall not apply to corporate employers.

A corporate employer's payroll for purposes of determining whether the employer is subject to the workers' compensation act shall be determined by the total amount of payroll paid to all corporate employees even when a corporate employee has elected out of the workers' compensation act pursuant to K.S.A. 44-543. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505, 44-543; effective May 1, 1978; amended May 1, 1983.)

Article 13.—ELECTIONS

51-13-1. Employer's election to come under the act. A parent company shall not file an election to cover itself and a subsidiary; each independent concern shall file an election on its own behalf.

Failure of an employer to cover his employees by means of insurance policy or through an approved self-insurance plan shall result in the employer being a non-qualified self-insurer and shall subject them to direct payment of compensation benefits to their injured employee.

Employers operating under this act shall post notices advising employees what to do in case of injury. Notices prepared by the Director for that purpose may be obtained by request to the Director.

The election by individuals, partners, and all self-employed persons to bring themselves within the provision of the workers' compensation act shall be signed by the individual or partner and by a representative of the insurance carrier issuing the insurance policy. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended, E-76-23, May 30, 1975; amended May 1, 1976; amended Feb.

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15, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 14.—SECURING PAYMENT OF COMPENSATION BY INSURANCE AND SELF-INSURANCE

51-14-3. (Authorized by K.S.A. 1977 Supp. 44-557a, 44-573; effective May 1, 1975; amended May 1, 1978; revoked May 1, 1983.)

51-14-4. Self-insurance. An employer operating under the act shall only become qualified as a self-insurer through the process of applying to the division of workers' compensation for a self-insurance permit. An employer making an application shall, upon the request of the Director, submit information that the director may require to effectively evaluate the financial status of the employer. An applicant for a self-insurance permit or a self-insured employer seeking a renewal permit, shall, if the director requests, pay the fees of a consultant approved by the division of workers' compensation to determine if the employer has the financial ability to become self-insured or to have his self-insurance permit renewed.

The applicant for a new permit or an employer seeking a renewal permit shall furnish to the division of workers' compensation a bond written by a surety company admitted to the state, and authorized by the Kansas insurance department to write surety bonds as required by the division. The bond shall be in an amount to adequately insure that if the employer should become insolvent, payments on all claims will be guaranteed to the injured workers.

The applicant for a new permit or an employer seeking a renewal permit shall furnish a certificate of excess insurance in an amount that may be required by the division of workers' compensation, and the division shall be notified by the self-insured and insurance carrier at least 20 days prior to the cancellation or non-renewal of any excess insurance policy. The excess workers' compensation insurance policy shall be a policy approved by the Kansas insurance department and the insurance carrier shall be duly authorized to transact workers' compensation insurance business in the state of Kansas.

An applicant for a new permit or an employer seeking a renewal permit shall set up financial reserves, furnish letters of credit or provide other security in amounts and in a manner directed by the division of workers' compensation to insure the payment of all workers' compensation claims as may be required by the Kansas workers' compensation act.

An employer shall furnish to the division of workers' compensation any other information the division may request which will aid in fairly and adequately evaluating an application for a new or a renewal permit for self-insurance.

The self-insurance permit of any employer shall expire on the anniversary date of the issuance of a self-insurance permit and any anniversary date thereafter, except when it has been renewed by the division prior to that date. The employer shall furnish any information that the division of workers' compensa-

tion may require to effectively evaluate an application to renew a self-insurance permit at least 45 days prior to the anniversary date of the original permit.

An employer whose original or renewal application for self-insurance has been denied, or who takes exception to insurance or reserve requirements may request a reconsideration by the division of workers' compensation. The request shall be made within 20 days of the receipt by the employer of the information which the applicant wishes reconsidered. If the employer desires to have a record of the hearing, the reporter's costs shall be assessed to the employer. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-505b, 44-505e, 44-505f, 44-532; effective Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

Article 18.—APPEALS

51-18-2. Review by director. The effective date of the administrative law judges' acts, findings, awards, decisions, rulings, or modifications, for review purposes, shall be the day following the date noted thereon by the administrative law judge.

Application for review shall only be considered as timely filed if received in the central office or one of the district offices of the Director on or before the tenth day after the effective date of the act of an administrative law judge. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-525, 44-551; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1983.)

Article 24.—REHABILITATION

51-24-1. Vocational rehabilitation. Insurance carriers and self-insured employers shall furnish to the rehabilitation administrator, at the administrator's request, any medical reports that may be necessary to make an effective vocational rehabilitation determination.

Any party to a proceeding, including the Director, administrative law judge, the employee, the employer or insurance carrier shall have the right to request an evaluation of vocational rehabilitation. When such a request is made all parties shall cooperate in completing the rehabilitation evaluation in an expeditious and timely manner. If any party objects to such an evaluation being made, the director shall hold a hearing to determine whether it is needed and whether the evaluation should be ordered. The rehabilitation administrator shall be the coordinator between the parties seeking a vocational evaluation and the division of rehabilitation or a private rehabilitation company.

The injured worker shall keep appointments with the rehabilitation counselor assigned to the worker and shall otherwise cooperate with any reasonable recommended vocational evaluation.

The rehabilitation administrator shall keep all interested parties advised as to the progress of an evaluation report in a timely manner. If the injured worker is in the rehabilitation process, the rehabilitation administrator shall keep all parties advised as to the worker's progress in the rehabilitation program.

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If an application for hearing has been filed in a case in which the rehabilitation administrator has done preliminary work on vocational rehabilitation plans, the rehabilitation administrator shall inform all parties to the proceedings as to the rehabilitation administrator's prior contact with that individual. If a report or reports have previously been submitted, an all inclusive report by the rehabilitation administrator shall be submitted to all parties and the administrative law judge. The administrative law judge shall consider the report in the trial of the case and shall hear all parties as to their position on a rehabilitation plan for the claimant based on that report.

If an application for hearing is filed and no evaluation report has been made on the injured employee, the administrative law judge shall make a determination at the first hearing as to whether a vocational rehabilitation evaluation should be ordered. If an evaluation is ordered by the administrative law judge, the parties shall cooperate in submitting the necessary medical reports to the vocational rehabilitation administrator as necessary to make a prompt and complete report. When the evaluation is completed, a written report shall be submitted to all parties. The administrative law judge shall hold a hearing, if any parties request it, as to the necessity for including a vocational rehabilitation program as part of the award in an individual case. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510g; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983.)

51-24-2. Physical rehabilitation. If an employee sustains a severe injury, the timing and coordination of all medical services shall be considered of utmost importance in order for the employee to achieve maximum recovery from the effect of the injury. Severe injuries shall be defined as those cases where the worker sustains an amputation, damage to the spinal cord, brain or other types of severe disability injuries. When a severe injury does occur, the employer, or self-insured employer or insurance carrier shall be in contact with the rehabilitation administrator immediately in order to gain the rehabilitation administrator's aid in the coordination of essential services. Priority shall be given to the determination of the specialized facility for the injured employee and, in this consideration, a determination shall be made as to which specialized facility would best provide the medical treatment and physical rehabilitation for the injured worker. Medical and other follow-up reports on the condition of severely injured workers shall be furnished to the rehabilitation administrator immediately. Such follow-up reports shall include reports of progress in any physical therapy, speech therapy, occupational therapy, psychotherapy, and prosthesis fitting and training, as well as the medical reports from the attending physicians. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510, 44-510g; effective May 1, 1976; amended Feb. 15, 1977; amended May 1, 1983.)

HARVEY L. LUDWICK, Ed.D.
Secretary

Doc. No. 001066

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. 1982 Supp. 77-415 *et seq.* *These regulations are scheduled to become effective May 1, 1983, 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 5, 1983 issue of the *Register* will contain a complete index to regulations effective May 1, and any legislative actions on them.

DEPARTMENT OF TRANSPORTATION ADMINISTRATIVE REGULATIONS

Article 1.—SPECIAL PERMITS, LOADS AND VEHICLES

36-1-1. General policy on the issuance of special permits.

(1) When vehicles and loads exceeding the legal sizes and weights defined in K.S.A. 1981 Supp. 8-1902, 8-1904, 8-1908 and 8-1909 are of such a type that they cannot be reasonably divided or reduced, the secretary or the secretary's designee may issue special permits for the movement of these vehicles and loads on state highways.

Acceptance of the permit by the grantee shall be evidence that the grantee assures full compliance with all requirements contained in K.S.A. 8-1911 and these regulations, and that the grantee assumes all responsibility for injury to persons or damage to public or private property and further agrees to hold the state of Kansas immune from all suits, claims, or damages arising from the movement.

(2) Loads eligible for special permits include, but are not limited to: tanks, tractors, house trailers, buildings, power shovels, and oil field equipment. Loads of culvert pipe consisting of more than one piece shall be eligible for special permits provided the load does not exceed eight feet six inches in width, 18 feet in height, and the legal length as defined in K.S.A. 1981 Supp. 8-1904. Trucks and trailers especially designed for and used exclusively for transporting modular sections of buildings shall be eligible for special permits provided the vehicle or load does not exceed 12 feet in width and 85 feet in length. Overweight self-propelled truck-mounted cranes towing a trailer hauling counter-weights and outrigger stands shall be eligible for special permits.

(3) Special permits shall not be required for the movement of oversized farm machinery being hauled on a truck or trailer from field to field. For the purposes of this regulation, machinery used in custom farm operations shall be considered farm machinery moving field to field and shall be exempt from the permit requirement. Special permits shall not be required for oversize farm machinery being moved by

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an implement dealer to or from a farm within 100 miles of the implement dealer's place of business. The permit exemptions noted in this paragraph shall not be applicable to movements on interstate highways.

(4) Only one article may be transported when more than one would cause the load to be overwidth, overweight, or overlength. All articles or units shall be loaded in such a manner that the least dimension becomes the width.

(5) Permits shall be obtained for all movements of loads exceeding the legal sizes and weights defined in K.S.A. 1981 Supp. 8-1902, 8-1904, 8-1908 and 8-1909 over highways of the state system, including crossing the highways. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1904, 8-1908, 8-1909, 8-1911; effective Jan. 1, 1966; amended, E-70-14, Jan. 19, 1970; amended, E-70-23, April 29, 1970; amended Jan. 1, 1971; amended, E-71-32, Aug. 1, 1971; amended Jan. 1, 1972; amended May 1, 1979; amended May 1, 1983.)

36-1-1a. Definitions. (1) "Custom farm operation" means the commercial tilling of the soil or harvesting of the crop grown upon it.

(2) "Daylight hours" means that span of time between one-half hour before sunrise and one-half hour after sunset.

(3) "Department" means the Kansas department of transportation.

(4) "Driver" means every person who is in actual physical control of a vehicle.

(5) "Farm machinery" means machinery used in the tilling of the soil or harvesting of the crop grown upon it.

(6) "Firm" means truck owner or cargo owner whether an individual person or a company.

(7) "Grantee" means the person or company in whose name an oversize, overweight, or both, permit is issued.

(8) "Holiday" means those days designated as New Year's day, Memorial day, Independence day, Labor day, Thanksgiving day, and Christmas day. If the holiday falls on a Saturday, the previous Friday shall be considered as a holiday. If the holiday falls on a Sunday, the following Monday shall be considered as a holiday.

(9) "Modular section of building" means a room size component of a manufactured house that is to be assembled on a permanent location.

(10) "Moving days" means days that permit loads are allowed to be moved.

(11) "Oilfield equipment" means vehicles, tanks and other equipment used in the exploration or production of oil or gas.

(12) "Oversize load sign" means a yellow sign, 14 inches in height and 60 inches in length. The sign shall be lettered in black, and the letters shall be 8 inches in height and have a 1½ inch brush stroke, and shall be readily visible from a distance of 500 feet.

(13) "Permit" means written permission issued by the department permitting the grantee to move a vehicle or load that is oversize, overweight, or both, over the highways that are under the jurisdiction of the department.

(14) "Red flag" means a piece of red cloth not less than 18 inches square.

(15) "Secretary" means the secretary of transportation.

(16) "Large structure" means loads that exceed 16 feet, six inches in width and 18 feet in height, including but not restricted to houses, barns, sheds, granaries, and storage tanks.

(17) "Owner" means any individual, firm or corporation operating or causing the operation of a motor vehicle. For purposes of emergency vehicles, any public official meeting the above requirements shall be considered the owner.

(18) "Siren" means a device for producing a penetrating warning sound for use in emergencies.

(19) "House trailer" shall have the meaning set forth at K.S.A. 8-1425.

(20) "Mobile home" means a factory built structure or structures more than eight feet in width or more than 36 feet in length, equipped with the necessary service connections, made so as to be readily movable as a unit on its own running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed upon it may be moved. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1902, 8-1911; effective May 1, 1983.)

36-1-2. Requirements for special permit operation.

All vehicles under special permits shall yield the right-of-way to opposing traffic at all times when it is necessary to cross the center line of any road, highway, street, bridge, or other highway structure.

Those vehicles towing house trailers or mobile homes which exceed eight feet in width shall be covered by liability insurance as provided in K.S.A. 8-1911(g). All vehicles under special permit shall be covered by insurance in an amount not less than 25,000 dollars property damage and not less than 50,000 dollars public liability. The driver of any vehicle, traveling under special permit, shall carry the insurance policy, a certificate of insurance, or a card issued by the insurance company showing the insurance name, address, amount of insurance, policy number, and expiration date.

Application for a permit shall be filed only by the individual or firm which is doing the actual transporting.

No truck operating with a special permit shall follow within 300 feet of another vehicle except when overtaking and passing another vehicle.

Single trip permits shall not be used for more than one trip, except in those instances when the driver is using the same equipment, hauling the same type article, and is traveling over the same designated route as specified in the original permit.

Permits shall be issued only from point of origin to final destination on routes designated by the secretary or the secretary's designee. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; ef-

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fective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983.)

36-1-3. Where to obtain special permits. Special permits may be obtained from the following authorized special permit agents:

- (a) Division of vehicles, department of revenue;
- (b) Motor carrier inspection stations;
- (c) The Kansas highway patrol; and
- (d) Department of transportation, district and area offices. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983.)

36-1-7. (Authorized by K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; revoked May 1, 1983.)

36-1-8. General restrictions on permits. (a) There shall be no movement of any overdimension loads on an interstate or state highway on Saturday afternoons, Sundays, or holidays. This restriction shall not apply to overdimension loads crossing a state highway at intersections only, during daylight hours. Vehicles transporting loads directly connected with the production of oil or gas shall be allowed to continue to operate on Saturdays as part of their regular operation.

(b) All movements of oversize loads shall be made in full daylight hours and only during good weather and good road conditions. Those movements of loads that are overweight only may be made at night and on Saturdays, Sundays, and holidays.

(c) Permits shall be valid on all highways under the jurisdiction of the department, and for which the department is responsible for maintenance. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended Jan 1, 1973; amended May 1, 1979; amended May 1, 1983.)

36-1-9. Special restrictions. Applications for permits for the use of vehicles and equipment that exceed the dimensions listed below shall be sent to the secretary for approval, modification, or rejection. Under certain conditions and due to certain types of loads, permits for loads, or units, within the following dimensions may also be refused.

Dimensions:

Width—16 feet 6 inches

Length—126 feet

Height—18 feet

Weights:

Total:

45,000 pounds gross on three axles

62,000 pounds gross on four axles

95,000 pounds gross on five axles

110,000 pounds gross on six axles

120,000 pounds on seven or more axles

Axle:

Shall not exceed 22,000 pounds on any single axle

Shall not exceed 45,000 pounds on any group of two axles

Shall not exceed 55,000 pounds on any group of three axles

Shall not exceed 65,000 pounds on any group of four axles

Permits may be issued for the above weights and dimensions only when the load consists of one piece and is of such a type that it cannot be reasonably divided or reduced. Loads consisting of more than one machine, unit, or article shall not be issued permits except for overheight loads and as provided for by K.S.A. 1981 Supp. 8-1904(f).

Red flags shall be attached to each side of the widest part of all overwidth loads and to the rear of all overlength loads.

Overwidth and overlength vehicles required by this section to have flagmen, and not traveling in convoy, shall have the flagmen in separate vehicles preceding and following the overwidth or overlength vehicle and shall comply with all other oversize regulations. The vehicles carrying the flagman shall travel at a distance not to exceed 300 feet in front or 300 feet to the rear of the overdimensional load.

(a) Overwidth permits. (1) Loads in excess of one-half of the width of the traveled portion of the highway shall be transported in such a manner that no part of the load extends across the centerline of the road except when necessary to avoid a collision with objects located near the edge of the road.

(2) All loads more than nine feet wide shall have an "OVERSIZE LOAD" sign attached to the front of the vehicle, or to the front of the escort vehicle preceding the load, and to the rear of the escort vehicle following the load when such escorts are required. The sign shall be hinged in the center to be folded when not in use. If traveling in a convoy, the lead and rear vehicle shall display this sign.

(3) On all highways of less than four lanes, a flagman shall be required for movements of loads more than 12 feet wide but less than 14 feet wide.

(4) On all highways of less than four lanes, escort vehicles with flagmen shall be required, both front and rear, when the width of the load is more than 14 feet.

(5) At all narrow bridges and hazardous places, the flagman in the lead vehicle shall have all oncoming traffic stopped at the far side of the bridge or hazardous place before the overdimensional load may proceed.

(6) All overwidth loads shall have at least six inches clearance from any part of any structure, bridge, overpass or underpass that it is to travel.

(7) Overwidth loads shall not block any bridge for longer than five minutes.

(b) Overlength permits. (1) On highways less than four lanes, loads more than 65 feet long but less than 90 feet long shall require a flagman on the load to protect traffic at hazardous locations. The flagman shall have all oncoming traffic stopped at the far side of hazardous locations before the overlength load may proceed.

(2) On highways less than four lanes, two escort vehicles, front and rear, shall be required when the overall length is in excess of 90 feet.

(c) Overheight permits. (1) Loads more than 17 feet high shall require an attendant to care for overhead service wires, and shall comply with the notification procedures defined in K.A.R. 36-1-2(a).

(2) All overheight loads shall have at least six inches clearance from any part of any structure, bridge, overpass or underpass.

(3) Loads which are overheight only may consist of more than one piece, unit, or article. Special permits shall be obtained for single trips only and shall require that the individual or firm named on the permit abide by the regulations contained in this section.

(d) Overweight permits. Overweight loads shall

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abide by all regulations on posted bridges and shall not enter the structure if over the posted limit. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended, E-70-14, Jan. 19, 1970; amended Jan. 1, 1971; modified, L. 1979, ch. 347, May 1, 1979; amended May 1, 1983.)

36-1-10. Regulations for loads and equipment over 120,000 pounds gross weight. Loads and equipment over 120,000 pounds gross weight may, in some cases, be moved from the closest railroad siding to the point of destination or from a point of origin to the nearest railroad siding if roads and bridges are such that the move can be made safely and without damage. These applications shall be presented to the secretary for approval. If the move is approved, the company transporting the load or equipment shall be required to post a 50,000 dollar bond for loads and equipment with a gross weight over 120,000 pounds and up to and including 200,000 pounds. A 150,000 dollar bond shall be required for loads in excess of 200,000 pounds gross weight. A cash deposit of 200 dollars shall be required as a cash bond to cover expenses of an employee of the department to supervise the movement and inspect the section of highway over which the load or equipment will travel. The employee shall accompany the movement and determine whether any damage is caused to highway or bridges. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective Jan. 1, 1966; amended May 1, 1979; amended May 1, 1983.)

36-1-22. (Authorized by K.S.A. 1978 Supp. 66-1326; effective May 1, 1979; revoked May 1, 1983.)

36-1-23. (Authorized by K.S.A. 8-1911; modified L. 1979, ch. 347, May 1, 1979; revoked May 1, 1983.)

36-1-24, 36-1-25. (Authorized by K.S.A. 8-1911; effective May 1, 1979; revoked May 1, 1983.)

36-1-26. Movement of mobile homes. The following regulations govern the movement of all mobile homes, and modular sections of houses towed in the same fashion as mobile homes.

(a) Permits shall be issued over specified routes to be designated by the department for the single trip movement, during daylight hours, of mobile homes, or modular sections of houses towed in the same fashion as mobile homes, not exceeding 14 feet in width. The movement shall be subject to all regulations contained in this section, and all state and federal laws or applicable regulations.

(b) A permit shall be valid for a period not to exceed five moving days as defined by these regulations.

(c) No movement shall be allowed at night, or on Saturdays, Sundays, or legal holidays, except that mobile homes up to 12 feet six inches wide may be moved until noon on Saturdays. No movement shall be allowed when the ground wind in the vicinity, or on the highways over which the mobile home is being hauled or towed, exceeds a velocity of 25 miles per hour or during rain, snow, sleet, fog, or when highway surfaces are slippery due to ice, packed snow, or rain.

(d) All mobile homes over eight feet wide shall be towed by a truck having a manufacturer's weight car-

rying capacity of not less than two tons or having a gross vehicle weight capacity rating of not less than 12,000 pounds, with dual rear wheels having a wheel base of not less than 120 inches, and with a four-speed transmission or its equivalent.

(e) All mobile homes over 30 feet in length shall have at least two full axles and four wheels which are spaced and centered so as to properly support the weight of the mobile home and shall have a separate braking system when over 50 feet in length. Mobile homes over 65 feet long shall have three full axles.

All mobile homes over eight feet wide shall have red flags attached to each corner of the mobile home.

(f) Brakes, when required on mobile homes, shall be in good working condition and of the type controlled from the towing unit by the driver and shall have automatic application in case of breakaway.

(g) Motor vehicles towing mobile homes that are more than eight feet wide shall have an "OVERSIZE LOAD" sign attached to the top of the cab or the vehicle or in front of the vehicle at a height of at least 30 inches from the road surface, and shall also have attached to each end of the front bumper a red flag. The mobile home being towed shall have a similar sign attached to the rear of the mobile home, at a height of at least 72 inches from the road.

(h) Except as otherwise provided in paragraphs (1) and (2) of this section (h), the movement of all mobile homes over 12 feet six inches wide shall be protected by two escort vehicles. Each escort vehicle shall have a rotating, flashing amber light eight inches in diameter mounted on the top of the escort vehicle in such a manner that it is readily visible in all directions at a distance of not less than 800 feet, and shall have attached to the top of the vehicle an "OVERSIZE LOAD" sign.

(1) On two-lane roads, in lieu of the two escort vehicles required under the preceding paragraph, a rotating, flashing amber light may be used in place of one of the escort vehicles in the following manner: An escort vehicle, meeting the requirements of section (h), shall be required to precede the vehicle towing the mobile home, and a rotating flashing light, meeting the requirements of section (h) shall be mounted on top of and near the rear of the mobile home.

(2) No escort vehicle or vehicles are required on four-lane roads if a rotating, flashing amber light, meeting the requirements of section (h), is attached to the top of the vehicle towing the mobile home, and to the top of and near the rear of the mobile home being towed. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; modified, L. 1979, ch. 347, May 1, 1979; amended May 1, 1983.)

36-1-27. Special permits for moving large structures. (a) Applications to move loads that meet the definition in K.A.R. 36-1-1a for large structures shall be submitted to the secretary or the secretary's designee at least five days prior to the desired date of movement. The final decision with regard to the exact date and time of day a move shall be made rests with the district engineer in whose district the move is to be made.

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The district engineer shall be consulted by the mover before any trees are cut or trimmed. The mover shall also make arrangements with the district engineer before the removal and relocation of signs, hazard markers, or other property of the department.

The movement shall be flagged at all times by a flagman in a separate vehicle preceding the truck moving the structure. The flagman shall be stationed at side road intersections to hold all vehicles at those intersections until the structure has been moved through the section of road being blocked. A flagman in a separate vehicle shall follow at least 500 feet to the rear of the structure being moved. Each vehicle used as a flag vehicle shall have an "OVERSIZE LOAD" sign attached to the top of the vehicle. The dimensions of the sign shall conform to the specifications contained in K.A.R. 36-1-1a(12), except the letters shall have not less than two inch strokes. Each flag vehicle shall have attached to its top a rotating, flashing amber light readily visible for a distance of 800 feet. No permits shall be granted to transport large structures on interstate highways, nor shall such structures be allowed to stand at night on any part of the traveled portion of the highway or highway right-of-way.

All movements of large structures shall also be subject to the requirements set forth on the permit application.

The mover shall be required to furnish a certified check, surety bond or both, with the application, in amounts determined by the secretary or the secretary's designee, as:

- (1) a guarantee that the provisions of the permit shall be carried out;
- (2) to reimburse the department for any damages that may be inflicted upon the highway or its structures by reason of the movement; and
- (3) to cover the department's expenses in supervising the movement and inspecting the section of highway over which the load will travel. The department shall determine any damage caused to the highway or bridges.

(b) Permits shall not be granted for the movement of large structures on any highway of the state system where local roads are available on which to make the move, even though the use of such roads would require a greater travel distance. Permits shall be issued on a state highway for a short distance only, such as from the nearest intersecting road to or from a point of origin or destination on a state highway.

The state shall be divided into two zones to regulate the movement of large structures on state highways:

Zone 1 shall include US-81 and all routes east of the US-81 corridor, and Zone 2 shall include all routes west of the US-81 corridor.

(1) Zone 1. Structures over 16 feet six inches in width shall be limited to 30 minutes for each movement on US numbered routes, and one hour on K numbered routes, but not to exceed five miles on US numbered routes and 10 miles on K numbered routes.

(2) Zone 2. Structures over 16 feet six inches in width shall be limited to one hour on US numbered routes, and two hours on K numbered routes, but not

to exceed ten miles on US numbered routes and 20 miles on K numbered routes.

An additional five miles may be allowed on both US and K routes, in either zone, that have an annual average daily traffic count of not more than 800 vehicles. If the move requires more than the above maximum time or distance, the building shall be reduced in size or disassembled.

Railroad officials shall be notified by the mover before crossing any railroad. Permits shall not be issued to use any portion of the interstate highway system. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1911; effective May 1, 1979; amended May 1, 1983.)

Article 2.—VEHICLES CARRYING EMERGENCY EQUIPMENT

36-2-3. Application for designation of emergency vehicle. (a) An application for the designation of a vehicle as an emergency vehicle shall be submitted to the secretary and shall be completed and signed: (1) by the individual applicant;

(2) if a partnership, by a member of the partnership or an authorized agent; or

(3) if a corporation or municipality, by an officer or authorized agent of the corporation or municipality.

(b) The following vehicles may, upon approval by the secretary, be designated as emergency vehicles:

- (1) Wreckers.
 - (2) Civil defense vehicles.
 - (3) Emergency vehicles operated by public utilities.
 - (4) The privately owned vehicles of firemen or volunteer firemen.
 - (5) Privately operated ambulances.
 - (6) The privately owned vehicles of police officers.
- (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-4. Approvals required. An application for the designation of a vehicle as an emergency vehicle shall have the approval of the appropriate individual or individuals listed below, endorsed upon the application:

(a) Wreckers shall have the approval of the superintendent of the state highway patrol or the superintendent's representative.

(b) Civil defense vehicles shall have the approval of the state director of civil defense.

(c) Emergency vehicles operated by public utilities shall have the approval of the sheriff of the county in which they ordinarily operate.

(d) Volunteer or other firemen using their personal vehicles in answering emergency calls shall have the approval of the chief of the fire department, the chief of police or the city marshal of the city maintaining the fire department and the sheriff of the county in which the city is located. However, the application of chief of the fire department shall have the approval of the

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chief of police or city marshal and the sheriff, and a fireman belonging to or employed by a township, district or volunteer fire department shall only have the approval of the chief of the department and the sheriff of the county in which the township or district or volunteer fire department is located. The chief of the township, district or volunteer fire department shall only have the approval of the sheriff of the county.

(e) Privately operated ambulances shall be licensed in Kansas and shall have the approval of the chief of police or city marshal of the city in which the ambulance is housed and the sheriff of the county in which the city is located. An ambulance housed outside of the corporate limits of a city shall have only the approval of the sheriff of the county in which the ambulance is housed.

(f) The application of police officers for the designation of their privately owned automobiles as emergency vehicles shall have the approval of the chief of police of the police department in which they are employed.

(g) The application of a deputy or assistant city marshal shall be approved by the city marshal of the city in which the deputy or assistant marshal is employed.

(h) The application of the chief of police or city marshal shall have the approval of the mayor of the city by which the police chief or city marshal is employed.

(i) The application of the undersheriff and deputy sheriffs shall be approved by the sheriff appointing them.

(j) The application of a sheriff to have privately owned vehicles designated as emergency vehicles shall only be signed by the sheriff and shall not be approved by any other county or city officials.

(k) An application of an officer or employee of the state shall have the approval of the head of the department or agency that has law enforcement authority in which the officer or employee is employed.

(l) An application for the designation of any other vehicle as an emergency vehicle shall have the approval of the chief of police or city marshal, and the sheriff of the county in which the applicant resides or maintains an office or place of business, or is employed. If the applicant resides outside the corporate limits of a city in this state, does not maintain an office or place of business within the corporate limits of any city in this state, and is not employed within the corporate limits of a city in this state, the application shall only be approved by the sheriff of the county in which the applicant maintains an office or place of business or is employed.

(m) The secretary may waive any required approval that is not provided for by this regulation upon a finding such a designation as an emergency vehicle is necessary for the preservation of life or property or to the execution of emergency governmental functions. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-5. (Authorized by and implementing K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010, 75-5004; effective Jan. 1, 1972; amended, E-74-66, Feb. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended May 1, 1981; revoked May 1, 1983.)

36-2-6. Refusal of approval, hearing notice. (a) Any applicant for the designation of a vehicle as an emergency vehicle who is unable to obtain the specified approvals may submit a written request for a hearing before the secretary on the application.

(b) The applicant, and the official refusing to give the approval specified, shall be given not less than 10 days written notice by the department of the time and place of the hearing. The notice of hearing shall be sent by mail, addressed to the applicant at the address shown on the application and to the official at the official's address.

(c) The applicant and the official may each appear at the hearing in person and present their reasons for and against the granting of the application. Corporations may be represented by an officer or agent, or by an attorney duly authorized to practice law in Kansas.

(d) The secretary or the secretary's representative shall, at the conclusion of the hearing, either grant or deny the application. However, the secretary, may at the conclusion of the hearing take the matter under advisement and rule upon the issue within 10 days. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-7. (Authorized by K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010, 75-5004; implementing K.S.A. 8-1404, 8-1720(a), 8-1738(d), 8-2010; effective Jan. 1, 1972; amended, E-74-66, Feb. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended May 1, 1981; revoked May 1, 1983.)

36-2-9. Operation of non-designated vehicle with red light or light, siren, whistle or bell prohibited; notification to county attorney. (a) A person, partnership, association, corporation, municipality, or public official shall not operate, or cause to be operated upon a public highway road or street within this state, a motor vehicle with a red light, siren, or both unless the vehicle has been designated as an emergency vehicle by the department, except fire department vehicles, police vehicles and ambulances that are publicly owned as provided in K.S.A. 1980 Supp. 8-1404.

(b) Whenever the secretary or the secretary's designee has information that a motor vehicle is being operated upon the public highways, roads or streets in violation of this regulation, and of Kansas Statutes, the person, partnership, association, corporation, or municipality shall be notified by registered or certified mail that the operation is illegal. The secretary or the secretary's designee shall direct that the operation of the vehicle be discontinued immediately, and if no application is made for the designation of the vehicle as an emergency vehicle within 10 days from the date of the mailing of the notice, an investigation shall be

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conducted to determine whether the operation has been discontinued. All information regarding the violation, including names and addresses of possible witnesses, shall be transferred to the county attorney of the county in which the violation is taking place. Request shall be made that the county attorney institute proper civil proceedings to abate the violation and any criminal proceedings as may be appropriate. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-10. Violations, warning, cancellation of designation as emergency vehicle. Whenever the secretary or the secretary's designee receives information that an emergency vehicle is being operated in violation of the statutes pertaining to emergency vehicles or these regulations, and if it is the first such violation by the owner or operator of the vehicle within a 24 month period, a warning notice shall be sent by registered or certified mail, return receipt requested. The notice shall advise the owner of the violations complained of, and inform the owner that any further violation shall result in a cancellation of the designation of the vehicle as an emergency vehicle. Upon receipt of information regarding a second or additional violation, pertaining to the operation of the vehicle or any other designated emergency vehicle owned or operated by the party within a 24 month period, the secretary or the secretary's designee shall notify the owner of the vehicle of the purported violations, by registered or certified mail. The owner shall have 21 days from the date of the mailing of the notice in which to respond. Should the owner fail to respond within the 21 days, or within an extension granted by the secretary or the secretary's designee, or if the response is insufficient, or if the secretary or the secretary's designee finds that the response is untrue, an order canceling the designation of the vehicle as an emergency vehicle shall be mailed to the owner of the vehicle by registered or certified mail, return receipt requested. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1729, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-11. Same; request for hearing before the secretary. (a) The owner of any designated emergency vehicle which has been cancelled as provided in K.A.R. 36-2-10, may file a written request for a hearing within 15 days after the mailing of a copy of the order of cancellation. The filing of the request shall suspend the operation of the order of cancellation.

(b) The owner of the vehicle and any person who has made a complaint as to the operation of the vehicle shall be given not less than 10 days written notice by the secretary, or the secretary's designee, of the time and place of hearing by registered or certified mail, return receipt requested, addressed to the person at their last known address, as shown by the files of the secretary.

(c) The owner of the vehicle, and other interested

parties, may appear at the hearing in person and present their reasons for, and in opposition to, the cancellation of the designation. Corporations may be represented by an officer or agent, or by an attorney duly authorized to practice law in Kansas.

(d) The secretary or the secretary's designee shall, at the conclusion of the hearing, either affirm or vacate the order cancelling the designation of the emergency vehicle. If the order is vacated, the designation of the vehicle as an emergency vehicle shall be reinstated. However the secretary or the secretary's designee may at the conclusion of the hearing take the matter under advisement and make a final ruling within 10 days. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-12. Use of red light or lights only, or red light and siren, whistle or bell after designation denied or cancelled. Upon receipt of information that a person, partnership, association, corporation, municipality or public official is operating, or allowing to be operated, a motor vehicle with a red light or lights, or siren, whistle or bell, or a combination of any of these emergency warning devices, for which an emergency vehicle application was denied, or for which the designation has been cancelled, the secretary, or the secretary's designee, shall transmit all information pertaining to the operation of the vehicle, with a copy of the order denying or cancelling the emergency vehicle designation and the names and addresses of possible witnesses, to a county attorney of the county where the vehicle is being operated. A request shall be made that the county attorney institute civil proceedings to stop the operation of the vehicle with the emergency warning devices, and any criminal proceedings deemed appropriate. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720(a), 8-1729(d), 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-13. Notice of the right of hearing before the secretary. (a) Whenever the secretary or the secretary's designee denies an emergency vehicle application or in any case in which the applicant is unable to get the necessary approvals and the approvals are not waived the secretary or secretary's designee shall, by mail addressed to the applicant at the address shown upon the application, advise the applicant of:

(1) the right to a hearing before the secretary or the secretary's designee by filing a written request as provided in K.A.R. 36-2-6 subsection (a); and

(2) the right to be represented by counsel of the applicant's own choosing at the hearing.

(b) Whenever the secretary or secretary's designee cancels the designation of a vehicle as an emergency vehicle, the owner of the vehicle shall be:

(1) notified of the cancellation by mail;

(2) advised that written requests for a hearing upon the question or questions of cancellation must be filed

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within 15 days from the date the order of cancellation was mailed to the owner; and

(3) advised of the right to be represented by counsel of the owner's choosing at the hearing. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1404, 8-1502, 8-1506, 8-1720, 8-1738(d), 8-2010; effective Jan. 1, 1972; amended May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

36-2-14. Use of sirens. All sirens used on vehicles traveling the public highways in Kansas shall be tested and approved by the American association of motor vehicle administration (AAMVA). (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1702, 8-1738; effective May 1, 1976; amended May 1, 1981; amended May 1, 1983.)

Article 3.—HIGHWAY ENTRANCE PERMITS

36-3-1 to 36-3-5. (Authorized by K.S.A. 68-413b; effective Jan. 1, 1966; revoked May 1, 1983.)

36-3-6. Driveway permits. Individuals desiring to construct or alter a driveway onto the state highway system shall be required to obtain a permit from the Kansas Department of Transportation. Under no circumstances shall an individual be permitted to perform any work on the state highway right-of-way until an approved copy of a highway permit agreement is received. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 1982 Supp. 68-406(e); effective May 1, 1983.)

Article 4.—SADDLEMOUNTS; TRANSPORTATION OF EMPTY TRUCKS

36-4-8. Saddle mounts, transportation of empty trucks. Rules and safety regulations promulgated by the U.S. department of transportation found at 49 C.F.R. part 393.71 and in effect on October 11, 1972, are hereby adopted by reference as the safety rules and regulations by the secretary. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1907; effective May 1, 1981; amended May 1, 1983.)

Article 12.—CONTROLLED ACCESS HIGHWAYS; USE

36-12-1. Vehicle use of controlled access highways. Stopping, standing, or parking vehicles on the right-of-way of controlled access highways is prohibited except for:

- (a) stopping of disabled vehicles;
- (b) stopping to give aid in an emergency;
- (c) stopping in compliance with directions of a police officer or other emergency or safety official;
- (d) stopping due to illness or incapacity of driver; or
- (e) parking in designated parking or rest areas.

(Authorized by K.S.A. 1982 Supp. 68-404; implementing 8-1572, 68-1902; effective Jan. 1, 1966; amended May 1, 1983.)

36-12-2. Unauthorized ingress or egress prohibited. Ingress and egress to or from a controlled access highway by persons or vehicles at points other than interchanges or other points of entrance provided by

the department shall be prohibited. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-1902; effective Jan. 1, 1966; amended May 1, 1983.)

Article 13.—SCHOOL BUS TRANSPORTATION

36-13-8. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended, E-70-21, April 17, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended Jan. 1, 1974; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-9a. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1974; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-10. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended Jan. 1, 1972; amended Jan. 1, 1974; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-11. (Authorized by K.S.A. 8-2009; effective Jan. 1, 1966; amended Jan. 1, 1972; amended, E-74-16, March 8, 1974; amended, E-74-66, Dec. 23, 1974; amended May 1, 1975; amended May 1, 1976; amended, E-78-22, Aug. 10, 1977; amended May 1, 1978; revoked May 1, 1983.)

36-13-16. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1979; revoked May 1, 1983.)

36-13-17, 36-13-18. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked May 1, 1983.)

36-13-21. (Authorized by K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; revoked May 1, 1983.)

36-13-30. School bus chassis and body standards. (a) All school bus chassis and body construction standards promulgated by the U.S. Department of Transportation found at 49 C.F.R. 571.101 *et seq.* are adopted by reference. In the event of a conflict between the requirements of an applicable federal motor vehicle safety standard and further specifications identified in this regulation, the requirements of the federal motor vehicle safety standard shall control.

(b) School buses manufactured July 1, 1983 and after shall meet the chassis and body construction specifications contained in the 1980 revised edition, Standards for School Buses and Operations. School buses shall be referred to as Type A, Type B, Type C, and Type D vehicles as defined in the publication.

The following exceptions to the chassis and body construction standards apply to all sizes of school buses, unless otherwise indicated: (1) Chassis construction standards.

(a) Color. The school bus hood may be lusterless black. Lettering on the exterior of the school bus shall be black.

(b) Fuel tank. A fuel tank with a minimum capacity of 22 gallons shall be permitted on Type A vehicles only.

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(c) Tire and rims. Type B, Type C and Type D vehicles shall be prohibited from using retreaded tires on the front wheels.

(2) Body construction standards. (A) Emergency doors. With the exception of Type A vehicles, the lower portion of the emergency door shall be equipped with approved safety glass, the exposed area of which shall not be less than 350 square inches.

(b) First aid kit. The kit shall consist of: (i) Sixteen individual $\frac{3}{4}$ inch \times three-inch adhesive bandages; (ii) one two-inch bandage compress; and (iii) one three-inch bandage compress.

(c) Identification. The owner's name shall be displayed on the sides of the school bus body. The designation shall include the contractor's name; unified school district name, or number, or both; non-public school name; governmental agency; or other owner's name.

School bus identification numbers shall be displayed on the rear and on both sides of the school bus body. The identification numbers shall be plainly legible, in black numbers, four inches high with a minimum $\frac{1}{2}$ inch stroke. Identification numbers may be displayed on the front of the school bus. The numbers shall not interfere with lettering requirements on the school bus.

(D) Lamps and signals. The four alternately flashing amber lamps in the school bus signal lamp system may be provided in addition to the required four red signal lamps. A storage location for required road warning devices shall be optional.

(E) Mirrors. An exterior convex mirror with a minimum of 35 square inches shall be provided. The mirror shall be mounted at the extreme left front of the school bus to provide localized vision of the entire length of the left side of the school bus. A convex mirror shall be mounted at the extreme right front of the school bus to provide localized vision of the entire length of the right side of the school bus. Convex mirrors shall not be required on Type A school buses.

(F) Seats and crash barriers. Jump seats shall be prohibited.

(G) Stop signal arm. An octagon shaped, stop signal arm shall be installed on the left side of the school bus body. It shall have a red background with the word STOP on both sides in white letters at least six inches high. It shall have a white border around the edges at least a $\frac{1}{2}$ -inch in width. The stop signal arm shall contain alternately flashing red lamps which are visible to motorists approaching the bus from both the front and the rear. (Authorized by and implementing K.S.A. 8-2009; effective May 1, 1983.)

36-13-31. Transportation supervisor. (a) The governing board or body of every school district or non-public school shall designate a person or persons as the transportation supervisor. The transportation supervisor shall be responsible for the school transportation system, and shall maintain supervision over the system. The duties of the transportation supervisor shall include the following:

(1) Annual inspection.

(A) Procedure. All school buses shall be inspected

annually by the Kansas highway patrol. The annual inspections shall be conducted no earlier than July 1 nor later than September 30 of each school year, except that any school bus purchased or otherwise acquired after September 30 of each school year and school buses which have not passed an inspection pursuant to this subsection shall not be used in school transportation until an inspection has been passed. For purposes of this subsection, the term "school year" shall mean the twelve consecutive months beginning on October 1 and ending on September 30. Unannounced spot inspections may be conducted at any time by the Kansas highway patrol.

(B) Rejection. Failure of a school bus to comply with applicable specifications shall be cause for rejection of that school bus. A school bus, if rejected, shall not be used for school transportation purposes until necessary repair or correction is completed and that repair or correction is approved by the Kansas highway patrol. The transportation supervisor shall be allowed 10 days, beginning the day after the initial inspection is conducted, to complete repair or correction of those defective items on the rejected school bus in order to avoid reinspection. Within the 10 day period, if repair or correction is completed, the transportation supervisor may contact the Kansas highway patrol and request an examination of the subject school bus to note if defective items have been repaired so that the bus performs as required by specifications.

(C) Reinspection. If a school bus is rejected and if the defective items are not repaired or corrected before the expiration of the 10 day correction period, it shall be necessary for the transportation supervisor to request a school bus reinspection. Use of the school bus in school transportation shall be dependent upon passage of the reinspection. Reinspection shall be conducted in the same manner as provided in paragraphs (A) and (B) of this subsection.

(D) Inspection sticker. After passing an inspection or reinspection, each school bus shall receive an official school bus inspection sticker which shall be applied to the front windshield on the lower corner of the driver's side.

(2) Drivers' meetings. The transportation supervisor shall organize monthly safety meetings for school bus drivers in order to provide for exchanges of information regarding changes in law, safety procedures, route information and similar topics.

(3) School bus routes. (A) The transportation supervisor shall carefully plan and study all school bus routes with particular consideration given to hazards encountered on each route. Hazards shall be avoided whenever possible.

(B) A map of school bus routes, complete with school centers, shall be maintained on a current basis.

(C) Whenever practicable, bus routes shall be planned so that no student will be required to ride in the bus more than one hour each trip, or be compelled to walk more than one mile to board the school bus.

(D) The transportation supervisor shall encourage

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the reporting of all unsafe locations, road conditions, or other hazards appearing on each route.

(4) School bus route stops.

(A) The transportation supervisor shall establish all regular school bus route stops for the loading or unloading of students.

(B) Stops shall be reviewed at least annually for safety hazards.

(C) Whenever practicable, a stop shall not be established where visibility is obstructed to motorists for 500 feet in any direction. If a stop must be established where visibility is less than 500 feet, highway warning signs or other safety procedures shall be provided.

(D) Stops shall not be established on any interstate highway or state toll road, but those roads or highways may be used for travel as part of a school bus route.

(5) Loading and unloading assistance. The transportation supervisor shall be responsible for providing supervision of the loading and unloading of school bus passengers.

(6) Lubrication, maintenance and repair records. The transportation supervisor shall keep records on the lubrication, maintenance and repair of every school bus for at least one year. The records shall be made available to the Kansas highway patrol and the department upon request. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983.)

36-13-32. School bus driver qualifications and duties. (a) Persons employed as school bus drivers for any school district, or any other party transporting school students, shall possess:

(1) a valid Kansas class A or B license;

(2) a chauffeur's license; or

(3) a restricted class B driver's license. Restricted class B licenses shall be subject to the provisions of K.S.A. 1981 Supp. 8-238 and shall permit the licensee to drive only on regularly established school bus routes to and from school.

(b) Upon application of a person seeking to become a school bus driver, every employer of school bus drivers shall inspect the applicant's driving record through the division of vehicles, Kansas department of revenue, in accordance with K.S.A. 1981 Supp. 74-2012.

Any employer of school bus drivers shall not employ, re-employ or retain any person as a school bus driver if the person's driving record indicates that the person is a habitually reckless or negligent driver of a motor vehicle. A habitually reckless or negligent driver shall be a person who has had a driver's license revoked or suspended by the division of vehicles, Kansas department of revenue, pursuant to K.S.A. 1981 Supp. 8-254 and K.S.A. 8-255.

(c) Every school bus driver shall:

(1) Be experienced in driving some type of motor vehicle, which may be a private automobile, for not less than one year, including experience throughout each of the four seasons;

(2) have a minimum of two hours behind-the-wheel driving experience in a school bus, which may include driving a school bus route;

(3) complete an American red cross multi-media first aid course, or an equivalent course approved by the secretary or the secretary's representative, as evidenced by a certificate showing satisfactory completion of instruction. The course shall be retaken by each school bus driver within three years from the date of issuance of the driver's last issued certificate.

(4) complete driver training requirements, as follows:

(A) Newly employed drivers shall complete the national safety council defensive driving course, or the American automobile association driver improvement program, or an equivalent course approved by the secretary or the secretary's representative, as evidenced by a certificate. The certificate shall indicate satisfactory completion of the course, and shall be valid for three years from date of issue.

(B) Experienced drivers needing certification shall complete the national safety council defensive driving course every three years, or complete the American automobile association driver improvement program every three years, or attend the Kansas department of transportation school bus driver workshops annually, or complete an equivalent course as outlined in part (A).

(C) A substitute school bus driver shall complete, within 90 days from the beginning of service, the required courses described in subsections (3) and (4) of this section. For purposes of this section the term "substitute school bus driver" means those persons who have not been employed as a school bus driver during the preceding three years. The term "beginning of service" means the date the person first drove a school bus loaded with passengers;

(5) Attend monthly safety meetings provided by the driver's employer.

(d) All physical examinations required by these regulations shall be performed by a physician licensed by the state of Kansas.

(1) School bus drivers shall be required to pass a physical examination:

(A) Prior to beginning employment as a school bus driver;

(B) At any time at the request of the driver's employer, the transportation supervisor, the secretary or the secretary's representative; and

(C) Within two years of the last completed physical examination.

(2) An in-service or prospective school bus driver shall be deemed to have passed a physical examination if the driver satisfies the qualifications outlined in the medical examination report form, as approved by the secretary or the secretary's representative. The report shall include the following minimum qualifications:

(A) No loss of foot, leg, fingers, hand, arm, or other structural defect, or limitation of movement likely to interfere with safe driving;

(B) No mental, nervous, organic, or functional disease likely to interfere with safe driving;

(C) No use of medication which the examining physician determines is likely to interfere with safe driving;

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(D) No indication of coronary or heart ailment which the examining physician determines is likely to interfere with safe driving. An electrocardiogram is required when other findings indicate desirability in using such a test;

(E) Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses, or contact lenses. The driver's form field of vision in the horizontal meridian shall not be less than a total of 140 degrees. The driver shall have ability to distinguish the colors red, green and yellow. If the driver's eyesight requires correction by glasses or contact lenses, the driver shall wear them at all times when driving;

(F) Ability to perceive whispered voice in the better ear at not less than five feet with or without the use of a hearing aid. If tested by use of an audiometric device, the driver shall not have an average hearing loss in the better ear greater than forty decibels at 400 Hz, 1,000 Hz, and 2,000 Hz, with or without a hearing aid, when the audiometric device is calibrated to American national standard (formerly ASA standard) Z24.5-1951;

(G) No addiction to the use of narcotics, illegal drugs, alcohol or liquor;

(3) Each medical examination report shall be kept on file at the school district, or the nonpublic school's or employer's office and shall be retained by these offices for a minimum of two years from the date of completion of the physical examination.

(e) No person shall be employed nor continue to be employed as a school bus driver:

(1) If the person is convicted of any violation involving: (A) Hit-and-run driving, as described in K.S.A. 8-1602;

(B) Driving while intoxicated or under the influence of drugs, as described in K.S.A. 1981 Supp. 8-1567;

(C) Vehicular homicide, as described in K.S.A. 21-3405; or

(D) Any act which, if committed in the state of Kansas, would be classified as a felony, or class A or class B misdemeanor; or

(2) If the person has practiced or attempted to practice any material deception or fraud in the application for employment as a school bus driver.

For purposes of this article, a conviction means a plea of guilty or *nolo contendere*, or a verdict or finding of guilt by court in trial with or without a jury, or a forfeiture of bail.

A school district, nonpublic school, or employer (if different from the school district or nonpublic school), and the secretary or the secretary's representative, after consulting among each other, may, after three years from the date of the last occurrence of any of the convictions or acts described in (1) above, waive those requirements if it has been determined the applicant would be a satisfactory school bus driver.

(f) No person shall be permitted to drive a school bus when under the influence of any narcotic, illegal drug, cereal malt beverage or liquor, except prescription drugs if the physician prescribing the drug determines that it will not interfere with safe driving.

Drivers shall not consume nor have in their possession any narcotic, illegal drug, cereal malt beverage or liquor while on duty, except if a prescription drug as allowed above is required.

(g) The following conditions shall be met in the operation of school buses in the state of Kansas.

(1) No person shall drive any school bus for more than 10 consecutive hours or for more than an aggregate of 10 hours spread over a period of 16 consecutive hours.

(2) A school bus driver shall operate the bus in a safe, prudent, and careful manner with due regard to traffic and the use of the highway by others.

(3) A school bus driver shall use the provided seat belt at all times while the bus is in motion.

(4) A school bus driver shall not permit the bus to be operated or driven with any trailer or other vehicle attached. The use of a tractor or any other motor vehicle in combination with a trailer, semitrailer or pole trailer as a school bus shall be prohibited.

(5) A school bus driver shall not permit a bus, when traveling, to coast with the transmission in neutral or the clutch disengaged. The doors of the bus shall be closed before the bus is put into motion and shall remain closed when traveling, except that the service door may be opened upon approaching and crossing railroad crossings.

(6) The fuel tank shall not be filled while the engine is running or when students are inside the bus. Fuel shall only be carried or transported in the regularly provided fuel tank of the bus.

(7) No person shall be permitted to stand on any school bus while the bus is in motion. A bus shall not be put in motion until all students are seated. When unloading students, the bus driver shall not allow students to leave their seats until the bus comes to a complete stop.

(8) The school bus driver shall not allow anyone, other than school personnel and students, to ride the bus unless permission in writing has been issued by the transportation supervisor or the supervisor's representative. This provision shall not apply to law enforcement or emergency personnel who are passengers of a bus in emergency periods as designated by the governing board of a school district, nonpublic school or the secretary.

(9) A driver shall not require any student to leave the bus before the destination of the student has been reached.

(10) A school bus driver shall not leave the bus while the engine is running.

(11) A school bus driver shall not make any repairs, except emergency repairs as may be necessary, while on the road.

(12) Each school bus shall be inspected by the driver daily before use to ascertain that it is in safe condition, equipped as required by all provisions of law, and that all equipment is in good working order. The driver shall test for the proper operation of the parking, service, and emergency braking systems, and shall open and close all emergency exits before using the bus for transporting students. No student shall be

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transported until any defects which may be discovered have been corrected.

(h) A substitute school bus driver shall fulfill the requirements of a licensed school bus driver except as otherwise provided in this article.

(i) A person who holds a valid class A, B or C license may be permitted to operate a school bus in an emergency situation. An emergency school bus driver shall be limited to a maximum of five driving days in a school year and shall be used only when a regular or substitute school bus driver is unavailable. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983.)

36-13-33. Special driving procedures. (a) The following procedures shall be used for the loading or unloading of students at school:

(1) The loading and unloading of students onto and from buses shall be conducted off the roadway, highway or street, in an area away from the vehicular traffic, whenever possible.

(2) Whenever adequate space is provided, buses shall be parked in single file, one behind the other.

(3) Buses shall be parked as described in (2) above prior to the dismissal time of the school. In those instances when a bus takes on students at more than one school, the bus shall be parked prior to dismissal time only at the school where the bus initially takes on students.

(4) Whenever the loading and unloading of students must be conducted on a roadway, highway or street, the following rules, in addition to those contained in this section shall apply:

(A) Buses shall be parked on the side of the roadway that is nearest the school with the entry door facing away from the roadway.

(B) If roadway curbing is present, buses shall be parked adjacent to the curbing.

(C) If roadway curbing is not present, buses shall be parked off of the roadway if adequate space is available, unless to do so would threaten the stability of the bus.

(5) The transportation supervisor of every school district or nonpublic school shall adopt a procedure for the loading or unloading of students that is consistent with these regulations.

(b) Whenever adequate space is provided, the school bus driver shall load and unload students off the roadway unless to park the bus off the roadway would threaten the stability or safety of the bus or the students.

(1) Whenever the school bus does not pull off the roadway, highway or street, the loading and unloading of students shall take place in the right hand lane of the roadway, highway or street.

(2) A school bus driver shall not require a student to cross a divided highway in order to board the bus or to reach the student's destination after leaving the bus. School bus drivers shall load and unload students on that side of the divided highway on which the student lives.

(3) The school bus driver shall require the student

or students to cross the roadway, highway or street upon which the bus is stopped, in front of the bus, and at a distance that allows the school bus driver to see the student or students as they cross.

(4) The school bus driver shall not move the school bus from the bus stop until all students discharged who must cross the roadway upon which the bus is stopped have done so. The driver shall ascertain that other students not crossing the roadway are a safe distance from the bus so that movement of the bus would not endanger the students.

(5) The driver shall not permit students who are to be loaded on or unloaded from the bus to cross the roadway upon which the bus is stopped until the students may safely do so.

(c) The alternately flashing warning signal lamps on a school bus shall be used whenever a school bus is stopped on the highway for the purpose of receiving or discharging students, pursuant to K.S.A. 1981 Supp. 8-1566. (Authorized by and implementing K.S.A. 8-2009; effective, E-78-22, Aug. 10, 1977; effective May 1, 1978; amended May 1, 1983.)

Article 15.—SPECIFICATIONS FOR MOTORCYCLE SAFETY HELMETS

36-15-23. Motorcyclists' eye protection devices. Motorcyclists' eye protection devices shall be constructed in a manner that meets the minimum requirements of the vehicle equipment safety commission's regulation vesc-8 or V-8, as of December 31, 1982. Motorcyclists' eye protection devices shall bear the vesc-8 or V-8 symbol. The vehicle equipment safety commission's regulation vesc-8, or V-8, as of December 31, 1982, is hereby adopted by reference. (Authorized by and implementing K.S.A. 8-1598; effective May 1, 1981; amended May 1, 1983.)

Article 16.—HIGHWAY RELOCATION ASSISTANCE

36-16-1. Acquisition of real property for state highway purposes; relocation assistance. (a) (1) 23 C.F.R. Section 740 et seq. is adopted by reference, and is referred to in these regulations as Section 740.

(2) The provisions of Section 740 shall be applicable to all acquisitions of real property by the department of transportation for the state highway system including those acquisitions in which federal funds are not available for or used in payment of acquisitions.

(b) A person displaced from his or her dwelling, whether it is a separate house, apartment unit, cabin, or one or more sleeping rooms, because of an acquisition of real property for state highway purposes, may have the option of receiving either a moving expense allowance plus dislocation allowance or a reimbursement for actual moving expenses. The amount of the relocation moving expense allowance shall not exceed the amount in the schedule established by the secretary of transportation or the secretary's designee.

(c)(1) A tenant occupant who is displaced from a

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mobile home because of an acquisition of real property for state highway purposes may have the option of receiving either a moving expense allowance plus a dislocation allowance or a reimbursement for actual moving expenses. The amount of the relocation moving expense allowance shall not exceed the amount in the schedule established by the secretary of transportation or the secretary's designee.

An owner-occupant who is displaced from his or her mobile home because of an acquisition of real property for state highway purposes may have the option of receiving either a moving expense allowance plus a dislocation allowance or a reimbursement for actual moving expenses. The amount of the relocation moving expense allowance shall not exceed the amount in the schedule established by the secretary of transportation or the secretary's designee. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-68-16, May 13, 1968; effective, E-69-8, May 28, 1969; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-71-31, Aug. 1, 1971; amended Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended, E-76-33, July 1, 1975; amended May 1, 1976; amended May 1, 1983.)

36-16-4. Notice of appeal. Any person aggrieved by a determination as to eligibility, under K.S.A. 58-3501 through 58-3506 or these regulations, for a relocation assistance payment, or the amount of such payment, shall file a written notice of appeal with the secretary of transportation, or the secretary's designee. The written notice shall be filed within 60 days after having been advised of the payment, or of the determination as to eligibility for a payment, of which the aggrieved person complains. Any notice in writing received by the secretary or the secretary's designee, in a form as to indicate request for review or reconsideration of a determination for relocation assistance payments or eligibility, shall be considered a valid notice of appeal. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended, E-76-33, July 1, 1975; amended May 1, 1976; amended May 1, 1983.)

36-16-5. Designation of hearing examiner and notice of time and place of hearing. (a) Upon receipt of a notice of appeal, the relocation assistance officer shall notify the secretary or the secretary's designee, who may appoint a hearing examiner to hear the appeal. The hearing examiner shall designate a time for the appeal which is as early as is practicable and a place for the appeal which is reasonably convenient to the appellant and the examiner.

(b) The secretary of transportation or the secretary's designee may designate an attorney from the department of transportation's legal staff to attend the hearing, cross-examine witnesses testifying on behalf of the aggrieved person, and present testimony of witnesses and documentary evidence related to or con-

cerning the issues involved in the hearing. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-7. Hearings. On the date, and at the place and time stated in the notice of hearing, the person conducting the hearing shall call the hearing by reading the caption into the record. A record shall be made of all proceedings either by a recording device or by a qualified reporter. The hearing shall be conducted in such a manner as to give the appellant an opportunity to be heard upon relevant issues. The hearing examiner shall prepare a report containing a summary of the evidence and of the findings and recommendations and shall also prepare a proposed order containing the findings of fact and conclusions of law. The summary and proposed order shall be submitted to the secretary or the secretary's designee within 60 days of the conclusion of the hearing, for the approval of the secretary or the secretary's designee. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-70-14, Jan. 19, 1970; effective Jan. 1, 1971; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-16. Housing replacement by the department of transportation as a last resort. (a) If the department cannot proceed to actual construction on a project because comparable replacement sale or rental housing is not available, and the department, or its authorized representative, determines that such housing cannot otherwise be made available, it may take action that is necessary or appropriate to provide housing. Funds authorized for the purpose of housing replacement shall be used.

(b) Unless the department or its authorized representative is satisfied that replacement housing in accordance with the provisions of K.A.R. 36-16-1 is available, no person shall be required to move from his or her dwelling because of any state highway project or any county, township or city highway, road or street project for which federal funds are made available under an agreement between an agency of the federal government and the department acting for and on behalf of any of the described governmental entities. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-17. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-4026, 74-2004; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

36-16-18. Department of transportation acting as agent for federal program. Whenever real property is acquired by the department at the request of a federal

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agency for a federal program or project, that acquisition shall be deemed an acquisition by the federal agency having authority over that program or project, and not an acquisition by the state of Kansas or the department. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective, E-71-31, Aug. 1, 1971; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-19. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 72-2004; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

36-16-20. Relocation assistance in programs receiving federal financial assistance. The department, or its authorized representative may enter into contracts with any individual, firm, association, or corporation for services in connection with relocation assistance programs for displaced persons under K.A.R. 36-16-1. Functions under K.A.R. 36-16-1 may also be carried out through any federal, state or local governmental agency or instrumentality having an established organization for conducting relocation assistance programs. The department shall, whenever practicable in carrying out these relocation assistance activities use the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-21. Applicable to counties, townships, and cities. (a) The provisions of K.A.R. 36-16-1 et seq. apply to all acquisitions of real property, and displacements of persons for:

(1) any county, township or city highway, road or street, for which federal assistance is made available to that government entity because of any contract between the department on behalf of that governmental entity with a federal agency, under the provisions of K.S.A. 1981 Supp. 68-402b; or

(2) for which department funds are made available though no federal funds are available or used in the acquisition of that real property. The amount of relocation assistance and other payments made to that displaced person shall not exceed the amount that would have been paid that displaced person had federal assistance been made available or used for the acquisition of that real property for that county, township or city highway, road or street project. The department may deduct the amount of any relocation assistance payments owed by that governmental entity described in (1) above from any monies due that entity from the state or the department for highway road or street purposes.

(b) The department shall administer K.S.A. 68-402b and K.A.R. 36-16-1 as to relocation assistance, and real property acquisition by a governmental entity for

highway, road or street purposes, under the provisions of K.A.R. 36-16-21(a), except as otherwise agreed between the department and the governmental entity involved. (Authorized by K.S.A. 58-3505, 58-3506, 68-402, 68-402b, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 58-3501 to 58-3506; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; amended May 1, 1983.)

36-16-23. (Authorized by K.S.A. 68-402, K.S.A. 1972 Supp. 68-174 to 68-181, 68-402b, 74-2004; effective Jan. 1, 1972; amended, E-72-15, June 1, 1972; amended Jan. 1, 1973; revoked May 1, 1983.)

Article 18.—LIGHTS ON HIGHWAY CONSTRUCTION AND MAINTENANCE VEHICLES

36-18-4. Lights on highway construction and maintenance vehicles. All highway construction and maintenance vehicles shall be equipped with amber lights which meet or exceed the standards approved and practices recommended by the American society of automotive engineers standard j96, as of December 31, 1982, which are hereby adopted by reference. (Authorized by and implementing K.S.A. 8-1731; effective May 1, 1981; amended May 1, 1983.)

Article 19.—STANDARD FOR SLOW-MOVING VEHICLE IDENTIFICATION EMBLEM

36-19-9. Standard for slow-moving vehicle identification emblem. Rules, regulations, and specifications promulgated by the American society of agricultural engineers standard S276.3, as of December 31, 1982, are hereby adopted by reference as the standards and specifications approved by the secretary. (Authorized by and implementing K.S.A. 8-1717; effective May 1, 1981; amended May 1, 1983.)

Article 25.—TRANSPORTATION OF HAZARDOUS MATERIALS

36-25-1. (Authorized by K.S.A. 8-1746; effective May 1, 1976; revoked May 1, 1983.)

Article 26.—RAILROAD GRADE CROSSINGS

36-26-1. Railroad grade crossings; stopping required. (a) Except as provided in paragraph (b) of this section, the driver of the following types of motor vehicles shall cross a railroad track or tracks at grade, as required by K.S.A. 8-1553(a):

(1) Every school or commercial bus transporting passengers;

(2) every motor vehicle transporting any quantity of chlorine;

(3) every motor vehicle which, in accordance with 49 C.F.R. 172, as of October 1, 1981, regarding the transporting of hazardous materials, is required to be marked or placarded with one of the following markings:

(A) Explosives A.

(B) Explosives B.

(C) Poison.

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- (D) Flammable.
- (E) Oxidizers.
- (F) Compressed Gas.
- (G) Corrosives.
- (H) Flammable Gas.
- (I) Radioactive.
- (J) Dangerous.

(4) every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any dangerous article as defined in the regulations of the department, or for the transportation of any liquid having a flash-point below 200° Fahrenheit, as determined by the standard method of test for flash point of the American society for testing and materials, as set forth in ASTM D-56-61, ASTM D-92-57, or ASTM D-93-62, and referenced by the national fire protection association, in pamphlet No. 385, 1964 edition. These documents are hereby adopted by reference;

(5) every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashing point as determined by the same standard method of testing as prescribed in subparagraph (4) of this paragraph; and

(6) every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under special permit. (Authorized by and implementing K.S.A. 8-1553; effective May 1, 1976; amended May 1, 1983.)

Article 29.—PAYMENT OF MOVING EXPENSES

36-29-1. Relocation and moving assistance. Employees of the department who are transferred or relocated shall be reimbursed for moving expenses in accordance with the provisions and procedures established by the secretary of administration and set forth at K.A.R. 1-16-2a through 1-16-21. (Authorized by K.S.A. 1982 Supp. 68-404; implementing K.S.A. 75-5022; effective May 1, 1983.)

Article 30.—CONSTRUCTION BIDDING PROCEDURES

36-30-1. Definitions. All definitions of terms relevant to this article shall be those which are set forth in the standard specifications for state road and bridge construction, 1980 edition, in subsections 101.01 through 101.77 inclusive, which are adopted by reference. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-2. Bidding requirements and conditions. The rules and regulations set forth in the standard specifications for state road and bridge construction, 1980 edition, subsections 102.01 through 102.17 inclusive, shall govern the bidding procedure for contracts let by the secretary, and are adopted by reference. All current notices and revisions shall be applicable, and shall be included with the proposal form furnished to each prospective bidder. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-3. Qualification of bidders. (a) A prequalification committee composed of the director of operations, the bureau chief of construction and maintenance,

and the accounting manager, shall make the qualification rating determination of all prospective bidders, in accordance with the special provisions set forth at K.A.R. 36-30-2.

(b) Any contractor dissatisfied by the qualification rating of the committee may, within 10 days after its receipt, request in writing a reconsideration of the rating. This request shall list reasons for dissatisfaction.

(1) If a supplemental qualification statement will more accurately reflect the contractor's status, a supplemental statement may be filed along with the request for reconsideration.

(2) Upon receipt of the written request or supplemental qualification statement, the committee shall notify the contractor of the date, time and place it will reconsider the rating.

(3) The contractor may be represented at the reconsideration, and shall have the opportunity to be heard.

(4) Final action on the reconsideration shall be taken within 30 days from the date of receipt of the reconsideration request.

(c) A contractor who is dissatisfied with the final action taken by the committee may, within 10 days after receipt of notification of the final action, appeal to the secretary in writing for a final hearing.

(1) Upon receipt of the written request for final hearing, the secretary shall notify the contractor of the date, time and place of the hearing.

(2) The secretary, or the secretary's designee, shall conduct the hearing. The contractor shall be represented, and shall have the opportunity to be heard.

(3) Final action shall be taken by the secretary or the secretary's designee within 15 days after the hearing. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-407, 68-409, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-4. Sworn statement of bidders. (a) A sworn statement shall be executed by every bidder, or an agent of the bidder, on behalf of each person, firm, association or corporation submitting a proposal, certifying that the person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract. The sworn statement shall be in the form of an affidavit, and shall be sworn to before a person who is authorized by the laws of Kansas to administer oaths. The original of the sworn statement shall be filed with the department when the proposal is submitted.

(b) Failure to submit a sworn statement concerning collusion or restraint of free competitive bidding shall be grounds for rejection of the proposal. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-5. Confidentiality of bid proposals. The names of the persons, firms, associations or corporations which obtain proposal forms, and the bidders list for a particular project shall be confidential and shall

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not be subject to disclosure until the public opening of all proposals submitted for the project. (Authorized by and implementing K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-6. Award and execution of contracts. (a) The rules and regulations set forth in the standard specifications for state road and bridge construction, 1980 edition, subsections 103.01 through 103.07 inclusive, shall govern the award and execution of contracts let by the secretary, and are adopted by reference.

(b) Partial payment. The procedures set forth in the standard specifications for state road and bridge construction, 1980 edition, subsection 109.07, shall govern the terms and conditions under which the secretary may withhold a part of the contract price from the contractor to assure that the provisions of the contract will be fully satisfied, and are adopted by reference. (Authorized by and implementing K.S.A. 68-410, 68-411, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-30-7. Authority of secretary. (a) A contract may be awarded by the secretary when only one bid is received for a project or projects, provided the bid is deemed reasonable and the contractor is deemed reliable by the secretary.

(b) This article shall not be construed to limit the authority of the secretary to contract or refrain from contracting within the discretion given to the secretary by law. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

Article 31.—DEBARMENT AND SUSPENSION OF CONTRACTORS

36-31-1. Definitions. (a) "Adequate evidence" means evidence sufficient to form the reasonable belief that a particular act or omission occurred. In addition, a conviction, judgment, or an admission regarding the causes in K.A.R. 36-31-2(a) shall constitute adequate evidence.

(b) "Admission" means a statement made by a contractor in a court, or before any public body or public official, that the contractor committed a certain act or omitted to perform a certain act.

(c) "Affiliate" means contractors having a relationship such that:

(1) Any one of them directly or indirectly controls or has the power to control another; or

(2) If the affected contractor is an individual, any other contractor in which the affected individual is an officer, director, or has controlling legal or beneficial financial interest, until the individual's interest is severed from the other contractor.

(d) "Contractor" means any individual person, or other legal entity, including its directors and officers, which submits offers for, is awarded, or reasonably may be expected to submit offers for or be awarded a contract for labor, services or materials or any combination of these. This definition shall include any subcontractor of this individual person or legal entity.

(e) "Conviction" means a judgment or conviction of

a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

(f) "Debarment" means an exclusion or bar from contracting with or bidding on contracts let by the secretary for a specified period of time.

(g) "Department" means the Kansas department of transportation.

(h) "Hearing official" means a designee of the secretary who may conduct a fact-finding hearing and may recommend debarment or continuance of suspension.

(i) "Judgment" means a judgment in a civil action by any court of competent jurisdiction.

(j) "Secretary" means the secretary of the Kansas department of transportation or an authorized representative or employee.

(k) "Suspension" means an exclusion or bar from contracting with or bidding on contracts let by the secretary for a temporary period of time, pending the completion of legal or debarment proceedings. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404(k); implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-2. Debarment. (a) Cause. The secretary may impose debarment upon a contractor for any of the causes listed below:

(1) Conviction, judgment, or admission of:

(A) fraud, collusion, or any criminal offense in connection with obtaining, attempting to obtain, or performing a contract let by the secretary or a subcontract of it;

(B) violation of federal or state anti-trust statutes;

(C) embezzlement, theft, forgery, bribery, perjury, falsification or destruction of records, making false statements, receiving stolen property, and obstruction of justice;

(D) violation of any applicable laws governing hours of labor, minimum wage rates, discrimination in wages, or child labor; and

(E) violation of any laws indicating a lack of business integrity or business honesty which seriously and directly affect the present responsibility of the contractor to public contracts or subcontracts of them.

(2) Violation of the terms of a contract let by the secretary, or a subcontract of a contract let by the secretary, including but not limited to the following:

(A) willful failure to perform in accordance with contract specifications; and

(B) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that the failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was substantially caused by acts within the control of the contractor.

(3) Any other cause that affects the question of present responsibility as a contractor or subcontractor on contracts let by the secretary, including conduct prescribed in (1) and (2) even if this conduct has not

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been or may not be prosecuted as violations of the laws or contracts.

(b) Procedures.

(1) The secretary or an authorized representative shall designate a hearing official to conduct any hearing held under these rules. The hearing official, upon determining from the secretary's reports, investigations, and other documents that cause exists under (a) to debar a contractor, shall furnish written notice of a hearing to the contractor and any named affiliates. The notice shall state:

- (A) that debarment is being considered;
- (B) the facts giving rise to the proposed debarment;
- (C) the cause or causes under (a) relied upon for proposing debarment;
- (D) that the contractor may, within 30 days of receipt of the notice, submit to the hearing official, in writing, information and argument in opposition to or clarification of the proposed debarment;
- (E) that, except when the action is based on a conviction, judgment, or admission, fact-finding shall be conducted if the hearing official determines that the contractor's submission raises a genuine dispute over material facts upon which the proposed debarment is based or whether the causes relied upon for proposing debarment exist;
- (F) the time, place, and date of the hearing;
- (G) the name and mailing address of the hearing official;

(H) if a suspension is not in effect before the notice being sent, that contracts shall not be awarded to the contractor by the secretary pending the decision by the hearing official.

(2) The hearing official may extend the date of any hearing upon request of the contractor, but the hearing shall not be extended to later than 60 days from the date the notice was sent. The hearing official shall schedule and conduct the hearing within 45 days of sending the notice, except when an extension is granted as provided in this subsection. In the course of the hearing, the hearing official shall:

- (A) regulate the course and scheduling of the hearings;
- (B) rule on offers of proof, receive relevant evidence, and make the proof and evidence part of the record;
- (C) take action necessary to insure an orderly hearing; and
- (D) at the conclusion of the hearing, issue to the secretary and the contractor and all named affiliates written findings of fact and recommended administrative action. The hearing officer shall deliver the entire record to the secretary.

(3) The contractor shall have the opportunity to be present and appear with counsel, submit evidence, present witnesses, and cross-examine all witnesses of the secretary. A transcribed record shall be made of the hearing unless the secretary and the contractor waive the transcript requirement. The transcript shall be available to the contractor and all named affiliates upon request and at cost.

In actions where it has been established by conviction, judgment or admission, or where it has been

established by findings made in accordance with this regulation, that the named contractor has engaged in conduct prescribed in (a), the sole issue before the hearing official shall be the appropriate length of debarment to recommend to the secretary. In these cases, the hearing official shall not receive evidence relating to the merits of prior judicial or administrative decisions or findings.

The secretary, after receiving the record, findings of fact, and recommendations of the hearing official shall determine the administrative action to be taken. The secretary shall notify the named contractor or contractors of the secretary's determination in writing. If the determination is to impose debarment, the determination shall set forth the period of time the contractor or contractors are to be debarred from bidding on contracts or subcontracts of the secretary and the reasons for debarment.

(c) Period. The secretary shall impose debarment for a period commensurate with the seriousness of the causes but this period shall not exceed 36 months. The secretary may reduce the period upon the contractor's request, supported by documentation, for reasons including, but not limited to:

- (1) newly discovered evidence;
- (2) reversal of the conviction of judgment upon which the debarment was based; and
- (3) elimination of other causes for which the debarment was imposed.

(d) Scope. The determination made by the secretary may include all known affiliates of the contractor, provided that each decision to include an affiliate is made only after allowing the affiliate to participate in the hearing, with all the procedural rights of a contractor. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-3. Suspension. (a) Cause. The secretary may impose suspension on a contractor when:

- (1) adequate evidence exists so as to raise a reasonable suspicion that any of the causes set forth in K.A.R. 36-31-2(a) are present; and
- (2) the decision of the secretary is in the best interest of the state.

(b) Procedures.

(1) The secretary may, upon determining from reports, investigations, or other documents that cause exists under K.A.R. 36-31-3(a) to suspend a contractor, impose suspension upon the contractor and any named affiliates. The secretary shall furnish written notice to the contractor and any named affiliates at least five days before the effective date of suspension. The notice shall state:

- (A) that a suspension has been imposed;
- (B) the effective date of the suspension;
- (C) the facts giving rise to the suspension;
- (D) the cause or causes under 36-31-2(a) relied upon for the suspension;
- (E) that the suspension is for a temporary period

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pending the completion of an investigation and any ensuing legal or debarment proceedings;

(2) Within 30 days after receipt of the notice, the contractor may submit to the secretary, in writing, information and argument in opposition to or clarification of the suspension.

(3) Except when the suspension is based on a conviction, judgment, or admission, a hearing shall be conducted if the secretary determines that the contractor's submission raises a genuine dispute over material facts upon which the suspension is based. The secretary shall determine whether this hearing is necessary within 10 days from receipt of the contractor's submission.

(4) If the secretary determines a hearing should be held, the hearing shall be held in accordance with the rules in K.A.R. 36-31-2(b), except that the hearing shall be for suspension and not for debarment.

(c) Period. A suspension shall be for a temporary period pending the completion of investigation and any ensuing legal or debarment proceedings, unless sooner terminated by the secretary. A suspension shall not continue for more than 6 months from its effective date, unless civil or criminal action regarding the alleged violation has been initiated within that period, or unless debarment proceedings have been initiated. The suspension shall continue until the legal or debarment proceedings are completed.

(d) Scope. The scope of suspension shall be the same as that for debarment, set forth in K.A.R. 36-31-2(d). (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404(k); implementing K.S.A. 68-402, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-4. Effect on current contracts. (a) The secretary may continue contracts or subcontracts in existence at the time a contractor is debarred or suspended. A decision as to termination by the secretary shall be made only after review of all the facts and circumstances surrounding the debarment or suspension as they affect the responsibility of the contractor.

(b) Contracts shall not be renewed by the secretary once the contractor has been debarred or suspended. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-5. List. The secretary shall maintain a list of all persons, partnerships, corporations, or associations who have been debarred or suspended in accordance with the procedures prescribed in this article. This list shall be made available for public inspection. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

36-31-6. Contract authority. This article shall not be construed to limit the authority of the secretary to contract or refrain from contracting within the discretion given to the secretary by law. (Authorized by K.S.A. 68-410, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 68-402, 68-407, 68-410, K.S.A. 1982 Supp. 68-404; effective May 1, 1983.)

Article 32.—USE OF ROADSIDE FACILITIES

36-32-1. Definitions. (a) "Authorized representative or officer" means any individual person empowered by an organization or group to enter into contract or agreements on behalf of such organization or group.

(b) "Civic or service organization" means any private non-profit organization which provides social services for the general welfare of the public.

(c) "Department" means the Kansas department of transportation.

(d) "Roadside facility" means any rest area, park facility or picnic area under the jurisdiction and supervision of the secretary of transportation. This shall also apply to any structures or features such as entrances or exits, toilets, and camping areas. (Authorized by and implementing K.S.A. 68-423f; effective May 1, 1983.)

36-32-2. Use of roadside facilities. (a) Roadside facilities which are adjacent to Kansas roads shall be available to the traveling public for rest, relaxation and historical information.

(b) The following restrictions shall apply to the use of any roadside facility maintained by the department:

(1) Overnight camping shall be permitted for one night only.

(2) Vehicles shall not be parked in a manner which obstructs the roadside facility.

(3) Parking for more than 24 hours shall be prohibited.

(4) Trucks and equipment shall use temporary parking areas marked for that purpose.

(5) Civic and service organizations may be permitted the use of roadside facilities to serve refreshments to the traveling public on holidays with the following restrictions:

(A) Refreshments may not be sold.

(B) Donations may not be solicited.

(C) Signs advertising the service shall not be permitted, except within the confines of the roadside facility.

(D) Placement of stands, serving trucks or carts shall not obstruct the roadside facility.

(E) An authorized representative or officer of the organization or civic group shall assume responsibility in writing for use of the facility in accordance with these regulations, and shall be relieved of the responsibility following a satisfactory inspection by a representative of the department.

(6) No person or persons shall engage in any activity or be a party to any activity which would in any way obstruct the public from the use of any roadside facility. (Authorized by and implementing K.S.A. 68-423(f); effective May 1, 1983.)

Article 33.—WEIGHT LIMITS FOR TRUCKS

36-33-1. Gross weight limits on wheels and axles. (a) The overall gross weight on any group of two or

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more consecutive axles shall not exceed the weight produced by application of the following table when such axles are attached to a vehicle being operated on the national system of interstate and defense highways:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 or more consecutive axles.						
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles	
4	34,000						
5	34,000						
6	34,000						
7	34,000						
8	34,000	34,000					
9	39,000	42,500					
10	40,000	43,500					
11		44,000					
12		45,000	50,000				
13		45,500	50,500				
14		46,500	51,500				
15		47,000	52,000				
16		48,000	52,500	58,000			
17		48,500	53,500	58,500			
18		49,500	54,000	59,000			
19		50,000	54,500	60,000			
20		51,000	55,500	60,500	66,000		
21		51,500	46,000	61,000	66,500		
22		52,500	56,500	61,600	67,000		
23		53,000	57,500	62,500	68,000		
24		54,000	58,000	63,000	68,500	74,000	
25		54,500	58,500	63,500	69,000	74,500	
26		55,500	59,500	64,000	69,500	75,000	
27		56,000	60,000	65,000	70,000	75,500	
28		57,000	60,500	65,500	71,000	76,500	
29		57,500	61,500	66,000	71,500	77,000	
30		58,500	62,000	66,500	72,000	77,500	
31		59,000	62,500	67,500	72,500	78,000	
32		60,000	63,500	68,000	73,000	78,500	
33			64,000	68,500	74,000	79,000	
34			64,500	69,000	74,500	80,000	
35			65,500	70,000	75,000		
36			66,000	70,500	75,500		
37			66,500	71,000	76,000		
38			67,500	72,000	77,000		
39			68,000	72,500	77,500		
40			68,500	73,000	78,000		
41			69,500	73,500	78,500		
42			70,000	74,000	79,000		
43			70,500	75,000	80,000		
44			71,500	75,500			
45			72,000	76,000			
46			72,500	76,500			
47			73,500	77,500			
48			74,000	78,000			
49			74,500	78,500			
50			75,500	79,000			
51			76,000	80,000			
52			76,500				
53			77,500				
54			78,000				
55			78,500				
56			79,500				
57			80,000				

(b) Two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles is thirty-six feet or more. (Authorized by K.S.A 68-402, K.S.A. 1982 Supp. 68-404; implementing K.S.A. 8-1909a; effective May 1, 1983.)

Article 34.—CHILD PASSENGER SAFETY

36-34-1. Child passenger safety restraints. On and after January 1, 1982, every parent or legal guardian of a child under two years of age who resides in this state shall, when transporting the child in the front seat area of a passenger car on highways within this state, employ the use of a child passenger restraining system which meets or exceeds the standards and specifications contained in 49 C.F.R. 571.213 which is hereby adopted by reference. (Authorized by and implementing K.S.A. 8-1344; effective May 1, 1983.)

Article 35.—TRANSPORTING TWO COMBINE HEADERS

36-35-1. Transporting two combine headers. (a) A vehicle may be loaded with two combine headers loaded side by side even though the width exceeds the legal width limits on all public highways.

(b) Vehicles loaded as provided for in section (a) shall have attached to the front of the vehicle an "oversize load" sign as described in K.A.R. 36-1-1a(12).

(c) Red flags as described in K.A.R. 36-1-1a(14) shall be attached to each side of the widest part of the overwidth load. (Authorized by and implementing K.S.A. 8-1902; effective May 1, 1983.)

JOHN B. KEMP
Secretary of Transportation

Doc. No. 001062

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 17

AN ACT concerning Kansas affiliated family practice residency training programs; amending K.S.A. 76-368 and K.S.A. 1982 Supp. 76-370 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 76-368 is hereby amended to read as follows: 76-368. The university is hereby authorized to select not more than four (4) affiliates within the state with which to enter into affiliation agreements for the purpose of establishing Kansas affiliated family practice residency training programs. The university shall not enter into an affiliation agreement with any affiliate located in a county having a population of more than two hundred thousand (200,000) 200,000, or with any new affiliate after July 1, 1980, except upon specific authorization by act of the legislature.

Sec. 2. K.S.A. 1982 Supp. 76-370 is hereby amended to read as follows: 76-370. (a) Within the limits of appropriations therefor, the university may reimburse an affiliate for costs incurred in the payment of the program director's compensation in an amount not to exceed ~~sixty percent (60%)~~ 60% of the program director's compensation until such time as an affiliation agreement is entered into under K.S.A. 76-369 or until the application for accreditation is rejected by the council on medical education of the American medical association or the successor to such council. Any costs incurred by the affiliate due to compensation paid to the program director prior to affiliation shall be included as part of the reimbursable costs during the period of time prior to the training of residents in the ~~affiliated family practice training~~ program.

(b) Within the limits of appropriations therefor and prior to July 1, 1980, the university may provide for reimbursement to each affiliate during the period of time prior to the training of residents in the ~~affiliated family practice~~ program in amounts not to exceed one hundred thousand dollars (~~\$100,000~~) \$100,000 for

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salaries and other expenses and in amounts not to exceed ~~one hundred thousand dollars (\$100,000)~~ \$100,000 for site acquisition and development or leasing of facilities. No affiliate shall be eligible for reimbursement for costs involved in site acquisition and development unless such affiliate shall first submit to the university for approval the plan of the affiliate for site acquisition and development. The maximum reimbursable amount for site acquisition and development shall not exceed ~~fifty percent (50%)~~ 50% of the total cost to the affiliate of the site acquisition and development or ~~one hundred thousand dollars (\$100,000)~~ \$100,000, whichever amount is less.

(c) (1) During the first year of training of residents in the ~~affiliated family practice training~~ program, the university may reimburse an affiliate, within the limits of appropriations therefor, an amount equal to ~~seventy percent (70%)~~ 70% of the program budget of the affiliate, other than resident salaries, but the total amount of such reimbursement shall not exceed ~~sixty thousand dollars (\$60,000)~~ \$60,000, and the university may reimburse the affiliate for the cost of resident salaries in an amount not to exceed the state's usual base stipend for family practice residents.

(2) During the second year of training of residents in the ~~affiliated family practice training~~ program, the university may reimburse an affiliate, within the limits of appropriations therefor, in an amount equal to ~~sixty percent (60%)~~ 60% of the program budget of the affiliate, other than resident salaries, but the total amount of such reimbursement shall not exceed ~~eighty thousand dollars (\$80,000)~~ \$80,000, and the university may reimburse the affiliate for the cost of resident salaries in an amount not to exceed the state's usual base stipend for family practice residents.

(3) During the third year of training of residents in the ~~affiliated family practice training~~ program and for each year thereafter, the university may reimburse an affiliate, within the limits of appropriations therefor, in an amount equal to ~~fifty percent (50%)~~ not more than 50% of the annual program budget of the affiliate, other than resident salaries, but the total amount of such reimbursement shall not exceed ~~eighty thousand dollars (\$80,000)~~ a year, and the university may reimburse the affiliate for the costs of resident salaries in an amount not to exceed the state's usual base stipend for family practice residents.

Sec. 3. K.S.A. 76-368 and K.S.A. 1982 Supp. 76-370 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 February 3, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 4, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 15, 1983.

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 18th day of April, 1983.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 15

AN ACT amending the Kansas inheritance tax act; relating to property transferred in contemplation of death; amending K.S.A. 1982 Supp. 79-1549 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 79-1549 is hereby amended to read as follows: 79-1549. (a) The value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer (except in case of a bona fide sale for an adequate and full consideration in money or money's worth), by trust or otherwise, in contemplation of death.

(b) If the decedent within a period of one (1) year ending with the date of his or her such decedent's death (except in case of a bona fide sale for an adequate and full consideration in money or money's worth) transferred an interest in property, relinquished a power, exercised or released a general power of appointment, such transfer, relinquishment, exercise or release shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section and K.S.A. 1982 Supp. 79-1552 and 79-1555 (relating to revocable transfers and powers of appointment); but no such transfer, relinquishment, exercise or release made before such one (1) year period shall be treated as having been made in contemplation of death.

(c) (1) Except as otherwise provided in this subsection, subsections (a) and (b) shall not apply to the estate of a decedent dying after December 31, 1982, with respect to each transfer of property to the extent of the first \$10,000 of value thereof made to a separate transferee.

(2) Paragraph (1) shall not apply to a transfer of an interest in property which is included in the value of the gross estate under K.S.A. 1982 Supp. 79-1550, 79-1551, 79-1552, 79-1555 or 79-1556, or would have been included under any of such sections if such interest had been retained by the decedent.

(3) Paragraph (1) shall not apply for purposes of: (A) K.S.A. 1982 Supp. 79-1545 and 79-1545b, and (B) K.S.A. 1982 Supp. 79-1566.

Sec. 2. K.S.A. 1982 Supp. 79-1549 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 3, 1983.

SENATE concurred in HOUSE amendments March 30, 1983.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 22, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 13, 1983.

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 14th day of April, 1983.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2546

AN ACT concerning the Kansas turnpike authority; traffic control penalties for violation of rules and regulations of the authority; amending K.S.A. 68-2004 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 68-2004 is hereby amended to read as follows: 68-2004. (a) The authority is hereby authorized and empowered to:

(a) (1) Adopt bylaws for the regulation of its affairs and the conduct of its business;
 (b) (2) adopt an official seal and alter the same at pleasure;
 (c) (3) maintain an office at such place or places within the state as it may designate;
 (d) (4) sue and be sued in its own name, plead and be impleaded;

(e) (5) determine the location, subject to the approval of the secretary of transportation, of each turnpike project financed under the provisions of this act, determine its design and the materials of construction, and construct, maintain, repair and operate the same;

(f) (6) issue turnpike revenue bonds of the authority for any of its corporate purposes, payable solely from the tolls and revenues pledged for their payment, and to refund its bonds, all as provided in this act;

(g) (7) fix and revise from time to time and charge and collect tolls for transit over each turnpike project constructed by it;

(h) (8) ~~establish~~ *adopt* rules and regulations for the use of any such turnpike project, *and adopt rules and regulations for traffic control on such project;*

(i) (9) acquire, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties under this act;

(j) (10) designate the locations, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated;

(k) (11) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(l) (12) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation;

(m) (13) receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, and to receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and

(n) (14) do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(b) *Violation of any of the rules and regulations adopted under this section shall be unlawful and subject to the penalties contained in K.S.A. 8-2116 and amendments thereto.*

Sec. 2. K.S.A. 68-2004 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 29, 1983.

MIKE HAYDEN
Speaker of the House.
 GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE April 5, 1983.

ROSS O. DOYEN
President of the Senate.
 LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 10

AN ACT concerning adult care homes; limiting the number of persons licensed to operate certain adult care homes.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Except as otherwise provided in this section, no more than three different persons shall be licensed to operate any one adult care home under the adult care home licensure act, and no license to operate any one adult care home shall be issued under that act to more than three different persons. The provisions of this section shall not apply to any license to operate an adult care home which is in effect on the effective date of this act and which is issued to more than three different persons, or the renewal of any such license, unless subsequent to the effective date of this act three or fewer persons operate the adult care home or the license to operate the adult care home is denied or revoked.

(b) This section shall be part of and supplemental to the adult care home licensure act.

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 February 15, 1983.

ROSS O. DOYEN
President of the Senate.
 LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 4, 1983.

MIKE HAYDEN
Speaker of the House.
 GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 14, 1983.

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 14th day of April, 1983.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 6

AN ACT relating to the grain inspection department; providing for appointment of a director by the governor subject to confirmation by the senate; amending K.S.A. 1982 Supp. 75-1701 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 75-1701 is hereby amended to read as follows: 75-1701. The governor shall appoint a suitable person who has had at least one year of experience in the grain business to be the director of the Kansas state grain inspection department. *The person who is appointed should have a working knowledge of the grain industry, including an understanding of commodity futures trading techniques; ability to supervise analysis of financial statements required for licensure; and ability to administer and supervise the grain inspection department.* The director shall appoint a suitable person who is qualified to direct the work of the grain inspectors to be the first assistant inspector. The appointment of the director shall be subject to confirmation by the senate as provided in K.S.A. 1982 Supp. 75-4315b and amendments thereto, and the term of service shall be ~~two years unless the director is removed for cause at the pleasure of the governor.~~ The director or first assistant inspector shall not, directly or indirectly, be interested in buying or selling grain either on the director's or assistant director's own account or for others, nor shall either of them be directly or indirectly interested in handling or storing grain as a public warehouseman or on private account during their terms of office. Whenever the term "chief inspector" or "chief inspector of the grain inspection department" is used in any statute relating to the inspection of grain, it shall be construed to mean the director of the state grain inspection department.

Sec. 2. K.S.A. 1982 Supp. 75-1701 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 10, 1983.

Senate adopted Conference Committee report April 8, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 29, 1983.

House adopted Conference Committee report April 8, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 284

AN ACT relating to the health care provider insurance availability act; amending K.S.A. 40-3403, 40-3404 and 40-3411 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-3403 is hereby amended to read as follows: 40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a health care provider, self-insurer or inactive health care provider subsequent to the time that such health care provider or self-insurer has qualified for coverage under the provisions of this act; there is hereby established the health care stabilization fund. The fund shall be held in trust in a segregated fund in the state treasury. The commissioner shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.

(b) *Subject to subsection (e), the fund shall be liable to pay:* (1) Any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable resident health care providers or resident self-insurers for any such injury or death arising out of the rendering of or the failure to render professional services within or without this state; (2) any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable nonresident health care providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state. In no event shall the fund be obligated for claims against nonresident health care providers or nonresident self-insurers who have not complied with this act or for claims against nonresident health care providers or nonresident self-insurers that arose outside of this state; (3) any amount due from a judgment or settlement against a resident inactive health care provider for any such injury or death; (4) any amount due from a judgment or settlement against a nonresident inactive health care provider for any injury or death arising out of the rendering or failure to render professional services within this state. In no event shall the fund be obligated for claims against: (A) Nonresident inactive health care providers who have not complied with this act; or (B) nonresident inactive health care providers for claims that arose outside of this state, unless such health care provider was a resident health care provider or resident self-insurer at the time such act occurred; (5) reasonable and necessary expenses for ~~attorney's attorney~~ fees incurred in defending the fund against claims; (6) any amounts expended for reinsurance obtained to protect the best interests of the fund purchased by the committee on surety bonds and insurance pursuant to K.S.A. 1980 Supp. 75-4101 and amendments thereto; (7) reasonable and necessary actuarial expenses incurred in administering the act; and (8) annually to the plan or plans, any amount assessed or assessable from insurers under any plan or plans existing pursuant to K.S.A. 40-3413 and amendments thereto; and (9) reasonable and necessary expenses incurred by the insurance department in the administration of the fund.

(c) All amounts for which the fund is liable pursuant to paragraphs (1), (2), (3) or (4) of subsection (b) of this section shall be paid promptly and in full if less than ~~three hundred thousand dollars (\$300,000)~~ \$300,000, or if ~~three hundred thousand dollars (\$300,000)~~ \$300,000 or more, by installment payments of ~~three hundred thousand dollars (\$300,000)~~ \$300,000 or 10% of the amount of the judgment including interest thereon, whichever is greater, per fiscal year, the first installment to be paid within ~~sixty (60)~~ 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the first installment was paid, until the claim has been paid in full. Any attorney's fees payable from such installment shall be similarly prorated.

(d) A health care provider shall be deemed to have qualified for coverage under the fund: (1) On and after the effective date of this act if basic coverage is then in effect; (2) subsequent to the effective date of this act, at such time as basic coverage becomes

(continued)

effective; or (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414 and amendments thereto.

Sec. 2. K.S.A. 40-3404 is hereby amended to read as follows: 40-3404. (a) The commissioner shall levy an annual premium surcharge on each health care provider who has obtained basic coverage and upon each self-insurer for each fiscal year. Such premium surcharge shall be an amount equal to a percentage of the annual premium paid by the health care provider for the basic coverage required to be maintained as a condition to coverage by the fund by subsection (a) of K.S.A. 40-3402 and amendments thereto. The annual premium surcharge upon each self-insurer shall be an amount equal to a percentage of the amount such self-insurer would pay for basic coverage as calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413 and amendments thereto. The commissioner shall determine the applicable percentage of not less than 25%, but not to exceed ~~sixty-five percent (65%)~~ 65%, to be used in computing the premium surcharge in each fiscal year. ~~Such determination shall be based upon actuarial principles and calculated to accumulate approximately ten million dollars (\$10,000,000) within a ten-year period following the effective date of this act. Such premium surcharge shall not be less than forty percent (40%) of the annual basic coverage premium for any fiscal year until the fund accumulates five million dollars (\$5,000,000).~~

(b) In the case of a resident health care provider who is not a self-insurer, the premium surcharge shall be collected in addition to the annual premium for the basic coverage by the insurer and shall not be subject to the provisions of K.S.A. 40-252, 40-1113 and 40-2801 et seq., and amendments to these sections. The amount of the premium surcharge shall be shown separately on the policy or an endorsement thereto and shall be specifically identified as such. Such premium surcharge shall be due and payable by the insurer to the commissioner within ~~thirty (30)~~ 30 days after the annual premium for the basic coverage is received by the insurer, but in the event basic coverage is in effect at the time this act becomes effective, such surcharge shall be based upon the unearned premium until policy expiration and annually thereafter. Within ~~fifteen (15)~~ 15 days immediately following the effective date of this act, the commissioner shall send to each insurer information necessary for their compliance with this subsection. The certificate of authority of any insurer who fails to comply with the provisions of this subsection shall be suspended pursuant to K.S.A. 40-222 until such insurer shall pay the annual premium surcharge due and payable to the commissioner. In the case of a nonresident health care provider or a self-insurer, the premium surcharge shall be collected in the manner prescribed in K.S.A. 40-3402 and amendments thereto.

(c) If the fund exceeds the sum of ten million dollars (\$10,000,000) at the end of any fiscal year after the payment of all claims and expenses, the commissioner shall reduce the surcharge in order to maintain the fund at an approximate level of ten million dollars (\$10,000,000).

(d) (c) Each health care provider initially complying with the basic coverage requirement of K.S.A. 40-3402 and amendments thereto shall be subject to a minimum annual premium surcharge of ~~twenty-five percent (25%) without regard to any annual premium surcharge or fund limitations contained in subsections (a) or (e)~~ 45%, and this minimum surcharge shall be applicable only to the first twenty-four-month period such health care provider complies with the basic coverage requirement. Thereafter, all health care providers shall be subjected to a minimum premium surcharge of 25% each year the balance in the health care stabilization fund equals or exceeds \$10,000,000. The provisions of this subsection (d) (c) shall be applicable to resident, nonresident and self-insured health care providers, and the minimum surcharge shall be applicable to only the first twelve-month period such health care provider complies with the basic coverage requirement.

Sec. 3. K.S.A. 40-3411 is hereby amended to read as follows: 40-3411. (a) In any claim in which the insurer of a health care provider or inactive health care provider covered by the fund has agreed to settle its liability on a claim against its insured or when

the self-insurer has agreed to settle liability on a claim and the claimant's demand is in an amount in excess of such settlement, to which the commissioner does not agree, or where the claim is against an inactive health care provider covered by the fund who does not have liability insurance in effect which is applicable to the claim and the claimant and commissioner cannot agree upon a settlement, an action must be commenced by the claimant against the health care provider or inactive health care provider in a court of appropriate jurisdiction for such damages as are reasonable in the premises. If an action is already pending against the health care provider or inactive health care provider, the pending action shall be conducted in all respects as if the insurer or self-insurer had not agreed to settle.

(b) Any such action against a health care provider covered by the fund or inactive health care provider covered by the fund who has liability insurance in effect which is applicable to the claim shall be defended by the insurer or self-insurer in all respects as if the insurer or self-insurer had not agreed to settle its liability. The insurer or self-insurer shall be reimbursed from the fund for the costs of such defense incurred after the settlement agreement was reached, including a reasonable attorney's fee, except that if the insurer or self-insurer settles the claim for an amount less than one hundred thousand dollars (\$100,000), the insurer or self-insurer shall be responsible for all defense costs until the insurer's or self-insurer's total combined payments equal one hundred thousand dollars (\$100,000) with respect to such claim, and neither the health care provider, unless such provider is a self-insurer, or the fund shall be obligated to pay the difference between such settlement and one hundred thousand dollars (\$100,000). The commissioner is authorized to employ independent counsel in any such action against a health care provider or an inactive health care provider covered by the fund.

(c) In any such action the health care provider or the inactive health care provider against whom claim is made shall be obligated to attend hearings and trials, as necessary, and to give evidence.

(d) The costs of the action shall be assessed against the fund if the recovery is in excess of the amount offered by the commissioner to settle the case and against the claimant if the recovery is less than such amount.

Sec. 4. K.S.A. 40-3403, 40-3404 and 40-3411 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 31, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 8, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2294

AN ACT concerning emergency medical services; authorizing emergency medical technician-intermediate certificates; authorizing certain acts to be performed by persons so certified; requiring the appointment of a medical advisor for certain ambulance services; amending K.S.A. 65-4307 and 65-4317 and K.S.A. 1982 Supp. 65-4301, 65-4306, 65-4314 and 65-4321 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 65-4301 is hereby amended to read as follows: 65-4301. As used in this act: (a) "Emergency medical service" means a service which provides for the effective and coordinated delivery of such emergency care as may be required by an emergency, including transportation of individuals by ground or air ambulances and the performance of authorized emergency care by a person licensed to practice medicine and surgery, a licensed professional nurse, a registered physician's assistant, a crash injury management technician, an emergency medical technician, *emergency medical technician-intermediate* or a mobile intensive care technician.

(b) "Ambulance" means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared and equipped for use in transporting and providing emergency care for individuals who are ill, injured or otherwise disabled, including any specially constructed and equipped motor vehicle, airplane or helicopter which is capable of providing life support services for extended periods of time.

(c) "Crash injury management technician" means personnel who have been trained in preliminary emergency medical care in a 72-hour training program approved by the university of Kansas school of medicine.

(d) "Emergency medical technicians" means personnel who have been trained in preliminary emergency medical care in an 81-hour training program approved by the university of Kansas school of medicine.

(e) "*Emergency medical technicians-intermediate*" means personnel, currently certified as an emergency medical technician, who, after not less than one year's certification as an emergency medical technician, have completed a training program approved by the university of Kansas school of medicine which consists of a minimum of 40 clock hours and includes training in *venti-puncture for blood sampling and administration of intravenous fluids and advanced patient assessment.*

(f) "Mobile intensive care technicians" means personnel who have been specially trained in emergency cardiac and noncardiac care in a training program certified by the university of Kansas school of medicine.

(g) "Person" means an individual, a partnership, an association, a joint-stock company or a corporation.

(h) "Governmental entity" means the state, or any department, agency or authority of the state, any city, county, district or other political subdivision or public corporation and any instrumentality thereof.

(i) "Board" means board of county commissioners of any county.

(j) "Governing body" means the governing body of any city of this state.

(k) "Local component medical society" means a county medical society or a multicounty medical society.

Sec. 2. K.S.A. 1982 Supp. 65-4306 is hereby amended to read as follows: 65-4306. Notwithstanding any other provision of law, mobile intensive care technicians may perform any of the following:

- (a) Render rescue, first-aid and resuscitation services.
- (b) During training at a hospital and while caring for patients in a hospital administer parenteral medications under the direct supervision of a *physician person* licensed to practice medicine and surgery or a registered professional nurse.
- (c) Perform cardiopulmonary resuscitation and defibrillation in a pulseless, nonbreathing patient.
- (d) ~~Where~~ When voice contact or a telemetered electrocardiogram is monitored by a *physician person* licensed to practice medicine and surgery or a registered professional nurse where authorized by a *physician person* licensed to practice medicine

and surgery, and direct communication is maintained, may upon order of such *physician person* or such nurse do any of the following:

(1) ~~Administer intravenous saline or glucose solutions Perform venti-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions.~~

(2) Perform gastric suction by intubation.

(3) Perform endotracheal intubation.

(4) Administer parenteral injections of any of the following classes of drugs:

(A) Antiarrhythmic agents.

(B) Vagolytic agents.

(C) Chronotropic agents.

(D) Analgesic agents.

(E) Alkalinizing agents.

(F) Vasopressor agents.

(5) Administer such other medications ~~and/or~~ or procedures as may be deemed necessary by such an ordering *physician person*.

(e) Perform, during an emergency, those activities specified in subsection (d) before contacting the *physician person* licensed to practice medicine and surgery or authorized registered professional nurse when specifically authorized to perform such activities by written protocols approved by the local component medical society.

Sec. 3. K.S.A. 65-4307 is hereby amended to read as follows: 65-4307. (a) No *physician person* licensed to practice medicine and surgery or registered professional nurse, who gives emergency instructions to a mobile intensive care technician or *emergency medical technician-intermediate* during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages as may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician or *emergency medical technician-intermediate* who renders emergency care during an emergency pursuant to instructions given by a person licensed to practice medicine and surgery or a registered professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages as which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile *emergency medical intensive care technician or emergency medical technician-intermediate* rendering such emergency care.

Sec. 4. K.S.A. 1982 Supp. 65-4314 is hereby amended to read as follows: 65-4314. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Council" means the emergency medical services council established by K.S.A. 65-4316 and amendments thereto.

(b) "Municipality" means any city or county in this state.

(c) "Ambulance" means any aircraft or motor vehicle, whether privately or publicly owned, which is specially designed, constructed, equipped and intended to be used for the purpose of transporting sick, injured, disabled or otherwise incapacitated human beings who may or may not be in need of emergency care in transit.

(d) "Ambulance service" means any organization operated for the purpose of transporting sick, injured, disabled or otherwise incapacitated persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency care in transit.

(e) "Rescue vehicle" means a motor vehicle designed, properly equipped and used exclusively for the rescue of persons entrapped in wrecked vehicles or entrapped in other hazardous circumstances.

(f) "Attendant" means a crash injury management technician, an emergency medical technician, *an emergency medical technician-intermediate* or a mobile intensive care technician, as ~~said~~ these terms are defined in K.S.A. ~~1982 Supp.~~ 65-4301 and amendments thereto, whose primary function is ministering to the needs of persons requiring emergency medical services.

(continued)

(g) "Operator" means a person or municipality who operates an ambulance service in the state of Kansas.

(h) "Person" means any individual, firm, partnership, corporation or other association of persons.

(i) "Secretary" means the secretary of the department of health and environment; or the secretary's designee.

(j) "Medical advisor" means a person licensed to practice medicine and surgery.

Sec. 5. K.S.A. 65-4317 is hereby amended to read as follows: 65-4317. (a) ~~From and after July 1, 1976, it shall be unlawful for any persons or municipality to operate an ambulance service which has its principal office or place of business within the corporate limits of a city having a population of twenty thousand (20,000) or more, or which was located in such city on the effective date of this act, unless such person or municipality holds a valid permit to operate such ambulance service as provided in this act.~~

(b) (a) ~~From and after July 1, 1980, it shall be unlawful for any person or municipality to operate an ambulance service within this state without obtaining a permit pursuant to this act.~~

(b) *On and after November 1, 1983, each emergency medical service may have a medical advisor appointed by the operator of the service to review, approve and monitor the medical activities of the service.*

Sec. 6. K.S.A. 1982 Supp. 65-4321 is hereby amended to read as follows: 65-4321. (a) Application for an attendant's certificate shall be made to the secretary upon forms provided by the secretary. The secretary is hereby authorized to may grant an attendant's certificate in the appropriate classification of attendant's certificates to an applicant who: (1) Has made application within one year after successfully completing the appropriate course of instruction for the classification of attendant's certificate applied for as specified in subsection (b); (2) has passed an examination prescribed by the secretary; and (3) has paid a registration fee of \$7.50.

(b) An attendant applying for a crash injury management technician's certificate shall have at least 72 clock hours of training in preliminary emergency medical care in a course of instruction approved by the university of Kansas school of medicine. An attendant applying for an emergency medical technician's certificate shall have at least 81 clock hours of training in preliminary emergency medical care in a course of instruction approved by the university of Kansas school of medicine, or the equivalent thereof of preliminary emergency medical care, or a program of instruction in emergency medical care offered by the armed forces of the United States which has been approved by the secretary. An attendant applying for a mobile intensive care technician's certificate shall have completed a training program, in a course of instruction approved by the university of Kansas school of medicine, consisting of a minimum of 200 clock hours of training including, but not limited to, didactic and clinical experience in a cardiac care unit and in an emergency vehicle unit. *An attendant applying for an emergency medical technician-intermediate certificate shall have been certified as an emergency medical technician for not less than one year and, after certification as an emergency medical technician for at least one year, shall have completed a training program, approved by the university of Kansas school of medicine, consisting of a minimum of 40 clock hours and including training in veni-puncture for blood sampling and administration of intravenous fluids and advanced patient assessment.*

(c) An attendant's certificate shall be valid through December 31 of the year following the date of its initial issuance and may be renewed thereafter for a period of one year for each renewal for a fee of \$2 upon presentation of satisfactory proof that the attendant has successfully completed supplemental instruction in emergency medical care as provided in this subsection (c). Attendants shall complete not less than eight hours of supplemental instruction as prescribed and approved by the governor's council on emergency medical services for each full calendar year that has elapsed since the certification or the last renewal thereof. If a certificate is not renewed within 30 days after its expiration such certificate shall be void.

(d) The secretary may issue a temporary certificate to any

person who has not qualified for an attendant's certificate under subsection (a) when:

(1) The operator for whom such person serves as an attendant cannot comply with the provisions of subsection (b) of K.S.A. 65-4326 and amendments thereto without the issuance of a temporary certificate to such person, and there is no other person or municipality providing an ambulance service within the territory which is or will be served primarily by such operator; and

(2) such attendant is enrolled or will be enrolled in the eighty-one-hour course of instruction required of regularly certified attendants.

A temporary certificate shall be effective for one year from the date of its issuance and shall not be renewed.

(e) The secretary shall remit to the state treasurer at least monthly all fees received pursuant to the provisions of this act. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(f) If an applicant for an attendant's certificate has within two years preceding the date of the application held an attendant's certificate in the same classification as the certificate applied for, the secretary may grant a certificate to such applicant without such applicant completing a course of instruction specified in subsection (b) if the applicant has passed an examination prescribed by the secretary and has paid a registration fee of \$7.50.

New Sec. 7. Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate:

(a) When approved by the local component medical society and where voice contact by radio or telephone is monitored by a person licensed to practice medicine and surgery or a registered professional nurse, where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, may upon order of such person or such nurse perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions; or

(b) When under the direct supervision of an emergency mobile intensive care technician who is functioning under the provisions of paragraph (e) of K.S.A. 65-4306 and amendments thereto, may perform the functions authorized under (a) above.

Sec. 8. K.S.A. 65-4307 and 65-4317 and K.S.A. 1982 Supp. 65-4301, 65-4306, 65-4314 and 65-4321 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 8, 1983.

HOUSE concurred in SENATE amendments April 5, 1983.

MIKE HAYDEN

Speaker of the House.

GENEVA SEWARD

Chief Clerk of the House.

Passed the SENATE as amended March 31, 1983.

ROSS O. DOYEN

President of the Senate.

LU KENNEY

Secretary of the Senate.

APPROVED April 18, 1983.

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 18th day of April, 1983.

JACK H. BRIER

Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 169

AN ACT concerning motor vehicles; drivers' licenses without pictures in certain cases; amending K.S.A. 8-243 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 8-243 is hereby amended to read as follows: 8-243. (a) Upon payment of the required fee, the division shall issue to every applicant qualifying therefor under the provisions of this act the driver's license as applied for, which license shall bear thereon the class or classes of motor vehicles which the licensee is entitled to drive, a distinguishing number assigned to the licensee, the name, date of birth, residence address, and a brief description of the licensee, a colored photograph of the licensee, a facsimile of the signature of the licensee or a space upon which the licensee shall write ~~his or her~~ *such licensee's* usual signature with pen and ink immediately upon receipt of the license and the statement provided for in subsection (b). No driver's license shall be valid until it has been so signed by the licensee, and except as hereinafter provided, no driver's license issued by the division on and after the effective date of this act shall be valid until a colored photograph of such licensee has been placed on ~~his or her~~ *the* driver's license. The secretary of revenue shall prescribe a fee of not less than ~~fifty cents (50¢)~~ *\$.50* nor more than ~~one dollar (\$1)~~ *\$1*, and upon payment of such fee the division shall cause a colored photograph of such applicant to be placed on ~~his or her~~ *the* driver's license. Upon payment of such fee prescribed by the secretary of revenue, plus payment of the fee required by K.S.A. 8-246 and ~~amendments thereto~~, for issuance of a new license, the division shall issue to such licensee a new license containing a colored photograph of such licensee. A driver's license which does not contain a colored photograph of the licensee as required herein may be issued to persons hereinafter exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo." Any person who is outside the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on ~~his or her~~ *such person's* driver's license. *Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.*

(b) All Kansas drivers' licenses shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the uniform anatomical gift act. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. The gift shall become invalidated upon expiration, cancellation, revocation or suspension of the license, and the gift must be renewed upon renewal of each license.

Sec. 2. K.S.A. 8-243 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 3, 1983.

SENATE concurred in HOUSE amendments March 31, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 30, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 402

AN ACT concerning counties; relating to civic centers; amending K.S.A. 19-15,139, as amended by section 1 of 1983 House Bill No. 2025, and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 19-15,139, as amended by section 1 of 1983 House Bill No. 2025, is hereby amended to read as follows: 19-15,139. The board of county commissioners of Seward, Shawnee and Wyandotte counties may acquire by condemnation, gift, bequest, purchase or lease from public or private sources and may plan, construct, *reconstruct, repair, remodel, furnish, equip,* operate and maintain, ~~or and~~ may lease to others for ~~construction~~, operation and maintenance, a civic ~~center complex~~ *and other multi-use public facilities* for the benefit of the people of the county. The ~~complex facilities~~ shall include all necessary buildings, access roads to connect with existing thoroughfares or interstate highways, parking facilities, concessions and other ~~facilities improvements deemed necessary by the board.~~ The board may do all things incidental or necessary to establish a ~~commercial public~~ or private ~~complex facilities~~, located upon, above or below the ground, for the types of functions and activities deemed suitable by the board.

Sec. 2. K.S.A. 19-15,139, as amended by section 1 of 1983 House Bill No. 2025, 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 29, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 7, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2026

AN ACT concerning adult care homes; affecting definitions of the various classifications thereof; amending K.S.A. 1982 Supp. 39-923 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) ~~The following words and phrases when As used in this act shall, for the purposes of this act, have the meanings respectively ascribed to them in this section:~~

(1) "Adult care home" means *any skilled nursing home, intermediate nursing care home, intermediate personal care home, one-bed adult care home and two-bed adult care home and any boarding care home, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. Adult care home does not mean adult family home.*

(2) "Skilled nursing home" means *and includes* any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage *and* who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.

(3) "Intermediate nursing care home" means *and includes* any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage *and* who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervised nursing care and treatment is provided, and which place or facility is staffed to provide at least eight hours a day — *five day for at least five days* a week licensed nursing personnel plus additional staff and is maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care or skilled nursing care but who ~~do~~ require supervised nursing care.

(4) "Intermediate personal care home" means *and includes* any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage *and* who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, skilled nursing home care or moderate nursing care but who ~~do~~ require domiciliary care and simple nursing care.

(5) "One-bed adult care home" and "two-bed adult care home" means *and is* any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for one or two individuals not related within the third degree of relationship to the administrator or owner by blood or marriage, *and can give whatever class of care it is capable of giving and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing*

care provided by the adult care home. When the home's capabilities are questioned in writing, the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.

(6) "Boarding care home" means *and includes* any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage *and* who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provide shelter to residents who require some supervision, but who are ambulatory and essentially capable of managing their own care and affairs.

(7) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, ~~except that~~ *and* the term "place or facility" may include multiple buildings.

(8) "Skilled nursing care" means *and includes* services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel for individuals requiring 24 hour a day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring substantial specialized judgment and skill based on the knowledge and application of scientific principles.

(9) "Supervised nursing care" means *and includes* services commonly performed by or under the immediate supervision of licensed nursing personnel at least eight hours a day — *five day for at least five days* a week including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles.

(10) "Simple nursing care" means *and includes* selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.

(11) "Resident" means *and includes* all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(12) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(13) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(14) "Licensing agency" means the secretary of health and environment.

(b) The terms "*skilled nursing home*" or term "adult care home" shall not include institutions operated by federal or state governments, hospitals or institutions for the treatment and care of psychiatric patients, boarding homes for children under the age of 16 years, day nurseries, child caring institutions, maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 2. K.S.A. 1982 Supp. 39-923 is hereby repealed.

(continued)

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 2, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 13, 1983.

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 14th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2533

AN ACT concerning the state board of agriculture; relating to fees for commercial feeding stuffs inspections and meat and poultry plant annual registrations; amending K.S.A. 2-1004 and 65-6a34 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2-1004 is hereby amended to read as follows: 2-1004. (1) (a) Each manufacturer, importer, jobber, firm, association, corporation or person, manufacturing or selling any commercial feeding stuffs, shall pay to the secretary of the state board of agriculture an inspection fee of ~~eight cents (8¢)~~ \$10 per ton of ~~two thousand (2,000)~~ 2,000 pounds, or fraction thereof, for each commercial feeding stuffs sold, offered or exposed for sale or distributed in this state.

(2) (b) Each manufacturer, importer, jobber, firm, corporation, association of persons or person shall make application to the secretary of the state board of agriculture for a permit to report the tonnage of commercial feeding stuffs sold and shall pay the inspection fee on the basis of ~~said such~~ report.

(3) (c) In the case of a commercial feeding stuffs which is distributed in the state in packages of ~~ten (10)~~ 10 pounds or less, an annual fee of ~~twenty-five dollars (\$25)~~ \$25 shall be paid in lieu of the inspection fee.

(4) (d) In the case of specialty pet foods which is distributed in the state in packages of one ~~(1)~~ pound or less, an annual fee of ~~fifteen dollars (\$15)~~ \$15 shall be paid in lieu of the inspection fee.

(5) (e) The minimum inspection fee shall be ~~fifteen dollars (\$15)~~ \$15 and shall be paid semiannually.

(6) (f) The secretary may grant the permit upon condition that the applicant keep such records as may be necessary to indicate accurately the tonnage of commercial feeding stuffs sold, and as are satisfactory to the secretary, and granting the secretary or the secretary's duly authorized representative permission to verify the statement of tonnage. The report shall be filed in the office of the secretary of the state board of agriculture, and the report of tonnage and inspection fee shall be due semiannually on the first day of January and the first day of July, covering the tonnage of commercial feeding stuffs sold the preceding six months.

(7) (g) If the report is not filed and the inspection fee paid by

the ~~thirtieth 30th~~ 30th of the month following the due date, or if the report of tonnage ~~be is~~ false, the secretary may revoke the permit; ~~and~~. If the inspection fee ~~be is~~ unpaid after the thirty-day grace period, the amount due shall bear interest at the rate of ~~eight percent (8%) per annum prescribed for judgments by K.S.A. 16-204 and amendments thereto~~ from the date the report and inspection fee were due, until paid, and shall constitute a debt and become the basis of a judgment. The sale of a commercial feeding stuffs in this state without reporting and paying the inspection fee within ~~thirty (30)~~ 30 days from the due date, shall constitute cause for cancellation and revocation of the registrations filed by ~~said the~~ manufacturer, importer, jobber, firm, association of persons, corporation, or person.

Sec. 2. K.S.A. 65-6a34 is hereby amended to read as follows: 65-6a34. (a) No person shall (1) engage in business, in or for intrastate commerce, as a meat broker, or animal food manufacturer, or (2) engage in business in such commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any cattle, sheep, swine, goats, horses, mules or other equines, domestic rabbits or poultry, whether intended for human food or other purposes, or (3) engage in business as a public warehouseman storing any such articles in or for such commerce, without first having registered with the secretary such person's name and the address of each place of business at which, and all trade names under which such person conducts such business.

(b) No person shall engage in business or operate a packing-house, sausage plant, poultry packing plant, slaughterhouse or poultry dressing plant without registering such person's name and place of business with the secretary, and paying the registration fee established by this section. An annual registration fee of ~~one hundred dollars \$200~~ shall be charged for the registration of a packing house, sausage plant or poultry packing plant and such registration shall expire on December 31 of each year. An annual registration fee of ~~seventy-five dollars \$150~~ shall be charged for the registration of a slaughterhouse or poultry dressing plant and such registration shall expire on December 31 of each year.

Sec. 3. K.S.A. 2-1004 and 65-6a34 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 HOUSE, and passed that body March 16, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE March 31, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 64

AN ACT relating to banks and banking; concerning the powers thereof; relating to the board of directors; amending K.S.A. 9-701, 9-1101, 9-1114 and 9-1116 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 9-701 is hereby amended to read as follows: 9-701. Unless otherwise clearly indicated by the context, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:

(a) "Bank" shall mean a state bank incorporated under the laws of Kansas.

(b) "Trust company" shall mean a trust company incorporated under the laws of Kansas.

(c) "Board" shall mean the Kansas state banking board.

(d) "Commissioner" shall mean the Kansas state bank commissioner.

(e) "Insured bank" shall mean a trust company or state bank whose deposits are insured through the federal deposit insurance corporation or other governmental agency or by an insurer approved by the state commissioner of insurance for such purpose.

(f) "Item" shall mean any check, note, order, or other instrument or memorandum providing for the payment of money, or upon which money may be collected.

(g) "Demand deposits" shall include every deposit which is not a "time deposit" or "savings deposit," as defined in this section.

(h) "Time deposits" shall mean "time certificates of deposit" and "time deposits, open account," as defined in this section.

(i) "Time certificate of deposit" shall mean a deposit evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of such deposit is payable, upon presentation and surrender of the instrument, to bearer or to any specified person or to such person's order: (1) On a certain date, specified in the instrument, not less than 14 days after the date of the deposit; or

(2) at the expiration of a certain specified time not less than 14 days after the date of the instrument; or

(3) upon notice in writing which is actually required to be given not less than 14 days before the date of repayment.

(j) "Time deposit, open account" shall mean a deposit, other than a "time certificate of deposit," with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of maturity, which shall be not less than 14 days after the date of the deposit, or prior to the expiration of the period of notice which must be given by the depositor in writing not less than 14 days in advance of withdrawal.

(k) "Savings deposit" shall mean a deposit: (1) Which consists of funds deposited to the credit of or in which the entire beneficial interest is held by one or more individuals, or of a corporation, association or other organization operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and not operated for profit; or that consists of funds deposited to the credit of or in which the entire beneficial interest is held by the United States, any state of the United States or any county, municipality or political subdivision thereof; or that consists of funds deposited to the credit of, or in which any beneficial interest is held by a corporation, partnership, association or other organization not qualifying above to the extent such funds do not exceed \$150,000 per such depositor; and (2) with respect to which the depositor is not required by the deposit contract but may at any time be required by the bank to give notice in writing of an intended withdrawal not less than 14 days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(l) "Public moneys" shall mean all moneys coming into the custody of the United States government or any board, commission or agency thereof, and also shall mean all moneys coming into the custody of any officer of any municipal or quasi-municipal

pal or public corporation, the state or any political subdivision thereof, pursuant to any provision of law authorizing any such official to collect or receive the same.

(m) "Municipal corporation" shall mean any city incorporated under the laws of Kansas.

(n) "Quasi-municipal corporation" shall mean any county, township, school district, drainage district, or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(o) "Certificate of authority" shall mean a statement signed and sealed by the commissioner evidencing the authority of a bank or trust company to transact a general business as such.

(p) "Transaction account" shall mean a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar device for the purpose of making payments or transfers to third persons or others.

(q) "Nonpersonal time deposit" shall mean a time deposit, including a savings deposit that is not a transaction account, representing funds in which any beneficial interest is held by a depositor which is not a natural person.

(r) "Negotiable order of withdrawal deposit" shall mean a deposit on which interest is paid and which is subject to withdrawal by the owner by negotiable or transferable instruments for the purpose of making transfers to third parties, and which consists solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, fraternal or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof.

Sec. 2. K.S.A. 9-1101 is hereby amended to read as follows: 9-1101. Any bank hereby is authorized to exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers, including incidental powers, as shall be necessary to carry on the business of banking, and: (1) To receive deposits and to pay interest thereon at rates which need not be uniform. The state bank commissioner, with approval of the state banking board, may by regulations of general application fix maximum rates of interest to be paid on deposit accounts other than accounts for public moneys;

(2) to buy and sell exchange, gold, silver, foreign coin, bullion, commercial paper, bills of exchange, notes and bonds;

(3) to buy and sell bonds, securities, or other evidences of indebtedness of the United States of America or those fully guaranteed, directly or indirectly, by it, and general obligation bonds of the state of Kansas or any municipality or quasi-municipality thereof, and of other states, and of municipalities or quasi-municipalities in other states of the United States of America. No bank shall invest an amount in excess of 15% of its capital and surplus in bonds, securities or other evidences of indebtedness of any municipality or quasi-municipality of any other state or states of the United States of America: (a) If and when the direct and overlapping indebtedness of such municipality or quasi-municipality is in excess of 10% of its assessed valuation, excluding therefrom all valuations on intangibles and homestead exemption valuation; (b) or if any bond, security, or evidence of indebtedness of any such municipality or quasi-municipality has been in default in the payment of principal or interest within 10 years prior to the time that any bank acquires any such bonds, security or evidence of indebtedness;

(4) to make all types of loans, including loans on real estate, subject to the loan limitations contained in this act. Every real estate loan shall be secured by a mortgage or other instrument constituting a lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. The mortgage may secure future advances. The lien of such mortgage

(continued)

shall attach upon its execution and have priority from time of recording as to all advances made thereunder until such mortgage is released of record. The lien of such mortgage shall not exceed at any one time the maximum amount stated in the mortgage;

(5) to discount and negotiate bills of exchange, negotiable notes and notes not negotiable;

(6) to own a suitable building, furniture and fixtures, stock in a single trust company organized under the laws of the state of Kansas, and stock in a safe deposit company organized under the laws of the state of Kansas, and stock in a corporation organized under the laws of this state, owning only real estate all or a part of which is occupied or to be occupied by the bank. The trust company shall not at the time of the purchase of such stock be engaged in the business of receiving deposits of banks, and in the event such trust company shall thereafter receive deposits from banks such stock shall be sold within six months or removed as an asset of the bank, but with a limit of 1/2 of the capital stock and surplus of such bank upon the total of all amounts carried on its books as investments in all assets described in this subsection (6) and advances to a corporation organized under the laws of this state owning only real estate all or a part of which is occupied or to be occupied by the bank. This limitation shall not apply to amounts carried on the books of such bank as investments made prior to July 1, 1973. The state bank commissioner may grant the bank authority to exceed such limitation. The trust company and the safe deposit company in which a bank may own stock must be located at all times in the same city or unincorporated village where the bank owning such stock is located, otherwise, the bank shall dispose of such stock immediately;

(7) to buy and sell investment securities which are evidences of indebtedness. The buying and selling of investment securities shall be limited to buying and selling without recourse marketable obligations evidencing indebtedness of any person, copartnership, association, corporation, or state or federal agency, including revenue bonds issued pursuant to K.S.A. 76-6a15 and amendments thereto or the state armory board in the form of bonds, notes or debentures or both, commonly known as investment securities, under such further definition of the term "investment securities" as prescribed by the board, but the total amount of such investment securities of any one obligor or maker held by such bank shall at no time exceed 15% of the capital stock and surplus of such bank except that this limit shall not apply to obligations of the United States government or any agency thereof. If the obligor is a state agency including any agency issuing revenue bonds pursuant to K.S.A. 76-6a15 and amendments thereto or the state armory board, the total amount of such investment securities shall at no time exceed 25% of the capital stock and surplus of such bank;

(8) to subscribe to, buy and own such stock of the federal national mortgage association as required by title 3, section 303 of the federal act known as the national housing act as amended by section 201 of public law No. 560, of the United States (68 Stat. 613-615), known as the housing act of 1954, or amendments thereto;

(9) to subscribe to, buy and own stock in not more than one small business investment company in Kansas as otherwise authorized by federal law, except that in no event shall any bank hold shares in such company in an amount aggregating more than 1% of its capital and surplus. Nothing in this act contained shall prohibit any bank from holding and disposing of such real estate and other property as it may acquire in the collection of its assets;

(10) to subscribe to, buy and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, organized pursuant to the provisions of the laws of the United States providing for the information and operation of agricultural credit corporations and livestock loan companies, in an amount not exceeding either the undivided profits or 10% of the capital stock and surplus and undivided profits from such bank, whichever is greater;

(11) to become the owner or lessor of personal property acquired upon the specific request and for the use of a customer, and may incur such additional obligations as may be incident to

becoming an owner or lessor of such property. Any bank which claims a credit against its privilege tax of any amount of ad valorem taxes on property acquired pursuant to this subsection shall not be designated as a depository for any state funds by the pooled money investment board. Lease transactions shall not result in obligations for the purpose of determining limitations or restrictions on the amount of loans. Lease payments on such transactions shall be considered rents and not interest;

(12) to subscribe to, buy and own stock in minbanc capital corporation, a company formed for the purpose of providing capital to minority-owned banks. No bank's investment in such stock shall exceed 2% of its capital and surplus;

(13) to buy, hold, and sell any type of investment securities not enumerated in this section with approval of the commissioner and upon such conditions and under such regulations as are prescribed by the state banking board;

(14) to act as escrow agent;

(15) to subscribe to, acquire, hold and dispose of stock of any class of the KBA mortgage corporation, a corporation having as its purpose the acquisition, holding and disposition of loans secured by real estate mortgages, and to acquire, hold and dispose of the debentures and capital notes of such corporation. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits and such investment shall be carried on the books of the bank as directed by the commissioner;

(16) to purchase and sell securities and stock without recourse solely upon the order, and for the account, of customers;

(17) to subscribe to, acquire, hold and dispose of any class of stock, debentures and capital notes of MABSCO agricultural services, inc. or any similar corporation having as its purpose the acquisition, holding and disposition of agricultural loans originated by Kansas banks. No bank's investment in such stock, debentures and capital notes shall exceed 2% of its capital stock, surplus and undivided profits. Such investment shall be carried on the books of the bank as directed by the commissioner.

Sec. 3. K.S.A. 9-1114 is hereby amended to read as follows: 9-1114. The business of any bank shall be managed and controlled by its board of directors and this shall include the authority to provide for bonus payments, in addition to ordinary compensation for any or all of its officers and employees. ~~The~~ ~~board~~ shall consist of not less than five ~~(5)~~ nor more than ~~twenty-five (25)~~ 25 members, all of whom shall be stockholders of the bank or of the parent corporation of the bank, and who shall be elected by the stockholders at any regular annual meeting which shall be held during the first ~~one hundred twenty (120)~~ 120 days of each calendar year. If the number of directors elected is less than ~~twenty-five (25)~~ 25, the number of directors may be increased so long as the total number does not exceed ~~twenty-five (25)~~ 25 and when the number is increased the first additional directors may be elected at a special meeting of the stockholders. The directors shall be elected in the manner provided in the general corporation code. Vacancies in the board of directors may be filled in the manner provided in the general corporation code. A majority of the directors shall be residents of this state. Any director of any bank who shall become indebted to such bank on any judgment or charged off indebtedness shall forfeit his or her ~~such person's~~ position as director and such vacancy shall be filled as provided by law.

Sec. 4. K.S.A. 9-1116 is hereby amended to read as follows: 9-1116. The board of directors shall hold at least four ~~(4)~~ regular meetings each year, ~~the same to be held during the months of January, April, July and October at least one of which shall be held during each calendar quarter.~~ The board of directors, or an auditor selected by ~~said the~~ board, and who shall report his or her findings directly to the board, shall make a thorough examination of the books, records, funds and securities held by the bank at each of ~~such the~~ quarterly meetings and the result of such examination shall be recorded in detail. ~~If the board selects an auditor, the auditor's findings shall be reported directly to the board.~~ In lieu of the required four ~~(4)~~ quarterly examinations, the board of directors may accept one annual audit by a certified public accountant or an independent auditor approved by the commissioner.

(continued)

Sec. 5. K.S.A. 9-701, 9-1101, 9-1114 and 9-1116 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 SENATE, and passed that body February 17, 1983.

SENATE concurred in HOUSE amendments March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 29, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 13, 1983.

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 14th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2027

AN ACT concerning adult family homes as therein defined; relating to registration thereof with the secretary of social and rehabilitation services.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Adult family home" means a private residence in which care is provided for not less than 24 hours in any week for one or two adult clients who (1) are not related within the third degree of relationship to the owner or provider by blood or marriage, (2) by reason of aging, illness, disease or physical or mental infirmity are unable to live independently but are essentially capable of managing their own care and affairs. The home does not furnish skilled nursing care, supervised nursing care or simple nursing care. Adult family home does not mean adult care home.

(b) "Skilled nursing care," "supervised nursing care" and "simple nursing care" have the meanings respectively ascribed thereto in K.S.A. 1982 Supp. 39-923, and amendments thereof.

(c) "Physician" means any person licensed by the state board of healing arts to practice medicine and surgery.

(d) "Secretary" means the secretary of social and rehabilitation services.

Sec. 2. Any person maintaining an adult family home shall apply for registration of such home with the secretary on forms furnished by the secretary.

Sec. 3. (a) Upon receipt of an application for registration of a private residence as an adult family home and upon certification by the applicant that no person residing therein has an infectious or communicable disease or health condition, the secretary shall determine the suitability of the residence for registration as an adult family home. If the secretary determines that the residence for which registration is sought, and the applicant therefor, can satisfactorily meet the requirements provided in section 4, the secretary shall register the residence as an adult family home annually from the date of such registration.

(b) Application for renewal of the registration shall be made

to the secretary no later than 30 days prior to the annual expiration of that registration. The secretary, within 15 days of the receipt of such application, shall cause to be made an on-site investigation of the residence. If the secretary determines that the requirements of subsection (a) of this section are met, the secretary shall again register the residence as an adult family home.

Sec. 4. The secretary shall administer the adult family home registration program in accordance with the following requirements:

(a) (1) The home shall meet health standards and safety regulations of the community and the provisions of chapter 20 of the national fire protection association, life safety code, pamphlet no. 101, 1981 edition.

(2) The home shall have a written plan to get persons out of the home rapidly in case of fire, tornado or other emergency.

(3) No more than two clients shall be in residence at any one time.

(4) The home shall have adequate living and sleeping space for clients.

(5) Each room shall have an operable outside window.

(6) Electric fans shall be made available to reduce the temperature if there is no air conditioning. Rooms shall be heated, lighted, ventilated and available.

(7) Sleeping rooms shall have space for personal items.

(8) Each client shall have a bed which is clean and in good condition.

(9) Lavatory and toilet facilities shall be accessible, available and in working order.

(10) The kitchen shall be clean with appliances in good working order.

(b) (1) A healthy and safe environment shall be maintained for clients.

(2) There shall be a telephone in the home.

(3) The provider may assist a client with the taking of medications when the medication is in a labeled bottle which clearly shows a physician's orders and when the client requires assistance because of tremor, visual impairment, or similar reasons due to health conditions. The provider may assist or perform for the client such physical activities which do not require daily supervision such as assistance with eating, bathing and dressing, help with brace or walker and transferring from wheelchairs.

(4) There shall be no use of corporal punishment, restraints or punitive measures.

(5) The house shall be free from accumulated dirt, trash and vermin.

(6) Meals shall be planned and prepared for adequate nutrition, and for diets if directed by a physician.

(c) (1) The provider shall be at least 18 years of age and in good health at the time of initial application for registration. A written statement must be received from a physician, nurse practitioner, or physician's assistant stating that the applicant and the members of the applicant's household are free of any infectious or communicable disease or health condition and are physically and mentally healthy. Such statements shall be renewed every two years.

(2) The provider shall not be totally dependent on the income from the clients for support of the provider or the provider's family.

(3) A criminal conviction shall not necessarily exclude registration as an adult family home; but an investigation thereof will be made as part of the determination of the suitability of the home.

(4) The provider shall be responsible for supervision at all times and shall be in charge of the home and provision of care, or shall have a responsible person on call. Any such substitute responsible person shall meet the same requirements as the provider.

(5) The provider is responsible for encouraging the client to seek and utilize available services when needed.

(6) The provider shall comply with the requirements of state and federal regulations concerning civil rights and section 504 of the federal rehabilitation act of 1973.

(7) The provider shall assure that clients have the privilege of

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privacy as well as the right to see relatives, friends and participate in regular community activities.

(8) The provider shall keep client information confidential. The use or disclosure of any information concerning a client for any purpose is prohibited except on written consent of the client or upon order of the court.

(9) The provider shall maintain contact with an assigned social worker and shall allow the secretary and authorized representatives of the secretary access to the home and grounds and to the records related to clients in residence.

(10) The provider shall inform the social worker immediately of any unscheduled client absence from the home.

(11) The provider is responsible for helping clients maintain their clothing.

(12) The provider shall furnish or help clients arrange for transportation.

(13) The provider shall help a client arrange for emergency and regular medical care when necessary.

(14) The provider shall submit any information relating to the operation of the adult family home which is required by the secretary.

Sec. 5. (a) The secretary may enter an adult family home at any time determined by the secretary to be necessary for the purpose of assessing compliance with the requirements provided in section 4.

(b) If at any time the secretary determines that inadequate care is being provided to a client by an adult family home, the secretary may suspend or revoke the registration of the adult family home or provide protective services for the client in accordance with the provisions of article 14 of chapter 39 of Kansas Statutes Annotated or may take both such actions.

(c) Authorized agents and representatives of the secretary shall conduct at least one unannounced inspection of each adult family home during each year for the purpose of determining whether the adult family home is complying with the provisions of this act and applicable rules and regulations relating to the health and safety of the clients of the adult family home.

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 2, 1983.

HOUSE concurred in SENATE amendments April 4, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL)

JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 33

AN ACT concerning the provision of services for the protection of certain persons from abuse or neglect; amending K.S.A. 39-1401, 39-1402, 39-1403 and 39-1404 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 39-1401 is hereby amended to read as follows: 39-1401. As used in this act:

(a) "Resident" means:

(1) Any resident, as defined by K.S.A. 39-923 and amendments thereto; or

(2) any client cared for in an adult family home; or

(3) any individual kept, cared for, treated, boarded or otherwise accommodated in a medical facility, as defined by K.S.A. 65-425 and amendments thereto, which is operated by the state or federal government.

(b) "Adult care home" has the meaning ascribed thereto in K.S.A. 39-923 and amendments thereto.

(c) "Adult family home" has the meaning ascribed thereto in section 1 of 1983 House Bill No. 2027.

(d) "In need of protective services" means that a resident is unable to perform or obtain services which are necessary to maintain physical and mental health.

(e) "Services which are necessary to maintain physical and mental health" include, but are not limited to, the provision of medical care for physical and mental health needs, the relocation of a resident to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent, except as provided in this act.

(f) "Protective services" means services provided by the state or other governmental or private organizations or individuals which are necessary to prevent abuse or neglect.

(g) "Abuse" means neglect, willful infliction of physical or mental injury or willful deprivation by a caretaker of services which are necessary to maintain physical and mental health.

(h) "Neglect" means the failure of a caretaker to maintain reasonable care and treatment to such an extent that the resident's health or emotional well-being is injured.

(i) "Caretaker" means a person or institution who has assumed the responsibility for the care of the resident voluntarily, by contract or by order of a court of competent jurisdiction.

No person shall be considered to be abused or neglected for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

Sec. 2. K.S.A. 39-1402 is hereby amended to read as follows: 39-1402. (a) Any person licensed to practice any branch of the healing arts, the chief administrative officer of a medical care facility, an adult care home administrator, a licensed social worker, a licensed professional nurse and a licensed practical nurse, who has reasonable cause to believe that a resident is being or has been abused or neglected, or is in a condition which is the result of such abuse or neglect or is in need of protective services, shall report immediately such information or cause a report of such information to be made in any reasonable manner to the department of social and rehabilitation services.

(b) The report made pursuant to subsection (a) shall contain the name and address of the person making the report and of the caretaker caring for the resident, the name and address of the involved resident, information regarding the nature and extent of the abuse, neglect or exploitation, the name of the next of kin of the resident, if known, and any other information which the person making the report believes might be helpful in an investigation of the case and the protection of the resident.

(c) Any other person having reasonable cause to suspect or believe that a resident is being or has been abused or neglected,

(continued)

or is in a condition which is the result of such abuse or neglect or is in need of protective services may report such information to the department of social and rehabilitation services.

(d) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous place in every adult care home and adult family home in this state.

Sec. 3. K.S.A. 39-1403 is hereby amended to read as follows: 39-1403. (a) ~~No person who makes~~ *Anyone participating in the making of any report pursuant to this act, or in any follow-up activity to or investigation of such report or any other report of abuse or neglect of an adult or who testifies in any administrative or judicial proceeding arising from such report shall not be subject to any civil or criminal liability on account of such report, investigation or testimony, unless such person acted in bad faith or with malicious purpose.*

(b) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report under this act.

Sec. 4. K.S.A. 39-1404 is hereby amended to read as follows: 39-1404. (a) The department of social and rehabilitation services upon receiving a report that a resident is being, or has been, abused or neglected, or is in a condition which is the result of such abuse or neglect or is in need of protective services shall, within ~~forty-eight (48)~~ 48 hours of receiving such report, initiate an investigation, including a personal visit with the resident and, within two weeks of receiving such report, shall initiate a thorough investigation and evaluation to determine the situation relative to the condition of the resident and what action and services, if any, are required. The evaluation shall include, but not be limited to, a visit to the named resident and consultation with those individuals having knowledge of the facts of the particular case. Upon completion of the evaluation of each case, written findings shall be prepared which shall include a finding of whether there is or has been abuse or neglect, recommended action and a determination of whether protective services are needed.

(b) The secretary of social and rehabilitation services shall maintain a statewide register of the reports received, the findings, evaluations and the actions recommended. The register shall be available for inspection by personnel of the department of social and rehabilitation services. The secretary of social and rehabilitation services shall forward a copy of any report of abuse or neglect of a resident to the secretary of health and environment and, in the case of a report of abuse or neglect of a resident of an adult care home or an adult family home, to the ~~state nursing home ombudsman~~ *secretary of aging.*

(c) Neither the report nor the written evaluation findings shall be deemed a public record or be subject to the provisions of K.S.A. 45-201 to 45-203, inclusive, and any amendments thereto. The name of the person making the original report or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests or agrees in writing to such disclosure or unless a judicial proceeding results therefrom. No information contained in the statewide register shall be made available to the public in such a manner as to identify individuals.

Sec. 5. K.S.A. 39-1401, 39-1402, 39-1403 and 39-1404 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 SENATE, and passed that body February 3, 1983.

SENATE concurred in HOUSE amendments April 5, 1983.
ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 25, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

Substitute for HOUSE BILL No. 2132

AN ACT relating to alcohol and drug-related crimes; providing for the establishment of alcohol and drug safety action programs; amending K.S.A. 8-1008 and 8-1567 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 8-1008 is hereby amended to read as follows: 8-1008. (a) ~~The secretary of social and rehabilitation services shall establish a state alcohol and drug safety action program. As a part of the program, the secretary shall certify Community-based alcohol and drug safety action programs which may certified in accordance with subsection (b) shall provide:~~

(1) Presentence alcohol and drug evaluations of any person who ~~pleads nolo contendere to or is convicted of a violation of~~ K.S.A. 8-1567 and amendments thereto, ~~or the ordinance of a city in this state which prohibits the acts prohibited by that statute;~~

(2) supervision and monitoring of all persons who ~~plead nolo contendere to or are convicted of a violation of~~ K.S.A. 8-1567 and amendments thereto, ~~or the ordinance of a city in this state which prohibits the acts prohibited by that statute,~~ and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section; ~~or (3) any combination of (1) and all or part of (2). An alcohol and drug safety action program may include such components as are provided by the secretary of social and rehabilitation services;~~

(3) ~~alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of~~ K.S.A. 8-1567 and amendments thereto, ~~or the ordinance of a city in this state which prohibits the acts prohibited by that statute;~~

(4) ~~supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of~~ K.S.A. 8-1567 and amendments thereto, ~~or the ordinance of a city in this state which prohibits the acts prohibited by that statute,~~ to complete an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section; or

(5) ~~any combination of (1), (2), (3) and (4).~~

(b) The presentence alcohol and drug evaluation shall be conducted by a community-based alcohol and drug safety action program certified by the secretary of social and rehabilitation services in accordance with the provisions of this subsection to provide evaluation and supervision services as described in subsection (c). In establishing the qualifications for the programs, the secretary shall give consideration to those programs which have had practical experience in diagnosis and referral in

(continued)

alcohol and drug abuse subsections (c) and (d). A community-based alcohol and drug safety action program shall be certified either by the administrative judge of the judicial district to be served by the program or by the secretary of social and rehabilitation services for judicial districts in which the administrative judge declines to certify a program. In establishing the qualifications for programs, the administrative judge or the secretary shall give preference to those programs which have had practical experience prior to July 1, 1982, in diagnosis and referral in alcohol and drug abuse. Certification of a program by the administrative judge shall be done with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If within 60 days after the effective date of this act the administrative judge declines to certify any program for the judicial district, the judge shall notify the secretary of social and rehabilitation services, and the secretary of social and rehabilitation services shall certify a community-based alcohol and drug safety action program for that judicial district. The certification shall be for a four-year period. Recertification of a program or certification of a different program shall be by the administrative judge, with consultation and approval of a majority of the judges of the district court of the district and municipal judges of cities lying in whole or in part within the district. If upon expiration of certification of a program there will be no certified program for the district and the administrative judge declines to recertify or certify any program in the district, the judge shall notify the secretary of social and rehabilitation services, at least six months prior to the expiration of certification, that the judge declines to recertify or certify a program under this subsection. Upon receipt of the notice and prior to the expiration of certification, the secretary shall recertify or certify a community-based alcohol and drug safety action program for the judicial district for the next four-year period. To be eligible for certification under this subsection, the administrative judge or the secretary of social and rehabilitation services shall determine that a community-based alcohol and drug safety action program is capable of providing, within the judicial district: (1) The evaluations, supervision and monitoring required under subsection (a); (2) the alcohol and drug evaluation report required under subsection (c) or (d); (3) the follow-up duties specified under subsection (c) or (d) for persons who prepare the alcohol and drug evaluation report; and (4) any other functions and duties specified by law. Community-based alcohol and drug safety action programs performing services in any judicial district under this section prior to the effective date of this act may continue to perform those services until a community-based alcohol and drug safety action program is certified for that judicial district.

(c) Upon the establishment of the state alcohol and drug safety action program, the presentence alcohol and drug evaluation shall be conducted on any person who pleads *nolo contendere* to or is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute. The presentence alcohol and drug evaluation report shall be made available to and shall be considered by the court prior to sentencing. The presentence alcohol and drug evaluation report shall contain an evaluation concerning a history of the defendant's prior traffic record, characteristics and history of alcohol or drug problems, or both, and a recommendation concerning the amenability of the defendant to education and rehabilitation. The presentence alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the defendant. The presentence alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the presentence alcohol and drug evaluation report may so include appearing at sentencing and probation hearings in accordance with the orders of the court, monitoring defendants in the treatment programs, notifying the probation department and the court of any defendant failing to meet the conditions of probation or referrals to treatment, appearing at revocation hear-

ings as may be required and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (d) (e). If financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the defendant's sentence.

(d) There is hereby created in the state treasury the alcohol and drug safety action program fund. On and after the effective date of this act and until July 1, 1983, in addition to any fines, fees, penalties or costs levied against a person who pleads *nolo contendere* to or is convicted of a violation of K.S.A. 8-1567 and amendments thereto, \$85 shall be assessed by the sentencing court against the person. Such \$85 assessment may be waived by the court, if the court finds that the defendant is an indigent person. Prior to July 1, 1983, and prior to July 1 of each year thereafter, the secretary of social and rehabilitation services shall determine the cost of the program established under this section, including the cost of administration, for the current fiscal year. Thereupon, the secretary of social and rehabilitation services shall establish by rules and regulations the amount to be assessed hereunder against each person who pleads *nolo contendere* to or is convicted of a violation of K.S.A. 8-1567 and amendments thereto, during the ensuing fiscal year in order to insure that the program is financially self-supporting. The clerk of the sentencing court shall remit to the state treasurer at least monthly all assessments received under this section. Upon receipt thereof, the state treasurer shall deposit the entire remittance in the state treasury and credit the entire amount to the alcohol and drug safety action program fund. Moneys in the alcohol and drug safety action program fund shall be expended by the secretary of social and rehabilitation services only for the administration of the state alcohol and drug safety action program and paying the costs for the provision of the services specified by subsection (a) by community-based alcohol and drug safety action programs. In administering the state alcohol and drug safety action program, the secretary of social and rehabilitation services may contract as may be necessary to carry out the provisions of this act. All expenditures from the alcohol and drug safety action program 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 social and rehabilitation services or by a person designated by the secretary.

(e) In establishing the state alcohol and drug safety action program the secretary of social and rehabilitation services shall consult with the Kansas citizens committee on alcohol and other drug abuse. The secretary of social and rehabilitation services, in conjunction with such committee, shall insure that qualified programs are established or available in all judicial districts and shall establish criteria for evaluation diagnosis, data reporting, client supervision and program evaluation.

(f) The alcohol and drug safety action program shall cooperate in providing services to a defendant or violator who resides in a judicial district other than the one in which the arrest was made. The alcohol drug and safety action program may cooperate in providing services to a defendant who resides at a location closer to another judicial district's program.

(g) The requirements of this section shall not apply to persons who are not residents of Kansas at the time of sentencing.

(h) The provisions of this section, including the assessment required by subsection (d), shall apply to any person who is to be or is charged with a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and participates in a diversion program.

(d) An alcohol and drug evaluation shall be conducted on any person whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that

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statute. The alcohol and drug evaluation report shall be made available to the prosecuting attorney and shall be considered by the prosecuting attorney. The alcohol and drug evaluation report shall contain a history of the person's prior traffic record, characteristics and alcohol or drug problems, or both, and a recommendation concerning the amenability of the person to education and rehabilitation. The alcohol and drug evaluation report shall include a recommendation concerning the alcohol and drug driving safety education and treatment for the person.

The alcohol and drug evaluation report shall be prepared by a program which has demonstrated practical experience in the diagnosis of alcohol and drug abuse. The duties of persons who prepare the alcohol and drug evaluation report may also include monitoring persons in the treatment programs, notifying the prosecutor and the court of any person failing to meet the conditions of diversion or referrals to treatment, and providing assistance and data reporting and program evaluation. The cost of any alcohol and drug education, rehabilitation and treatment programs for any person shall be paid by such person, and such costs shall include, but not be limited to, the assessments required by subsection (e).

(e) In addition to any fines, fees, penalties or costs levied against a person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, or who enters a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of that statute or such an ordinance, \$85 shall be assessed against the person by the sentencing court or under the diversion agreement. The \$85 assessment may be waived by the court or, in the case of diversion of criminal proceedings, by the prosecuting attorney, if the court or prosecuting attorney finds that the defendant is an indigent person. Except as otherwise provided in this subsection, the clerk of the court shall deposit all assessments received under this section in the alcohol and drug safety action fund of the court, which fund shall be subject to the administration of the judge having administrative authority over that court. If the secretary of social and rehabilitation services certifies the community-based alcohol and drug safety action program for the judicial district in which the court is located, the clerk of the court shall remit, during the four-year period for which the program is certified, 15% of all assessments received under this section to the secretary of social and rehabilitation services. Moneys credited to the alcohol and drug safety action fund shall be expended by the court, pursuant to vouchers signed by the judge having administrative authority over that court, only for costs of the services specified by subsection (a) or otherwise required or authorized by law and provided by community-based alcohol and drug safety action programs, except that not more than 10% of the money credited to the fund may be expended to cover the expenses of the court involved in administering the provisions of this section. In the provision of these services the court shall contract as may be necessary to carry out the provisions of this section.

(f) On the effective date of this act, the director of accounts and reports shall pay from the alcohol and drug safety action program fund to the clerk of each court for deposit in the alcohol and drug safety action fund of the court an amount of money determined by multiplying the number equal to the unencumbered balance in the alcohol and drug safety action program fund on the effective date of this act by the number equal to the percent of the total amount of money credited to the alcohol and drug safety action program fund which was remitted by the clerk of the court to the state treasurer and credited to that fund during the period from July 1, 1982, to the effective date of this act. Prior to the payment the state treasurer shall certify to the director of accounts and reports the amount remitted by each sentencing court and credited to the alcohol and drug safety action program fund during the period from July 1, 1982, to the effective date of this act. After such payment the director of accounts and reports shall transfer all the money which remains in the alcohol and drug safety action program fund to the state general fund and at the time of the transfer all liabilities of the alcohol and drug safety action program fund

are imposed on the state general fund. After such transfer, the alcohol and drug safety action program fund is hereby abolished.

(g) The secretary of social and rehabilitation services shall remit all moneys received by the secretary under this section to the state treasurer at least monthly. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the certification of community-based alcohol and drug safety action programs fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants issued pursuant to vouchers approved by the secretary of social and rehabilitation services or a person designated by the secretary.

Sec. 2. K.S.A. 8-1567 is hereby amended to read as follows: 8-1567. (a) No person shall operate any vehicle within this state while under the influence of alcohol.

(b) No person shall operate any vehicle within this state if the person is a habitual user of or under the influence of any narcotic, hypnotic, somnifacient or stimulating drug or is under the influence of any other drug to a degree which renders such person incapable of safely driving a vehicle. The fact that any person charged with a violation of this subsection is or has been entitled to use the drug under the laws of this state shall not constitute a defense against any charge of violating this subsection.

(c) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than 48 hours' imprisonment or, at the discretion of the court, 100 hours of public service nor more than six months' imprisonment and fined not less than \$200 nor more than \$500, ~~or by both such fine and imprisonment.~~ The person convicted shall not be eligible for release on probation or suspension or reduction of sentence until the minimum sentence has been satisfied. In addition, the court shall enter an order which (1) restricts the person convicted to operating a motor vehicle on the highways of this state only in going to or returning from the person's place of employment in the course of the person's employment or, during a medical emergency or in going to or returning from the place such person is required to go to attend an alcohol and drug safety action program as provided in K.S.A. 8-1008 and amendments thereto or a treatment program as provided in K.S.A. 8-1008 and amendments thereto for a period of time of at least 90 days and not to exceed one year and (2) requiring that the person enroll in and successfully complete an alcohol and drug safety action program as provided in K.S.A. 8-1008 and amendments thereto or a treatment program as provided in K.S.A. 8-1008 and amendments thereto, or both such education and treatment programs. ~~In the event~~ If the person convicted has a suspended or revoked driver's license, the court shall not make the restricted license, provided under this subsection, applicable until ~~any such~~ the suspension or revocation is terminated. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(d) On a second conviction of a violation of this section, a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The person convicted shall not be eligible for release on probation or suspension of sentence until the minimum sentence has been satisfied, but the sentence may be reduced, but not to less than five days' imprisonment, if the convicted person enters into and completes a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008 and amendments thereto. In addition, the court shall suspend the driver's license of the convicted person for one year or until the person completes the treatment program approved by the court,

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whichever is directed by the court. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance.

(e) On the third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. The person convicted shall not be eligible for release on probation or suspension or reduction of sentence. *The court may also require as a provision of the person's release upon completion of the term of imprisonment that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008 and amendments thereto.* In addition, the court shall revoke the driver's license of the convicted person for the period of time specified for the revocation of a driver's license under subsection (j) and in accordance with the procedure for revoking a driver's license under subsection (j) (k). No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance.

(f) The court may establish the terms and time for payment of any ~~fine fines, fees, assessments and costs~~ imposed pursuant to this section; ~~but full amount of the fine. Any assessment and costs shall be required to be paid not later than 90 days after the fine is imposed, subject to the provisions of subsection (h) and any remainder of the fine shall be paid prior to the final release of the defendant by the court.~~

(g) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(h) The court shall report every ~~plea of guilty or conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor-vehicle laws of this state.~~

(i) For the purpose of determining whether a conviction is a first, second or third or subsequent conviction for the purpose of sentencing under this section, the term "conviction" includes ~~pleading guilty to a violation of this section, pleading nolo contendere to a violation of this section, being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section. For such purpose "conviction" also includes pleading guilty to an ordinance being convicted of a violation of a law of another state or an ordinance of any municipality which prohibits the acts that this section prohibits, being convicted of such an ordinance or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such a law or ordinance. For the purpose of this section, only convictions occurring in the next immediately preceding five years, including prior to the effective date of this act, shall be taken into account.~~

(j) In addition to any fine or imprisonment imposed under this section and in lieu of any restrictions on or suspension of a driver's license under this section, the judge of any court in which any person is convicted of violating this section or of

violating any ~~city municipal ordinance which declares to be unlawful any act which is declared unlawful by subsection (a) or (b) of prohibits the acts prohibited by this section~~ may revoke the person's driver's license or privilege to operate a motor vehicle on the public highways of this state. Whenever a license or privilege to operate a motor vehicle is revoked pursuant to this section, the person whose license or privilege has been revoked shall not be entitled to have such license or privilege restored until the expiration of one year from the date of revocation. On conviction of a third or subsequent violation of this section, revocation pursuant to this subsection shall be mandatory for a period set by the court at not less than one year.

(k) Upon revoking any license pursuant to this section, the court shall require that such license be surrendered to the court. The court shall transmit the license to the division to be retained by the division until further order of the court. Whenever the court restores the privilege to operate a motor vehicle on the public highways of this state to any person whose license was revoked pursuant to this section, the court shall notify the division, and if the person has successfully completed the examination required by K.S.A. 8-241 *and amendments thereto*, and the other conditions established by law have been met, the division shall issue the appropriate license to the person upon proper application and payment of the required fee.

(l) Upon entering an order restricting a person's license under subsection (c), the court shall require that the license be surrendered to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on the face of the license that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted pursuant to this section is a nonresident, the court shall transmit a copy of the order to the division. The division shall forward a copy of the order to the motor vehicle administrator of such person's state of residence. The judge shall furnish to any person whose driver's license has had conditions imposed on it hereunder a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division issues the restricted license as provided in this section.

(m) Upon expiration of the period of time for which conditions are imposed pursuant to subsection (l), the licensee may apply to the division for the return of the license previously surrendered by the licensee. In the event the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person violates any of the conditions imposed, the person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(n) Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not be less than nor exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed for the same violation.

Sec. 3. K.S.A. 8-1008 and 8-1567 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

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I hereby certify that the above BILL originated in the HOUSE, and passed that body March 7, 1983.

HOUSE concurred in SENATE amendments April 4, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 140

AN ACT relating to the payment of wages; concerning the use of certified mail, removing criminal penalties; amending K.S.A. 44-322a and 44-323 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 44-322a is hereby amended to read as follows: 44-322a. (a) Whenever a claim for unpaid wages under K.S.A. 44-313 to 44-326, inclusive, and any amendments thereto, is filed with the secretary of human resources, the secretary or the secretary's authorized representative shall investigate the claim as provided in K.S.A. 44-322, and amendments thereto, to determine if a dispute exists between the parties to the claim. If the secretary or the secretary's authorized representative determines that a dispute does exist and that the parties are unable to resolve their differences, the secretary or the secretary's authorized representative shall establish a time and place for a hearing on the matter.

(b) The hearing may be conducted by a hearing officer appointed by the secretary. The hearing officer shall have the power and authority to conduct the hearing in the name of the secretary. Not less than ~~ten (10)~~ 10 days' notice in writing of the time and place of the hearing shall be given to the parties to the dispute, and this notice shall be served personally upon each party to the dispute or by certified mail, return receipt requested first-class mail.

(c) In conducting the hearing the secretary or the hearing officer shall have the same powers and authority as that granted to the secretary or authorized representatives of the secretary under subsections (c) and (d) of K.S.A. 44-322, and amendments thereto. Each party to the dispute may be represented by an attorney and may cross-examine any witness.

(d) Upon the completion of the hearing, the secretary or the secretary's authorized representative shall determine whether the claim for unpaid wages is a valid claim under K.S.A. 44-313 to 44-326, inclusive, and any amendments thereto. If the secretary or the secretary's authorized representative determines the claim for unpaid wages is valid, the amount of unpaid wages owed together with any damages which may be assessed under K.S.A. 44-315, and amendments thereto, if applicable, also shall be determined by the secretary or the secretary's authorized representative. Within ~~forty-five (45)~~ 45 days after the hearing, the secretary or the secretary's authorized representative shall give written notice of his or her the secretary's or the secretary's authorized representative's decision to each party to the dispute

and shall specify the reasons for the decision. This notice shall be served upon each party to the dispute either personally or by certified mail, return receipt requested first-class mail. If the secretary or the secretary's authorized representative determines the claim for unpaid wages is valid, the secretary or the secretary's authorized representative shall order that the unpaid wages and any applicable damages be paid by the party responsible for their payment. The decision of the secretary or the secretary's authorized representative shall be final and the amount of any unpaid wages and applicable damages determined by the secretary or the secretary's authorized representative to be valid shall be due and payable unless an appeal is taken to the district court within ~~thirty (30)~~ 30 days after entry of the decision.

(e) Any party aggrieved by any determination or order of the secretary or the secretary's authorized representative under this section may appeal to the district court as provided by K.S.A. 60-2101, and amendments thereto. The review shall be conducted by the district court upon the record of the hearing. A party to the review proceedings in the district court may appeal from the final decision rendered by the district court in such proceedings to the court of appeals as provided by K.S.A. 60-2103, and amendments thereto.

Sec. 2. K.S.A. 44-323 is hereby amended to read as follows: 44-323. (a) Willful violation of any provision of this act by an employer or failure by an employer to comply with other requirements in force pursuant to this act is a class C misdemeanor. At the discretion of the hearing officer, interest, as provided under K.S.A. 16-201, and amendments thereto, may be assessed on wage claims found to be due and owing from the date the wages were due as defined in K.S.A. 44-314, and amendments thereto.

(b) In case of violation of K.S.A. 44-314, and amendments thereto or 44-315, and amendments thereto, by a corporate employer, either the corporation or any officer thereof or any agent having the management of the corporation who knowingly permits the corporation to engage in such violation shall be deemed the employer for purposes of this act.

Sec. 3. K.S.A. 44-322a and 44-323 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 February 16, 1983.

SENATE concurred in HOUSE amendments March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 29, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2480

AN ACT concerning the Johnson county park and recreation district; relating to the powers and duties of the park board; amending K.S.A. 19-2868 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 19-2868 is hereby amended to read as follows: 19-2868. The board shall have power:

- (a) To finance, operate, improve and maintain the parks and playgrounds of the district as provided in this act;
- (b) to accept by gift or devise, to purchase, lease and to condemn real estate for use as parks and playgrounds for the district, and to sell any improvements of any real estate so acquired not usable for park purposes or to take down such improvements and use or dispose of the salvage and use any of the proceeds thereof for park purposes without regard to budget limitations. To contract with school boards for joint use and improvement of school lands for park and playground purposes;
- (c) to improve the parks and playgrounds for the recreation, amusement and enjoyment of the inhabitants of the district;
- (d) to levy taxes for the acquisition of lands and improvements and operation, improvement and maintenance of the parks and playgrounds as authorized and limited by this act;
- (e) to issue bonds of the district for acquiring real estate and the improvement thereof for park and playground purposes upon authorization of the qualified electors of the district by election and within the limitations provided by this act;
- (f) to appoint park and recreation supervisory personnel and employ such other employees, servants, police and agents as may be necessary for the proper and adequate operation, improvement and maintenance of the park and recreation district, and may appoint, employ or retain attorneys, engineers, landscape architects, surveyors and other professional or technical persons or firms for a period or for specified projects and pay the necessary compensation therefor;
- (g) to adopt, promulgate and enforce reasonable rules and regulations for the operation and use of the parks and playgrounds and the conduct of persons using such parks and playgrounds as provided by this act;
- (h) to sell or salvage equipment found to be worn out or beyond repair or dangerous to use or to trade it in as part payment on new equipment, and the proceeds when resold or the trade-in value shall not be charged against the budget but may be in addition to the amount authorized for expenditure by the budget;
- (i) to sell and convey real estate acquired by purchase, condemnation, gift or devise when it appears such property is no longer needed for park, playground or recreational purposes, or is poorly situated for such purposes, or is poorly suited for such purposes, with the proceeds of such sale to be deposited in the land acquisition fund authorized by K.S.A. 19-2873b, and amendments thereto. No such sale shall be made except upon authorization of the majority of the votes cast by the qualified electors of the district at an election called and held for such purpose as provided by this act. If the instrument of gift or devise vests fee title in the district or authorizes the district to sell the real property, such property may be sold by the procedure herein provided. The board may, when in its judgment deemed advisable and to the best interests of the district, by proper conveyances, exchange any tract of land not exceeding ten (10) acres in area for lands equal in value similar in value, or exchange money and land for other land suitable for park or recreation purposes, or exchange land for land and money totaling the value of the land conveyed, provided that the money involved does not exceed 25% of the total value of the land involved, without vote of the qualified electors of the park district, subject to a public hearing having first been held with respect to such proposed exchange of lands, after notice of the time, place and purpose thereof, including a legal description of said lands, published once each week for two consecutive weeks prior thereto, in the official county paper, and subject further to final approval of such proposed exchange of lands, by the board of county commissioners of Johnson county, Kansas. The board may by proper

conveyance exchange, transfer, sell, or lease any tract of district land with or without improvements to the state of Kansas, a political subdivision thereof, or an agency of the United States government, if the board determines that said such property can properly be maintained and operated as park, playground, or recreational facilities by such governmental agency, or that said such property may be utilized in whole or part in a contract with said governmental agencies in, on, or around other property of said such governmental units, all or any part of which is located within boundaries of said such district;

(j) to adopt, change and modify a seal for the district and to use such seal in attestations by the secretary and in all other cases where a seal is required or advisable; and

(k) to do and perform all other things provided by this act or amendments thereto and to have all the powers prescribed by this act, and to carry out and exercise the powers of the district as its governing body.

Sec. 2. K.S.A. 19-2868 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 9, 1983.

MIKE HAYDEN

Speaker of the House.

GENEVA SEWARD

Chief Clerk of the House.

Passed the SENATE March 31, 1983.

ROSS O. DOYEN

President of the Senate.

LU KENNEY

Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

JACK H. BRIER

Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2192

AN ACT concerning the rules and regulations filing act; amending K.S.A. 77-430a and K.S.A. 1982 Supp. 77-415, 77-416, 77-420, 77-421, 77-424, 77-428, 77-430, 77-431, 77-432a and 77-436 and repealing the existing sections and also repealing K.S.A. 1982 Supp. 77-430b.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 77-415 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) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

(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. 1982 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,

(continued)

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. 1982 Supp. 75-5202 and amendments thereto; (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) relates to the exploration for or to the production, conservation or sale of crude oil or natural gas, or to the injection of air, gas, water or other fluid under pressure into oil or gas producing sands, strata or formations for the purpose of recovering the oil and gas contained therein, or to the disposal of oil field or gas field brines, mineralized waters and wastes and which is not subject to the provisions of K.S.A. 55-141a; (q) (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; (r) (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; (s) (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; (t) (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. 1982 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~~ Every rule and regulation filed in the office of the revisor of statutes 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. The state agency shall reevaluate and, when necessary, update the 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 current fiscal or financial impact statement shall be available from the state agency upon request by any party interested therein.

(c) Upon request of the state rules and regulations board, the joint committee on administrative rules and regulations or the chairperson of either committee or board, the director of the budget shall review the fiscal or financial impact statement prepared by any state agency and shall prepare a supplemental or revised statement. If possible, the supplemental or revised statement shall include a reliable estimate in dollars of the anticipated change in revenues and expenditures of the state. It also shall include a statement, if determinable or reasonably foreseeable, of the immediate and long-range financial effect of the regulation on private businesses and the general public. If, after careful investigation, it is determined that no dollar estimate is possible, the statement shall set forth the reasons why no dollar estimate can be given. Every state agency is directed to cooperate with the division of the budget in the preparation of any statement pursuant to this subsection when, and to the extent, requested by the director of the budget.

Sec. 3. K.S.A. 1982 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

(continued)

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 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 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 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;

(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. 1982 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 provided by K.S.A. 1982 Supp. 77-416 and amendments thereto.

Sec. 4. K.S.A. 1982 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 summary of the substance of the proposed rules and regulations 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 provided by K.S.A. 77-416 and amendments thereto which is 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 argu-

ments 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 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 body, board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 5. K.S.A. 1982 Supp. 77-436 is hereby amended to read as follows: 77-436. (a) There is hereby established a joint committee on administrative rules and regulations which shall consist of five senators and seven members of the house of representatives. The five senator members shall be appointed as follows: Three by the committee on organization, calendar and rules and two by the minority leader of the senate. The seven representative members shall be appointed as follows: Four by the speaker of the house of representatives and three by the minority leader of the house of representatives. The first named appointee of the committee on organization, calendar and rules shall be chairperson or vice-chairperson of the joint committee as provided in this section. The first named appointee of the speaker of the house of representatives shall be chairperson or vice-chairperson of the joint committee as provided in this section.

(b) A quorum of the joint committee on administrative rules and regulations shall be seven. All actions of the committee may be taken by a majority of those present when there is a quorum. In odd-numbered years the chairperson of the joint committee shall be a member of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years the chairperson of the joint committee shall be a member of the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) All rules and regulations filed each year in the office of the revisor of statutes shall be submitted to and reviewed by the joint committee on administrative rules and regulations. Each state agency's rules and regulations on file in the office of revisor of statutes shall be reviewed by the joint committee at least once every five years. All forms used by state agencies and all rules and regulations specifically excluded from the definition of rule and regulation under paragraph (4) of K.S.A. 77-415 and amendments thereto shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

(d) The provisions of article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on administrative rules and regulations to the extent that the same do not conflict with the specific provisions of this act applicable to such joint committee.

Sec. 6. K.S.A. 1982 Supp. 77-424 is hereby amended to read as follows: 77-424. The state rules and regulations board shall

(continued)

meet as soon as possible after December 15 each year to determine which rules and regulations are to be published in the annual supplement to the Kansas administrative regulations or annual supplement thereto. 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. 1982 Supp. 77-428 is hereby amended to read as follows: 77-428. (a) At the beginning of each calendar year the revisor of statutes shall, as soon as possible, assemble all rules and regulations, except temporary rules and regulations, filed during the preceding year in accordance with the provisions of this act. The state rules and regulations board shall determine which of said such rules and regulations are to be published in the Kansas administrative regulations or annual supplement as provided in this act.

(b) Annual supplements published and becoming effective in the year 1980, and each year thereafter, shall be cumulative and shall include all rules and regulations published in the annual supplement becoming effective in the next preceding year which remain in force and effect on the effective date of the current supplement, together with all rules and regulations, other than temporary regulations, which were regularly adopted and filed in the office of the revisor of statutes in the year next preceding the year in which such annual supplement is published and becomes effective, and which were approved for publication by the state rules and regulations board.

(c) The revisor of statutes shall prepare annual supplements to the rules and regulations and material to be published therewith, in one or more paperbound volumes in the form determined by the revisor of statutes. The annual supplement of rules and regulations shall be published and shall include a general index of all rules and regulations contained therein and such notes, cross references and explanatory materials as will facilitate the use of such supplements. All rules and regulations and material published in the annual supplement shall be delivered to and published by the director of printing. Authentication of all supplement volumes shall be in the manner provided in K.S.A. 77-429. The director of printing shall print the number of copies requisitioned by the revisor of statutes.

Sec. 8. K.S.A. 1982 Supp. 77-430 is hereby amended to read as follows: 77-430. The Kansas administrative regulations shall be printed by the director of printing and delivered to the secretary of state who shall dispose of them as follows:

First, the secretary of state shall deposit in the supreme court law library and the state library such number of copies as the state law librarian and the state librarian, respectively, shall request for use in the law library and the state library and for the purpose of exchange. The secretary of state shall distribute to the university of Kansas school of law and to Washburn university school of law the number of copies as the librarians of the schools of law, respectively, certify to the secretary of state as necessary for the purpose of exchange. The secretary of state shall retain two copies for use in the secretary of state's office.

Second, the secretary of state shall distribute:

- 1 copy to each member of the legislature serving in each regular session held in each odd-numbered year;
- 1 copy to each elective or appointive state officer;
- 1 copy to each justice of the supreme court;
- 1 copy to the clerk of the supreme court;
- 1 copy to each judge of the court of appeals;
- 1 copy to each judge of the district court;
- 1 copy to the state historical society;

2 copies to the Washburn university school of law, for use in the law library;

- 2 copies to Wichita state university;
- 2 copies to Washburn university;
- 2 copies to the university of Kansas;
- 2 copies to the university of Kansas school of law, for use in the law library;

- 2 copies to Kansas state university;
- 2 copies to Emporia state university;
- 2 copies to Fort Hays state university;
- 2 copies to Pittsburg state university;
- 1 copy to the library of congress;
- 1 copy to each county law library;
- 1 copy to each county community college;
- 1 copy to the city library in each city of the first and second class; and

1 copy to each county library.

Third, the secretary of state shall distribute to the several offices of the legislative branch of government, the number of copies necessary to conduct the official business of such offices, as certified to the secretary of state by the legislative coordinating council.

Fourth, the balance of the Kansas administrative regulations after such distribution shall be safely kept by the secretary of state for sale at a price per set to be provided by law of \$50. The 1978 Kansas administrative regulations may be purchased in complete sets or in single volumes. Single volumes of the 1978 Kansas administrative regulations shall be sold by the secretary of state at a price per volume to be provided by law of \$17.50. Copies may be delivered by postpaid mail by the secretary of state. All moneys received from such sales shall be paid into the state treasury and the treasurer shall credit the same to the general fund of the state to reimburse the state for costs of publication.

Sec. 9. K.S.A. 77-430a is hereby amended to read as follows: 77-430a. (a) Two thousand five hundred (2,500) copies of the 1978 The revisor of statutes shall edit and prepare for printing and publication volumes of rules and regulations which replace existing volumes of the Kansas administrative regulations when authorized by the legislative coordinating council within the limitations of available appropriations therefor. Replacement volumes shall be published and printed in the same format and in accordance with the same printing specifications used in the volume replaced and shall be authenticated as required by K.S.A. 77-429. Replacement volumes of the Kansas administrative regulations shall be printed by the director of printing and delivered to the secretary of state who shall distribute and sell them in the same manner as provided in the first, second and third clauses of K.S.A. 77-430, and amendments thereto, for the distribution and sale of other volumes of the Kansas administrative regulations. The remaining volumes shall be sold by the secretary of state in the manner prescribed in the fourth clause of K.S.A. 77-430.

(b) Whenever it shall become necessary to print additional copies of any volume of the 1978 Kansas administrative regulations, the revisor of statutes shall requisition the necessary number of copies from the director of printing.

Sec. 10. K.S.A. 1982 Supp. 77-431 is hereby amended to read as follows: 77-431. Copies of the annual supplements to the Kansas administrative regulations shall be printed and delivered to the secretary of state who shall distribute them as follows:

First, the secretary of state shall transmit the same number of copies of each annual supplement in the same manner as provided in the first, second and third clauses of K.S.A. 77-430, and amendments thereto, for distribution of Kansas administrative regulations.

Second, the balance of annual supplement volumes after such distribution shall be kept by the secretary of state for sale at the following prices: (a) Annual supplements published in 1976 and 1977 shall be sold for fifteen dollars (\$15) per supplement volume.

(b) The annual supplement published in 1979 shall be sold for seven dollars fifty cents (\$7.50) per supplement volume.

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(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2012

AN ACT creating the health planning review commission; providing for the duties and functions thereof.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) There is hereby created the health planning review commission, hereinafter referred to as the commission, which shall consist of 11 members appointed as follows: (1) Five members appointed by the governor; (2) two members appointed by the president of the senate from among the members of the senate; (3) two members appointed by the speaker of the house of representatives from among the members of the house of representatives; (4) one member appointed by the minority leader of the senate from among the members of the senate; and (5) one member appointed by the minority leader of the house of representatives from among the members of the house of representatives.

(b) The members of the commission shall be appointed for terms which shall expire upon the date of expiration of this act under section 5. Upon the vacancy of a position on the commission, the person appointing the member whose position is vacant, or the successor to the position of the person appointing such member, shall appoint a person to fill such vacancy.

(c) The commission shall elect a chairperson and vice-chairperson from among its members. The first meeting of the commission shall be upon call of the first person appointed by the governor. Thereafter, the commission shall meet on the call of the chairperson or on the request of six members of the commission. Six members of the commission shall constitute a quorum.

Sec. 2. (a) The health planning review commission shall:

(1) Study and evaluate the role of health planning in this state including, but not limited to, the effectiveness of health planning, the current structure of health planning and the level and quality of health planning programs;

(2) examine ways of coordinating health planning with other governmental functions;

(3) examine the role and structure of local input in the state health planning process;

(4) examine the funding needs and financial support available for health planning; and

(5) develop goals and priorities for state health planning.

(b) On or before December 15, 1983, the health planning review commission shall prepare and submit to the governor and the legislature a report of its findings and recommendations.

Sec. 3. The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the commission and authorized by the legislative coordinating council.

Sec. 4. The members of the commission attending meetings of such commission, or attending a subcommittee meeting thereof authorized by such commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto upon vouchers approved by the chairperson of the commission or a person or persons designated by the chairperson.

Sec. 5. The provisions of sections 1 to 5, inclusive, shall expire on December 31, 1983.

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 1, 1983.

HOUSE concurred in SENATE amendments April 5, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

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(e) The annual supplement published in 1980 shall be sold for ten dollars (\$10) per supplement volume.

(d) The annual supplements published in 1981 and in each year thereafter shall be sold for fifteen dollars (\$15) \$15 per supplement volume or set of volumes if more than one volume is published for any annual supplement.

Moneys received from the sale of supplements shall be remitted to the state treasurer and deposited in the state treasury to the credit of the state general fund to reimburse the state for cost of publication.

Sec. 11. K.S.A. 1982 Supp. 77-432a is hereby amended to read as follows: 77-432a. ~~Notwithstanding any provision of law to the contrary,~~ Whenever the secretary of state and the revisor of statutes determine that any ~~publication volume~~ of Kansas administrative regulations published prior to 1978 or any annual supplement to the 1978 Kansas administrative regulations has become obsolete by reason of the publication of a later volume or annual supplement, such officers may provide for the disposition of the remaining copies of such obsolete volumes or supplement volumes by whatever means ~~said~~ such officers determine, without making a charge therefor.

Sec. 12. K.S.A. 77-430a and K.S.A. 1982 Supp. 77-415, 77-416, 77-420, 77-421, 77-424, 77-428, 77-430, 77-430b, 77-431, 77-432a and 77-436 are hereby repealed.

Sec. 13. 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 3, 1983.

HOUSE concurred in SENATE amendments April 4, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL)

JACK H. BRIER
Secretary of State.

Passed the SENATE as amended March 31, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 432

AN ACT concerning agriculture; relating to the wheat and grain commissions; providing for levy and assessment on wheat, corn and grain sorghum acquired under the federal payment-in-kind program; amending K.S.A. 2-2608 and 2-3007 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2-2608 is hereby amended to read as follows: 2-2608. (a) Commencing June 1, 1982, there is hereby levied an excise tax of four mills per bushel upon wheat marketed through commercial channels in the state of Kansas on and after such date. The tax shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. The administrator shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon payment of such excise tax. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such tax. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the administrator, obtain a refund in the amount of the tax or taxes deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the tax or taxes which need not be verified.

(b) The commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended in the administration of this act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such act. In the case of a lien holder who is a first purchaser as defined herein, the tax shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the wheat is pledged or mortgaged. The tax shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such wheat. The tax shall be deducted and paid as herein provided whether such wheat is stored in this or any other state.

(c) Any wheat acquired by a grower as defined in K.S.A. 2-2602, under the provisions of the federal payment-in-kind (PIK) program, shall be subject to the provisions of this section.

(d) The provisions of subsection (c) of this section shall expire on September 30, 1985.

Sec. 2. K.S.A. 2-3007 is hereby amended to read as follows: 2-3007. (a) Commencing September 1, 1982, there is hereby levied an assessment of three mills per bushel upon corn and grain sorghum marketed through commercial channels in the state of Kansas on and after such date. Commencing September 1, 1982, there is hereby levied an assessment of 10 mills per bushel upon soybeans marketed through commercial channels in the state of Kansas on and after such date. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price

paid in settlement to the grower. The division shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the division, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The division shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended in the administration of this act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined herein, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum or soybeans are pledged or mortgaged. The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum or soybeans. The assessment shall be deducted and paid as herein provided whether such corn, grain sorghum or soybeans are stored in this or any other state.

(c) Any corn or grain sorghum acquired by a grower as defined in K.S.A. 2-3001, under the provisions of the federal payment-in-kind (PIK) program shall be subject to the provisions of this section.

(d) The provisions of subsection (c) of this section shall expire on September 30, 1985.

Sec. 3. K.S.A. 2-2608 and 2-3007 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 5, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 7, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2358

AN ACT concerning certain common carriers; discontinuance of service or agency closing; amending K.S.A. 1982 Supp. 66-112 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 66-112 is hereby amended to read as follows: 66-112. (a) Whenever notice shall be required by the provisions of this act to be given any common carrier or public utility governed by the provisions of this act, and the complainant, or either of them, 30 days' written or printed notice of the time and place when and where such investigation or hearing will be had shall be given, such notice to be served by mailing a copy thereof to the public utility or common carrier and complainant. All hearings relating to the modification or discontinuance of railway agency service shall be held in the community affected. All hearings on applications for the discontinuance or abandonment of train service shall be held in the territory in which the train operates. Such notice shall embody in substance the complaint, if any, made against the public utility or common carrier upon which the hearing, investigation and decision of the state corporation commission is requested or on which it will be given.

(b) The public utility or common carrier, or the complainant or complainants, if any, shall be entitled to be heard, and shall have process to enforce the attendance of witnesses and the production of books, papers, maps, contracts, reports and record of every description affecting the subject matter of the investigation. The corporation commission may, without praecipe or demand therefor, require the production of any books, papers, contracts, records or other documents in the possession of or under the control of the common carrier, public utility, complainant or complainants, affecting the subject matter of the controversy.

(c) All hearings relating to the discontinuance of the services of a railway agent or the closing of a railroad station shall be heard by the commission within 45 days from the date the application is filed with the commission, except that for sufficient cause such hearing may be delayed an additional 30 days. Failure to commence the hearing within 75 days from the date the application is filed shall operate as a grant of the application on the terms sought.

(d) The commission shall issue a final order on all applications relating to the discontinuance of the services of a railway agent or the closing of a railroad station within 60 days after the commencement of the hearing, except that for sufficient cause such issuance may be delayed an additional 30 days. Failure to issue a final order within 90 days from the date of the commencement of the hearing shall operate as a grant of the application on the terms sought. Rehearings pursuant to K.S.A. 66-118b and amendments thereto shall be expedited and decided within 20 days after application for rehearing is filed.

(e) After the effective date of this act, any rail carrier desiring to test a service system preliminary to modification or discontinuance of services of a railway agency or agencies shall file a formal application with the commission not less than 60 days prior to the requested effective date of the service system test period.

The applicant shall notify in writing all consignees and consignors who have received service in the previous three years at the locations affected by the application and the commission shall be furnished names and addresses of such consignees and consignors not less than 45 days prior to the effective date of the test period.

If 15 days prior to such effective date the commission has not received written protest from more than 50% of the total number of consignees and consignors so notified, or consignees and consignors so notified, generating more than 50% of the total agency revenues, the commission shall waive hearing as provided in this act and forthwith authorize a service test period of 90 days. The agent shall remain in place during such ninety-day period.

(f) Effective July 1, 1984, any test period authorized under this section shall include the two continuous months of the year

in which there were the greatest number of cars shipped and received at such agency or agencies in the two years preceding the date of the application for the test as determined by the commission. Such determination shall be made by the commission within 15 days of the date of such application.

(g) If within 30 days before the end of the service system test period, less than 50% of the total number of consignees and consignors so notified, or consignees and consignors so notified, generating less than 50% of the total agency revenues file written service complaints with the commission, the commission shall waive hearing as provided in this act and grant authority for the applicant to modify or discontinue their agency service as requested.

If within 30 days before the end of the test period, the commission shall have received service complaints from more than 50% of the total number of consignees and consignors so notified, or consignees and consignors so notified, generating more than 50% of the total agency revenues, the commission shall set the application for hearing. The service system being tested may be continued by the applicant until the final decision is entered on the commission order.

(h) On any appeal from an order of the commission relating to discontinuance or modification of the services of railroad station agents or the closing of railroad stations, the court shall hear the appeal on the record made before the commission and shall determine all issues of law and fact independent of any findings of fact, conclusions of law or orders or decisions of the commission.

Sec. 2. K.S.A. 1982 Supp. 66-112 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 7, 1983.

HOUSE concurred in SENATE amendments April 4, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

JACK H. BRIER
Secretary of State.

(SEAL)

(Published in the KANSAS REGISTER April 21, 1983.)

HOUSE BILL No. 2266

AN ACT concerning unified school districts; relating to the disposition of property belonging thereto by boards of education thereof; amending K.S.A. 1982 Supp. 72-8212 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1982 Supp. 72-8212 is hereby amended to read as follows: 72-8212. (a) Every unified school district shall maintain, offer and teach grades one through 12, with kindergarten being optional, and shall offer and teach at least 30 units of instruction in grades nine through 12 in each high school operated by the board of education. The units of instruction, to qualify for the purpose of this ~~act~~ section, shall have the prior approval of the state board of education.

(b) The board of education shall ~~make~~ adopt all necessary rules and regulations for the government and conduct of its schools, consistent with the laws of the state.

(c) The board of education may divide the district into sub-districts for purposes of attendance by pupils.

(d) The board of education shall have the title to and the care and keeping of all school buildings and other school property belonging to the district. The board may open any or all school buildings for community purposes and may adopt rules and regulations governing use of school buildings for those purposes. School buildings and other school properties ~~not~~ no longer needed by the school district may be sold ~~disposed of~~ by the board at a private or public sale upon the affirmative recorded vote of not less than a majority of the members of the board at a regular meeting. If the vote of the members is unanimous, the board may dispose of the property in such manner and upon such terms and conditions as the board deems to be in the best interest of the school district, and such disposition of school buildings and other school properties a majority of the members of the board at a regular board meeting. If there is located on any school property sold at private sale a building the construction of which was completed less than 20 years before the date of the sale, the property shall be sold for not less than $\frac{3}{4}$ of the appraised value fixed by three disinterested electors of the unified district appointed by the county clerk of the home county of the unified district to appraise the property shall require no other procedure or approval. If the vote of the members of the board to dispose of any school building or any other school property is not unanimous, the board may dispose of the property at a public or private sale. If the property is disposed of at a private sale, the property shall be sold for not less than $\frac{3}{4}$ of the appraised value thereof fixed by three disinterested electors of the unified school district who shall be appointed by the county clerk of the home county of the unified school district to appraise the property. Conveyances of school buildings and other school properties shall be executed by the president of the board and attested by the clerk.

(e) The board shall have the power to acquire personal and real property by purchase, gift or the exercise of the power of eminent domain in accordance with K.S.A. 1982 Supp. 72-8212a.

Sec. 2. K.S.A. 1982 Supp. 72-8212 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 8, 1983.

HOUSE concurred in SENATE amendments March 30, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended March 28, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED April 15, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 423

AN ACT concerning the Kansas public employees retirement system; making the Kansas state high school activities association a participating employer under such system; relating to contributions to and benefits under the system.

Be it enacted by the Legislature of the State of Kansas:

Section 1. From and after January 1, 1983, the Kansas state high school activities association, as described in K.S.A. 72-130 and amendments thereto, shall be an eligible and participating employer in the Kansas public employees retirement system for all purposes under the system, as an instrumentality of those eligible employers as defined in K.S.A. 74-4931 and amendments thereto.

Sec. 2. (a) Within 35 days after the effective date of this act, the Kansas state high school activities association shall pay to the system an amount equal to the total of: (1) All employer contributions payable from January 1, 1983, to the date of payment at the applicable rate of contribution fixed pursuant to K.S.A. 74-4920 and amendments thereto; and (2) all employee contributions payable from January 1, 1983, to the date of payment at the rate of contribution fixed by K.S.A. 74-4919 and amendments thereto.

(b) Subject to the provisions of K.S.A. 74-4901 *et seq.*, and all acts amendatory thereof and supplemental thereto, all rights and benefits of membership including group insurance and participating service credit shall accrue to each individual who is an employee of the Kansas state high school activities association from January 1, 1983.

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 30, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE April 5, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 13, 1983.

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 14th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 55

AN ACT relating to savings and loan associations; concerning the powers and duties thereof; amending K.S.A. 17-5303, 17-5401 and 17-5501 and repealing the existing sections and also repealing K.S.A. 17-5815.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-5303 is hereby amended to read as follows: 17-5303. No fee of any kind may be charged for becoming, remaining, or ceasing to be a member of an association. Reasonable charges may be assessed for late payments or for, prepayments of a loan or in connection with the administration of savings or demand accounts.

Sec. 2. K.S.A. 17-5401 is hereby amended to read as follows: 17-5401. (a) Except as otherwise provided in K.S.A. 17-5413 and 17-5501, and amendments thereto, the capital accumulated may be divided into units of equal value which shall be called shares. Shares may be issued in installments, full paid, prepaid, optional, reserve stock shares or other plans as may be prescribed in the bylaws.

(b) (1) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time, (all of which are referred to in this section as savings accounts and all of which shall have the same priority upon liquidation) as, or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial or agricultural loan relationship with the association and which are authorized by its bylaws or by regulations of the commissioner, and. An association may issue such passbooks, time certificates of deposit, or other evidence of savings accounts as are so authorized.

(2) An association may also accept demand accounts from a commercial, corporate, business or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority on liquidation. Holders of savings and demand accounts and obligors of an association shall, to such extent as may be provided by its bylaws or by regulations of the commissioner, be members of the association, and shall have voting rights and such other rights as are provided.

(3) Except as authorized by the association's bylaws or regulation of the commissioner in the case of savings accounts for fixed or minimum terms of not less than 30 14 days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than 30 14 days, as shall be provided for by the bylaws of the association or the regulations of the commissioner. The payment of withdrawals from savings accounts in the event an association does not pay all withdrawals in full, (subject to the right of the association to require notice), shall be subject to such rules and procedures as may be prescribed by the association's bylaws or by regulation of the commissioner.

(4) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the commissioner may provide by regulation.

(5) To such extent as the commissioner may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the commissioner and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock, as the commissioner may so authorize.

(6) (A) An association whose accounts are insured in accordance with the provisions of K.S.A. 17-5824, and amendments thereto, may permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(B) Subparagraph (A) of paragraph (6) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or, by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar

purposes and which is not operated for profit and with respect to deposits of public funds by an officer, employee or agent of the United States, any state, county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States or any political subdivision thereof, subject to such rules and procedures as may be prescribed by the association's bylaws or by regulation of the commissioner.

(C) Such accounts shall be called negotiable order of withdrawal accounts.

(D) Such accounts shall be subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe.

Sec. 3. K.S.A. 17-5501 is hereby amended to read as follows: 17-5501. Every association incorporated pursuant to or operating under the provisions of this act shall have all the powers enumerated, authorized and permitted by this act and such other rights, privileges and powers as may be incidental to or necessary for the accomplishment of the objects and purposes of the association. Among others, every association shall have the following powers: (a) To sue and be sued, complain and defend in any court of law or equity.

(b) To purchase, hold and convey real and personal estate consistent with its objects and powers; and to mortgage, pledge or lease any real or personal estate; and to take property by gifts, devise, or bequest.

(c) To have a corporate seal, which may be affixed by imprint, facsimile or otherwise.

(d) To appoint officers, agents and employees as its business shall require, and allow them suitable compensation.

(e) To adopt and amend bylaws as provided in this act.

(f) To insure its shares or deposits with the federal savings and loan insurance corporation or with an insurer approved by the state commissioner of insurance under the provisions of this act for such purpose, and qualify as a member of a federal home loan bank.

(g) To accept savings and investments as payments on shares or deposits as provided in this act.

(h) To make loans to members on the sole security of negotiable order of withdrawal accounts, shares or deposits except permanent guarantee or reserve stock shares. No such loan shall exceed 100% of the purchase value of the negotiable order of withdrawal accounts, shares or deposits owned and not otherwise pledged by the borrower Subject to such prohibitions, limitations and conditions as the commissioner may by regulation provide, an association may make loans to members on the security of savings accounts and loans specifically related to transaction accounts.

(i) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association may make home loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof. No such loan shall be made directly or indirectly to a director or officer except a single loan on a home property.

(j) One loan may be made to an officer, director or employee, in addition to a home loan, but no such loan secured by real estate mortgage shall be made to an officer, director, or employee which at the time of granting such advance shall exceed 5% of the net worth accounts of such association or \$90,000 whichever is the smaller. Any negotiable order of withdrawal, share or deposit loan or real estate loan made to any officer, director, or employee must be approved by the board of directors and such approval entered upon the minutes of the meeting approving same. All such loan restrictions applicable to loans made to an officer, director or employee of a savings and loan association shall apply to any and all loans made to any general or limited partnership, corporation, trust or association if an officer, director or employee of the savings and loan association is a general or limited partner, or the owner, member or stockholder of 10% or more of the stock or other evidence of ownership of the entity shown as obligor on the loan.

(continued)

(k) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, an association shall have authority to invest in the following: (1) Investments in obligations of or fully guaranteed as to principal and interest by, the United States; (2) investments in the stocks and bonds of a federal home loan bank or in the stock of the federal national mortgage association; (3) investments in mortgages, obligations or other securities which are or ever have been sold by the federal home loan mortgage corporation pursuant to section 305 or 306 of the federal home loan mortgage corporation act; (4) investments in obligations, participations, securities or other instruments of or issued by or fully guaranteed as to principal and interest by the federal national mortgage association, the student loan marketing association or the government national mortgage association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the national housing act; (5) investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the federal deposit insurance corporation, or in the savings accounts, certificates or other accounts of any institution the accounts of which are insured by the federal savings and loan insurance corporation; (6) investments in general obligations of, or issued by, any state or any political subdivision thereof including any agency, corporation or instrumentality of a state or political subdivision, except that an association may not invest more than 10% of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer; (7) purchase of loans secured by liens on improved real estate which are insured under provisions of the national housing act, or insured as provided in the servicemen's readjustment act of 1944 or 38 U.S.C. chapter 37; (8) loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of manufactured home financing; (9) loans as to which the association has the benefit of insurance under section 240 of the national housing act, or of a commitment or agreement therefor; (10) loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the securities and exchange commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly; (11) investments which at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the federal home loan bank board, but only to the extent the investment is permitted to be so included under regulations of the federal home loan bank board or is otherwise authorized; (12) investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the housing and urban development act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such act; (13) loans as to which the association has the benefit of any guarantee under title IV of the housing and urban development act of 1968, under part B of the urban growth and new community development act of 1970, or under section 802 of the housing and community development act of 1974 as in effect on or after the date of enactment of the depository institutions deregulation and monetary control act of 1980, or of a commitment of agreement therefor; (14) investments in, commitments to invest in, loans to, or commitments to lend to any state housing corporation, provided that such obligations or loans are secured directly or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the national housing act and that in the event of default, the holder of such obligations or loans would have the right directly or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the national housing act; (15) invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the securities and exchange commission under the investment company act of 1940 and the portfolio of which is restricted by such management company's investment policy,

changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal with; (16) stock obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the small business investment act of 1958, for the purpose of aiding members of the federal home loan bank system. Such investments shall not exceed an aggregate investment of 1% of the assets of the association; (17) in other securities approved by the commissioner.

(l) Without restriction upon the general powers of the association to invest in: (1) Real estate whereon there is or may be erected a building or buildings for the transaction of the business of the association, from portions of which, not required for its own use, a revenue may be derived by rentals or otherwise. An association may invest in such real estate an amount representing the cost of land and improvements not exceeding the sum of its net worth accounts. It may, however, invest in such real estate, a larger sum with the approval of the commissioner; (2) real estate purchased at sheriff's sale or at any other sale, public or private, judicial or otherwise, upon which the association has a lien or claim, legal or equitable; (3) real estate accepted by the association in satisfaction of any debt; (4) real estate acquired by the association in exchange for real estate owned by the association; (5) real estate acquired by the association in connection with salvaging the value of property owned by the association; (6) title to all real estate shall be taken and held in the name of the association and such title shall immediately be recorded in accordance with law.

(m) If and when an association is not a member of a federal home loan bank, to borrow not more than an aggregate amount equal to 1/4 of its capital on the date of borrowing. If and when an association is a member of a federal home loan bank, to secure advances of not more than an aggregate amount equal to its capital. Within an amount equal to its capital, the association may borrow from sources other than such federal home loan bank an aggregate amount not in excess of 25% of its capital. A subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money. All such loans and advances may be secured by property of the association.

(n) To repurchase and redeem shares in accordance with the provisions of this act.

(o) To pay a bonus to members in accordance with the provisions of the bylaws.

(p) If and when an association is a member of a federal home loan bank, to act as fiscal agent of the United States, and when designated for that purpose by the secretary of the treasury, it shall perform under such regulations as such secretary may prescribe, all such reasonable duties as fiscal agent of the United States as such secretary may require, and shall have power to act as agent for any other instrumentality and as agent of the state in accordance with the laws of this state.

(q) To dissolve, merge, or reorganize in the manner provided in this act.

(r) To sell and assign notes and mortgages without recourse, except that notes and mortgages may be assigned with recourse to any federal home loan bank of which the association is a member.

(s) Subject to such prohibitions, limitations and conditions as the commissioner may prescribe, the following loans or investments are permitted, but authority conferred in the following paragraphs is limited to an amount not to exceed 20% of the assets of the association for each paragraph:

(1) An association may make commercial real estate loans on the security of first liens upon other improved real estate. The resulting aggregate of such loans shall not exceed an amount equal to 40% of such association's assets;

(2) an association may make secured or unsecured loans for personal, family, or household purposes, including loans reasonably incident to the provision of such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the commissioner. The resulting

(continued)

aggregate of such loans shall not exceed an amount equal to 30% of such association's assets;

(3) an association may invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment or furniture, for rental or sale. The resulting aggregate of such investments shall not exceed an amount equal to 10% of such association's assets;

(4) an association may make secured or unsecured loans for commercial, corporate, business or agriculture purposes. No association may make loans to one borrower under the authority of this paragraph in excess of the amount a national bank having identical total capital and surplus could lend such borrower. The resulting aggregate of such loans made by an association and by a corporation owned by the association under paragraph (2) of subsection (z) of this section shall not exceed an amount equal to 5% of such association's assets prior to January 1, 1984, or 10% of such association's assets thereafter.

(t) Any association may, upon adoption of such a loan plan by its board of directors, make or purchase:

(1) Any unsecured loan at least 20% of which is guaranteed under the provisions of the servicemen's readjustment act of 1944, as now or hereafter amended;

(2) simple interest, discount, or gross charge loans for property alteration, repair, equipping or improvement without the security of a lien upon such property, subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe. The resulting aggregate amount of all such loans shall not exceed an amount equal to 20% of such association's assets. No association may make any unsecured loan to a director, officer, or employee of the association, or to any person or firm regularly serving the association in the capacity of attorney at law, except for the alteration, repair, equipping or improvement of the home or combination of home and business property owned and occupied by such borrowing director, officer, employee, attorney or firm;

(3) line of credit real estate loans for home property, secured or unsecured, subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe. The resulting aggregate amount of all such loans shall not exceed an amount greater than 5% of the association's assets or all of its net worth accounts.

(u) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association may sell to, purchase from or participate with other lenders in loans of any type that such an association may otherwise make if the other participants are approved federal housing administration lenders, instrumentalities or corporations owned wholly or in part by the United States or this state, or are associations or corporations insured by the federal savings and loan association corporation or the federal deposit insurance corporation. Such loans may be outside the regular lending area of such association.

(v) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, the following loans or investments are permitted, but the authority conferred in the following paragraphs is limited to an amount not to exceed 5% of the assets of the association for each paragraph:

(1) Loans made for the payment of educational expenses of college, university, or vocational education;

(2) investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the housing and community development act of 1974, except that no investment under this paragraph in such real property may exceed an aggregate investment of 2% of the assets of the association;

(3) loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not otherwise comply with the limitations of this section;

(4) investments not exceeding the greater of: (A) The sum of the association's net worth accounts; or (B) five percent of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where: (i) The associa-

tion relies substantially for repayment on the borrower's general credit standing and forecast of income without other security; or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this section.

(w) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association may make any loan for the purpose of mobile home financing.

(x) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association may maintain safety deposit boxes and rent the same for public use.

(y) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.

(z) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, any such association shall have the power and authority to make the following additional loans and other investments to the extent authorized as follows:

(1) An association whose net worth accounts in the aggregate exceed 5% of its withdrawable capital is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the state of Kansas, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed 1/2% of the total outstanding loans of the association or \$250,000, whichever is less;

(2) investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the state of Kansas, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of Kansas and by federal associations having their home offices in the state of Kansas; but no association may make any investment under this paragraph if its aggregate outstanding investment under this paragraph would exceed 3% of the assets of the association, except that not less than 1/2% of the. Any investment permitted under this paragraph which exceeds 1% 2% of assets shall be used primarily for community, inner-city or community development purposes;

(3) investments in: (A) Loans secured by mortgages for which the association has the benefit of insurance under title X of the national housing act or of a commitment or agreement for such insurance;

(B) investments in housing project loans having the benefit of any guaranty under section 221 of the foreign assistance act of 1961 or loans having the benefit of any guaranty under section 224 of such act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the inter-American savings and loan bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such act, or of any commitment or agreement for any such guaranty;

(C) investments under subparagraph (A) of this paragraph shall not be included in any percentage of assets or other percentage referred to in this subsection. Investments under subparagraph (B) of this paragraph shall not exceed, in the case of any association, 1% of the assets of such association;

(4) an association whose net worth in aggregate exceeds that amount which is determined by the national housing act is authorized to invest in obligations which constitute prudent investments, as defined by the commissioner, of Kansas and its political subdivisions thereof, (including any agency, corporation, or instrumentality) if the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate, and the aggregate amount of all investments under this paragraph shall not exceed the amount of the association's net worth accounts.

(continued)

(aa) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation provide an association may engage in financial futures transactions and financial options transactions.

(bb) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation provide an association may establish or maintain a data processing office with functions limited to providing data processing services for its own use or primarily for other depository institutions without observing the application and approval procedures for branch offices as provided for in K.S.A. 17-5225, and amendments thereto. An association may participate with others in establishing or maintaining a data processing office, except that the association may participate in establishing or maintaining a data processing office controlled by an entity not subject to a federal or state agency regulating financial institutions only if such entity has agreed in writing with the commissioner that it will permit and pay for such examination of the office as the commissioner deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the office.

(cc) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation provide an association may provide correspondent services primarily to other depository institutions. An association may receive noninterest-bearing deposits from correspondent institutions for use as compensating balances, for settlement purposes or for other purposes incidental to a correspondent relationship. Such deposits may be payable on demand and subject to withdrawal by negotiable or transferable instrument, order or authorization. Such deposits shall not give rise to voting rights or other rights of membership in a mutual association. An association may maintain a noninterest-bearing account at any institution whose accounts are insured by the federal savings and loan insurance corporation or the federal deposit insurance corporation, and an association may maintain such an account at an institution whose accounts are insured pursuant to a state deposit insurance program if such account is necessary or incidental to a correspondent relationship.

(dd) (1) Subject to such prohibitions, limitations and conditions as the commissioner may by regulation provide an association: (A) May become the legal or beneficial owner of tangible personal property or real property for the purpose of leasing such property; (B) may obtain an assignment of a lessor's interest in a lease of such property; and (C) may incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property if the lease is a net, full-payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of the lease and at the expiration of the lease, the association's interest in the property shall be liquidated or released on a net basis as soon as practicable;

(2) a lease of tangible personal property made to a natural person for personal, family or household purposes pursuant to this subsection shall be subject to all limitations applicable to the amount of an association's investment in consumer loans. A lease made for commercial, corporate, business or agricultural purposes pursuant to this subsection shall be subject to all limitations applicable to the amount of an association's investment in commercial loans. A lease of residential or commercial real property made pursuant to this subsection shall be subject to all limitations applicable to the amount of an association's investment in residential or commercial real property loans;

(3) for the purposes of this subsection:

(A) "Net lease" means a lease under which the association will not, directly or indirectly, provide or be obligated to provide for:

(i) The servicing, repair or maintenance of the leased property during the lease term;

(ii) the purchasing of parts and accessories for the leased property, except that improvements and additions to the leased property may be leased to the lessee upon its request in accordance with the full-payout requirements of this section;

(iii) the loan of replacement or substitute property while the leased property is being serviced;

(iv) the purchasing of insurance for the lessee, except where the lessee has failed to discharge a contractual obligation to purchase or maintain insurance; or

(v) the renewal of any license, registration or filing for the property unless such action by the association is necessary to protect its interest as an owner or financier of the property;

(B) "full-payout lease" means a lease from which the lessor can reasonably expect to realize a return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from rentals, estimated tax benefits and the estimated residual value of the property at the expiration of the initial term of the lease. The estimated residual value of the property shall not exceed 25% for personal property or 20% for real property, of the acquisition cost of the property to the lessor unless the estimated residual value is guaranteed by a manufacturer, the lessee or a third party not an affiliate of the association and the association makes the determination that the guarantor has the resources to meet the guarantee. In all cases, however, both the estimated residual value of the property and that portion of the estimated residual value relied upon by the lessor to satisfy the requirements of a full-payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property depends primarily on the creditworthiness of the lessee and of any guarantor of the residual value, and on the residual market value of the leased property. The maximum term of a full-payout lease shall be 40 years;

(4) if, in good faith, an association believes that there has been an unanticipated change in conditions which threaten its financial position by significantly increasing its exposure to loss, the provisions of this subsection shall not prevent the association:

(A) As the owner and lessor under a net, full-payout lease, from taking reasonable and appropriate action to salvage or protect the value of the property of its interest arising under the lease;

(B) as the assignee of a lessor's interest in a lease, from becoming the owner and lessor of the leased property pursuant to its contractual right, or from taking any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease; or

(C) from including any provisions in a lease, or from making any additional agreements, to protect its financial position or investment in the circumstances set forth in this paragraph.

New Sec. 4. (a) An association shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer: (1) Shall obtain additional credit, property or service from such association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit or trust service; (2) provide additional credit, property or service to such associations or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit or trust service; or (3) shall not obtain some other credit, property or services from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

(b) Any person may sue for and have injunctive relief in the courts of this state having jurisdiction over the parties against threatened loss or damage by reason of a violation of this section under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of this state under the rules governing such proceedings. Upon the execution of proper bond as provided in K.S.A. 60-905, and amendments thereto, and after a showing the danger of irreparable loss or damage is immediate, a temporary injunction may be issued.

(continued)

(c) Any person who is injured in such person's business or property by reason of anything forbidden in this section, may sue in any district court of this state where the defendant resides or is found or has an agent and shall be entitled to recover three times the amount of the damages sustained by such person and the cost of the suit, including reasonable attorney fees.

(d) Nothing contained in this section shall be construed as affecting in any manner the right of this state or any other party to bring an action under any other law of the United States or of any state, including any right which may exist in addition to specific statutory authority challenging the legality of any act or practice which may be proscribed by this section. No regulation or order issued by the state savings and loan board shall in any manner constitute a defense to such action.

(e) For the purposes of this section: (1) "Affiliate of an association" means any individual or company, including any corporation, partnership, trust, joint-stock company or similar organization which controls, is controlled by or is under common control with such association; and (2) "loan" includes obligations and extensions or advances of credit.

Sec. 5. K.S.A. 17-5303, 17-5401, 17-5501 and 17-5815 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 SENATE, and passed that body February 17, 1983.

Senate adopted Conference Committee report April 6, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended March 29, 1983.
House adopted Conference Committee report April 5, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 18, 1983.

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 18th day of April, 1983.

(SEAL) JACK H. BRIER
Secretary of State.

(Published in the KANSAS REGISTER April 21, 1983.)

SENATE BILL No. 153

AN ACT making and concerning appropriations for the fiscal year ending June 30, 1983, for the state corporation commission, department of administration, state finance council, state fire marshal, department of health and environment, Kansas highway patrol, state historical society, Osawatimie state hospital, department of social and rehabilitation services, Larned state hospital, Rainbow mental health facility, Winfield state hospital and training center, state park and resources authority, Kansas fish and game commission, Kansas adult authority, department of revenue—homestead property tax refunds, adjutant general, state correctional-vocational training center, department of corrections, state industrial reformatory, Kansas state penitentiary, state reception and diagnostic center, and Parsons state hospital and training center; 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, 1983, 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.

STATE CORPORATION COMMISSION

(a) The expenditure limitation established by the state finance council on the public service regulation fund is hereby decreased from \$3,008,630 to \$3,000,433.

(b) The expenditure limitation established by section 8 of chapter 31 of the 1982 Session Laws of Kansas on the gas pipeline inspection fee fund is hereby decreased from \$9,000 to \$8,866.

(c) The expenditure limitation established by the state finance council on the mined-land conservation and reclamation fee fund is hereby increased from \$101,245 to \$113,945.

(d) The expenditure limitation established by the state finance council on the conservation fee fund is hereby increased from \$2,577,678 to \$2,797,543.

(e) The expenditure limitation established by the state finance council on the motor carrier license fees fund is hereby increased from \$1,203,037 to \$1,207,773.

(f) The expenditure limitation established by the state finance council on the national surface mining control and reclamation act—federal fund is hereby decreased from \$99,625 to \$94,194.

(g) The expenditure limitation established by the state finance council on the state operations account of the abandoned mined-land reclamation act—federal fund is hereby increased from \$52,137 to \$86,100.

(h) The expenditure limitation established by the state finance council on the gas pipeline safety program—federal fund is hereby increased from \$42,195 to \$52,872.

(i) The expenditure limitation established by the state finance council on the railroad safety program—federal fund is hereby decreased from \$25,048 to \$21,923.

Sec. 3.

DEPARTMENT OF ADMINISTRATION

(a) The expenditure limitation established by the state finance council on the 535 Kansas state office building operating fund is hereby increased from \$413,153 to \$465,681.

(b) The expenditure limitation established by the state finance council on the fifth and Kansas avenue operating fund is hereby increased from \$380,369 to \$412,322.

(c) There is appropriated for the above agency from the state general fund the following:

General administration..... \$40,000

Sec. 4.

STATE FINANCE COUNCIL

(a) On the effective date of this act, the director of accounts and reports shall transfer \$15,000 from the state general fund to the state emergency fund.

Sec. 5.

STATE FIRE MARSHAL

(a) The director of accounts and reports shall not make the transfer of \$550,000 directed to be made by section 3(c) of chapter 24 of the 1982 Session Laws of Kansas from the fire marshal fee fund to the state general fund. On May 1, 1983, the director of accounts and reports shall transfer \$450,000 from the fire marshal fee fund to the state general fund.

(b) There is appropriated for the above agency from the state general fund the following:

Moving expenses for relocation of agency..... \$3,196

Sec. 6.

DEPARTMENT OF HEALTH AND ENVIRONMENT

(a) The expenditure limitation established by the state finance council on the federal women, infants and children health program fund is hereby increased from \$7,867,388 to \$8,836,462.

(b) The expenditure limitation established by the state finance council on the state operations account of the federal women, infants and children health program fund is hereby increased from \$364,302 to \$408,165.

(c) On the effective date of this act, the director of accounts and reports shall transfer \$4,765 from the conservation fee fund of the state corporation commission to the conservation fee fund of the department of health and environment.

(continued)

(d) The expenditure limitation established by the state finance council on the federal migrant health program fund is hereby decreased from \$144,403 to \$98,816.

(e) The expenditure limitation established by the state finance council on the federal air quality program fund is hereby increased from \$563,698 to \$635,213.

(f) The expenditure limitation established by the state finance council on the maternal and child health services block grant fund is hereby increased from \$2,825,486 to \$2,970,382.

(g) The expenditure limitation established by the state finance council on the personal health services account of the maternal and child health services block grant fund is hereby increased from \$1,960,001 to \$2,110,001.

(h) The expenditure limitation established by the state finance council on the preventive health and health services block grant fund is hereby increased from \$641,677 to \$715,737.

(i) The expenditure limitation established by the state finance council on the community health services account of the preventive health and health services block grant fund is hereby increased from \$541,677 to \$610,677.

(j) The expenditure limitation established by section 5(b) of chapter 18 of the 1982 Session Laws of Kansas on the facilities and service regulation account of the preventive health and health services block grant fund is hereby increased from \$25,000 to \$31,000.

Sec. 7.

KANSAS HIGHWAY PATROL

(a) The expenditure limitation established by the state finance council on the state highway patrol fund is hereby decreased from \$16,426,350 to \$15,873,842.

Sec. 8.

STATE HISTORICAL SOCIETY

(a) On the effective date of this act, of the \$246,240 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 4(b) of chapter 18 of the 1981 Session Laws of Kansas from the federal revenue sharing fund in the stabilize and renovate old Shawnee mission buildings account, the sum of \$50,000 is hereby lapsed.

(b) On the effective date of this act, of the \$621,930 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 2(a) of chapter 29 of the 1982 Session Laws of Kansas from the state general fund in the administration account, the sum of \$36,000 is hereby lapsed.

(c) On the effective date of this act, of the \$729,034 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 2(a) of chapter 29 of the 1982 Session Laws of Kansas from the state general fund in the collections account, the sum of \$5,000 is hereby lapsed.

(d) On the effective date of this act, of the \$510,147 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 2(a) of chapter 29 of the 1982 Session Laws of Kansas from the state general fund in the historic properties account, the sum of \$30,820 is hereby lapsed.

(e) On the effective date of this act, of the \$289,932 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 2(a) of chapter 29 of the 1982 Session Laws of Kansas from the state general fund in the public information account, the sum of \$25,000 is hereby lapsed.

(f) On the effective date of this act, of the \$1,514,159 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 2(a) of chapter 29 of the 1982 Session Laws of Kansas from the state general fund in the museum account, the sum of \$27,164 is hereby lapsed.

(g) On the effective date of this act, any unencumbered balance in the fees for final planning of a new state historical society museum building to be located on state-owned land adjoining the Pottawatomie Baptist mission is hereby lapsed.

(h) The expenditure limitation established by section 2(b) of chapter 29 of the 1982 Session Laws of Kansas on the general fees fund is hereby increased from \$47,809 to \$87,809.

Sec. 9.

OSAWATOMIE STATE HOSPITAL

(a) On the effective date of this act, of the \$90,000 appro-

riated for the above agency by section 43(a) of chapter 31 of the 1982 Session Laws of Kansas from the state institutions building fund in the planning for remodeling of employees' dormitory for administration building account, the sum of \$60,000 is hereby lapsed.

Sec. 10.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

(a) There is appropriated for the above agency from the state general fund the following:

Public assistance	\$11,825,259
Medical assistance	1,527,871
Total	\$13,353,130

(b) There is appropriated for the above agency from the following special revenue funds all moneys now or hereafter lawfully credited to and available in such funds, except that expenditures shall not exceed the following:

Community work experience program—federal	\$22,863
Job search for food stamp recipients—federal	70,145

(c) The expenditure limitation established by the state finance council on the energy assistance block grant—federal fund is hereby increased from \$13,885,885 to No limit.

(d) The expenditure limitation established by the state finance council on the social services block grant—federal fund is hereby increased from \$26,610,198 to \$27,469,714.

(e) The expenditure limitation established by the state finance council on the alcohol, drug abuse and mental health block grant—federal fund is hereby increased from \$1,898,802 to \$1,981,579.

(f) On the effective date of this act, of the \$1,345,631 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 17(a) of chapter 31 of the 1982 Session Laws of Kansas from the state general fund in the adult services account, the sum of \$152,117 is hereby lapsed.

(g) On the effective date of this act, of the \$13,065,620 appropriated for the above agency for the fiscal year ending June 30, 1983, by section 4(a) of chapter 18 of the 1982 Session Laws of Kansas from the state general fund in the foster care account, the sum of \$82,015 is hereby lapsed.

Sec. 11.

LARNED STATE HOSPITAL

(a) The expenditure limitation established by section 6(b) of chapter 22 of the 1982 Session Laws of Kansas on the title XIX fund is hereby increased from \$2,576,611 to \$2,811,141.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$234,530 from the institutional receipts from title XIX—federal fund of mental health and retardation services to the title XIX fund of Larned state hospital.

Sec. 12.

RAINBOW MENTAL HEALTH FACILITY

(a) The expenditure limitation established by section 8(b) of chapter 22 of the 1982 Session Laws of Kansas on the title XIX fund is hereby increased from \$629,299 to \$643,408.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$14,109 from the institutional receipts from title XIX—federal fund of mental health and retardation services to the title XIX fund of Rainbow mental health facility.

Sec. 13.

WINFIELD STATE HOSPITAL AND TRAINING CENTER

(a) The expenditure limitation established by section 13(b) of chapter 22 of the 1982 Session Laws of Kansas on the title XIX fund is hereby increased from \$7,003,827 to \$7,235,826.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$231,999 from the institutional receipts from title XIX—federal fund of mental health and retardation services to the title XIX fund of Winfield state hospital and training center.

(continued)

Sec. 14.

STATE PARK AND RESOURCES AUTHORITY

(a) There is appropriated for the above agency from the state general fund the following:

State park operations \$5,323

(b) On the effective date of this act, any unencumbered balance in each of the following accounts of the state general fund is hereby lapsed: Lake Scott state park—FY1981 capital improvements; Lake Scott state park—FY1982 capital improvements.

(c) On the effective date of this act, any unencumbered balance in each of the following accounts of the land and water conservation fund—state is hereby lapsed: Lake Scott state park—FY1981 capital improvements; Lake Scott state park—FY1982 capital improvements.

(d) The position limitation established by section 7 of chapter 26 of the 1982 Session Laws of Kansas for the state park and resources authority is hereby increased from 110.4 to 111.4.

Sec. 15.

KANSAS FISH AND GAME COMMISSION

(a) The expenditure limitation established by the state finance council on the salaries and wages and other operating expenditures account of the forestry, fish and game commission fee fund is hereby decreased from \$9,400,007 to \$9,211,089.

Sec. 16.

KANSAS ADULT AUTHORITY

(a) There is appropriated for the above agency from the state general fund the following:

Salaries and wages \$2,697

Sec. 17.

DEPARTMENT OF REVENUE—HOMESTEAD PROPERTY TAX REFUNDS

(a) There is appropriated for the above agency from the state general fund the following:

Homestead tax refunds \$500,000

Sec. 18. *Position limitations.* The limitations imposed by this act on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from appropriations made in this act or in any appropriation act of the 1982 regular session of the legislature or in any other appropriation act of the 1983 regular session of the legislature may be exceeded upon 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 and amendments thereto.

Sec. 19.

ADJUTANT GENERAL

(a) There is appropriated for the above agency from the state general fund the following:

Special sewer assessment—Chanute armory \$15,956

Sec. 20.

STATE CORRECTIONAL-VOCATIONAL TRAINING CENTER

(a) On the effective date of this act, of the \$1,039,562 appropriated for the above agency by section 5(a) of chapter 24 of the 1982 Session Laws of Kansas from the state general fund in the other operating expenditures account, the sum of \$4,774 is hereby lapsed.

Sec. 21.

DEPARTMENT OF CORRECTIONS

(a) On the effective date of this act, of the \$4,270,294 appropriated for the above agency by section 31(a) of chapter 31 of the 1982 Session Laws of Kansas from the state general fund in the community corrections act grants account, the sum of \$436,326 is hereby lapsed.

Sec. 22.

STATE INDUSTRIAL REFORMATORY

(a) On the effective date of this act, of the \$3,756,358 appropriated for the above agency by section 7(a) of chapter 24 of the 1982 Session Laws of Kansas from the state general fund in the

other operating expenditures account, the sum of \$26,672 is hereby lapsed.

Sec. 23.

KANSAS STATE PENITENTIARY

(a) On the effective date of this act, of the \$4,958,026 appropriated for the above agency by section 8(a) of chapter 24 of the 1982 Session Laws of Kansas from the state general fund in the other operating expenditures account, the sum of \$22,078 is hereby lapsed.

Sec. 24.

STATE RECEPTION AND DIAGNOSTIC CENTER

(a) On the effective date of this act, of the \$415,826 appropriated for the above agency by section 9(a) of chapter 24 of the 1982 Session Laws of Kansas from the state general fund in the other operating expenditures account, the sum of \$1,737 is hereby lapsed.

Sec. 25.

PARSONS STATE HOSPITAL AND TRAINING CENTER

(a) The expenditure limitation established by section 9(b) of chapter 22 of the 1982 Session Laws of Kansas on the title XIX fund is hereby increased from \$3,937,176 to \$4,118,131.

(b) On the effective date of this act, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$180,955 from the institutional receipts from title XIX—federal fund of mental health and retardation services to the title XIX fund of Parsons state hospital and training center.

Sec. 26. *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 and amendments thereto, expenditures from special revenue funds may exceed the amounts specified in this act.

Sec. 27. 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, 1983.

SENATE concurred in HOUSE amendments April 8, 1983.

ROSS O. DOYEN
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 7, 1983.

MIKE HAYDEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED April 19, 1983.

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 19th day of April, 1983.

(SEAL)

JACK H. BRIER
Secretary of State.

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