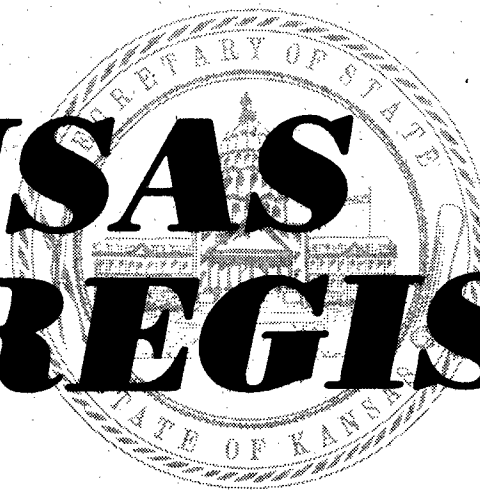


KANSAS REGISTER



State of Kansas

JACK H. BRIER
Secretary of State

Vol. 5, No. 2

January 9, 1986

Pages 25-48

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State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT
BOARD OF ADULT CARE HOME
ADMINISTRATORS**

NOTICE OF MEETING

The Board of Adult Care Home Administrators will meet at 1:30 p.m. Friday, January 10, in the executive conference room at the Kansas Department of Health and Environment, Forbes Field, Building 740, Topeka.

JOHN GRACE
Chairman

Doc. No. 003832

State of Kansas

**OFFICE OF THE
SECURITIES COMMISSIONER
SECURITIES INDUSTRY
ADVISORY COMMITTEE**

NOTICE OF MEETING

The Industry Advisory Committee to the Office of the Securities Commissioner will meet at 10 a.m. Thursday, January 16, in Conference Room A, 109 W. 9th, Topeka. The committee will consider possible revisions to the Kansas Securities Act.

JOHN R. WURTH
Securities Commissioner

Doc. No. 003825

State of Kansas

SECRETARY OF STATE

NOTICE

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, JACK H. BRIER, Secretary of State of the State of Kansas, do hereby certify that pursuant to the provisions of K.S.A. 1985 Supp. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate executed during the period of January 1, 1986 through January 31, 1986 shall be 12.13 percent.

In testimony whereof: I hereto set my hand and cause to be affixed my seal. Done at the City of Topeka, this 31st day of December, A.D. 1985.

JACK H. BRIER
Secretary of State

Doc. No. 003826

State of Kansas

**DEPARTMENT OF REVENUE
LIQUOR LAW REVIEW COMMISSION**

NOTICE OF MEETINGS

The Liquor Law Review Commission Subcommittee on Off Premises will meet from 11 a.m. to 1:00 p.m. Monday, January 13, in the secretary's conference room, Department of Revenue, 2nd Floor, State Office Building, Topeka.

The Liquor Law Review Commission will meet from 10 a.m. to 3 p.m. Monday, January 27, in Room 220-S, State Capitol.

HERB ROHLEDER
Chairman

Doc. No. 003822

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PUBLISHED BY
JACK H. BRIER
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594



PHONE: 913/296-3489

State of Kansas
DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES

**NOTICE OF COMMENCEMENT
 OF NEGOTIATIONS
 FOR TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for subsoil investigation and soil testing services during construction of the addition and remodeling of activity therapy space at the Rainbow Mental Health Facility, Kansas City, Kansas.

Any questions or expressions of interest should be directed to Phyllis Fast, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to January 24, 1986.

JOHN B. HIPPI, AIA
 Director, Division of
 Architectural Services

Doc. No. 003824

State of Kansas
KANSAS WATER OFFICE

**NOTICE OF HEARING
 ON PROPOSED 1986
 STATE WATER PLAN**

A formal public hearing will be conducted by the Kansas Water Office for those who wish to comment on the proposed revisions to the Riparian and Wetland subsections of the 1986 State Water Plan. Copies of the final drafts will be available for examination at local conservation districts and extension offices. The hearing is an opportunity for groups and individuals to have formal input into the structuring of the Riparian and Wetland Protection subsections which, if approved, will become part of the existing state water plan.

The hearing is scheduled for 10 a.m. Monday, January 13, in the ESSI Building, 1309 S. Topeka, Topeka. Parking is available in the rear of the ESSI Building on the south lot.

Following the hearing, the Riparian and Wetland Protection subsections will be redrafted, if necessary, before they are submitted to the Kansas Water Authority for approval. If approved by the Authority, these subsections will be incorporated into the existing state water plan and submitted to the governor and legislature.

An executive summary of these subsections is available for study and review prior to the hearing. To obtain a copy, please contact the Kansas Water Office, Suite 200, 109 S.W. 9th, Topeka 66612 (913) 296-3185.

JOSEPH F. HARKINS
 Director

Doc. No. 003806

State of Kansas
DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES

**NOTICE OF COMMENCEMENT
 OF NEGOTIATIONS
 FOR TECHNICAL SERVICES**

Notice is hereby given of the commencement of negotiations for technical services at the addition to the Applegate Energy Center, University of Kansas Medical Center, Kansas City, Kansas.

The following services are required:

1. Testing of cooling towers. Interested firms must be qualified by the Cooling Tower Institute to perform all acceptance tests on the project. Past experience on similar projects is also required.
2. Welding tests on pipes and related equipment. Tests shall be in accordance with standards of the American Society of Mechanical Engineers and the American Welding Society.

Questions or expressions of interest should be directed to Myron Reed, Division of Architectural Services, 625 Polk, Topeka 66603, (913) 233-9367, prior to January 24, 1986.

JOHN B. HIPPI, AIA
 Director, Division of
 Architectural Services

Doc. No. 003837

State of Kansas
SECRETARY OF STATE
EXECUTIVE APPOINTMENTS

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office.

Complete listings of state agencies, boards and commissions are included in the Kansas Directory. County officials are listed in the Directory of County Officers. Both directories are published by the Secretary of State's office and are available free of charge.

The following appointments were filed December 19 through December 31, 1985:

Regents, State Board of

Richard W. Dodderidge, 5333 Mission Woods Road, Mission Woods 66205. Effective January 1, 1986. Subject to Senate confirmation. Expires December 31, 1989. Succeeds Wendell E. Lady.

John G. Montgomery, 510 Redbud Lane, Junction City 66441. Effective January 1, 1986. Subject to Senate confirmation. Expires December 31, 1989. Reappointment.

Donald C. Slawson, 330 N. Belmont, Wichita 67208. Effective January 1, 1986. Subject to Senate confirmation. Expires December 31, 1989. Succeeds Lawrence M. Jones.

JACK H. BRIER
 Secretary of State

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, until 2 p.m., CST or DST, whichever is in effect on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

TUESDAY, JANUARY 21, 1986

#A-4508(b)

University of Kansas, Lawrence—VENTILATION AND EXHAUST SYSTEM IMPROVEMENTS, foundry area, Arts and Design Building

#26916

Various state agencies—GRAPHIC ART SUPPLIES

#26925

Kansas Highway Patrol, Topeka—UNIFORMS

#26926

Statewide—BINDING SERVICES

#64286

Department of Administration, Division of Architectural Services, Topeka—REPLACE DOMESTIC WATER HEADERS

#64299

Various state agencies—SALE OF USED EQUIPMENT

WEDNESDAY, JANUARY 22, 1986

#A-4789

University of Kansas, Lawrence—PROVIDE TERRACE DECK RESURFACING AND HANDRAIL INSTALLATION, Spencer Library

#A-5322

Topeka State Hospital, Topeka—REPLACE CEILING TILE AND CLOSETS, Ray, Brigham and Awl buildings

#26914

Department of Administration, Buildings and Grounds Services, Topeka—DRAPERY CLEANING SERVICE

#64296

Parsons State Hospital and Training Center, Parsons—SHOP TOOLS

#64297

Kansas Fish and Game Commission, Pratt—FURNISH ALL LABOR, MATERIALS AND EQUIPMENT TO CONSTRUCT A POLE SHED, Emporia

#64301

Kansas State Penitentiary, Lansing—LUMBER, HARDWARE, BOLTS AND WASHERS

THURSDAY, JANUARY 23, 1986

#64302

University of Kansas, Lawrence—PRINTING AND BINDING OF TWO BOOKS

#64306

Wichita State University, Wichita—COOLING TOWER

#64307

Kansas Technical Institute, Salina—PROVIDE ELECTRICAL SERVICE ADDITIONS, Metallurgy Lab area

#64308

University of Kansas Medical Center, Kansas City—NURSERY STOCK

#64314

Kansas Fish and Game Commission, Pratt—FLOTATION PONTOONS/DRUMS, various locations

#64315

University of Kansas, Lawrence—BLOOD ANALYZER

#64316

Kansas State University, Manhattan—DISK DRIVE—D.E.C. COMPATIBLE

#64317

Pittsburg State University, Pittsburg—INSTALLATION OF LAMPS AND BALLASTS

#64318

State Treasurer's Office, Topeka—UPGRADE—BURROUGHS COMPUTER

#64323

Various state agencies—SALE OF USED VEHICLES

FRIDAY, JANUARY 24, 1986

#A-5128

Kansas State Historical Society, Topeka—REPAIRS TO PRATT RANCH, Studley

#26924

Larned State Hospital, Larned—BAKERY SNACKS

#64325

Department of Transportation, Hutchinson—HYDRAULIC HOSE AND FITTINGS

#64326

Kansas Correctional Industries, Lansing—MINERAL SPIRITS-XYLOL

#64328

Kansas State University, Manhattan—FEED AND FORAGE

#64331

Emporia State University, Emporia—PIPE INSULATION, FITTING COVERS, POLISH ALUMINUM AND SCREWS

#64332

Emporia State University, Emporia—STEEL PIPE AND FITTINGS

#64335

Kansas Correctional-Vocational Training Center, Topeka—KITCHEN EQUIPMENT

#64336

Kansas State University, Manhattan—DIPLOMA COVERS

TUESDAY, JANUARY 28, 1986

#26913

Kansas Neurological Institute, Topeka and Winfield State Hospital and Training Center, Winfield—DISPOSABLE BRIEFS AND DIAPERS

MONDAY, FEBRUARY 10, 1986

#64313

Kansas State University, Manhattan—LIQUID HELIUM CRYOGENICS SYSTEM

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 003835

State of Kansas

DEPARTMENT OF HEALTH
AND ENVIRONMENTREQUEST FOR QUALIFICATIONS
FOR ENGINEERING AND
TECHNICAL SERVICES

The Division of Environment, Kansas State Department of Health and Environment, pursuant to K.S.A. 75-430a and 75-5803, has established a list of prequalified firms for engineering and technical services. This list is being updated and firms are invited to submit qualifications for engineering and technical services as required in connection with the Kansas State Superfund for remediation of inactive hazardous waste disposal sites (K.S.A. 65-3452 through 65-3457), and the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (P.L. 96-510, commonly known as "Superfund"), and other state activities at various uncontrolled hazardous waste disposal sites in the state of Kansas.

These professional engineering-related services are for: (1) cleanup plan design and review including: (a) geotechnical and soil exploration and hydrogeologic investigations necessary to develop and propose feasible alternatives; (b) sampling of hazardous materials and containers (drums, tanks, etc.); (c) chemical analyses of soil, water, air and waste samples; (d) evaluation of chemical analyses; (e) development of compatibility testing protocols, disposal methods and safety plans; (f) development, evaluation, and cost-effective analyses of disposal and remedial alternatives; (g) development of design; (h) preparation of plans, specifications and construction documents; (2) mitigation of adverse environmental impact, and (3) cleanup activities undertaken in accordance with K.S.A. 65-3452 *et seq.* including: (a) environmental monitoring and surveillance to determine impact of cleanup activities; (b) oversight of field activities, construction management and consultation; (c) preparation of environmental assessments; and (d) application for necessary permits.

Interested firms must submit completed Kansas Forms ASD-E1, Statement of Qualifications and WM-1, Personnel Qualifications or Standard Forms (SF) 254 and 255 U.S. Government Architect-Engineer Qualifications, in duplicate, to Karl F. Birns of the Bureau of Waste Management, Building 321, Kansas Department of Health and Environment, Forbes Field, Topeka 66620, by the close of business February 28, 1986, in order to be considered. Requests for submission forms or telephone inquiries may be directed to Karl Birns at (913) 862-9360, ext. 593.

To remain in consideration, firms on a current prequalified list need only submit a yearly updated SF 254 and SF 255. All prequalified firms will be notified in writing and invited to submit these yearly updates.

In preparing these documents for submission, the response should relate only to the firm's activities in connection with hazardous waste disposal sites and should list experience in related projects, including a brief description of each project and functions per-

formed. Firms are requested not to submit promotional materials. Proximity to a project, as well as experience and qualifications, will be elements of consideration.

The qualifications of all firms (including these currently on a prequalified list) responding to this announcement will be reviewed and uniformly evaluated. Selection criteria will include: (1) specialized experience of the firm in the type of work required; (2) qualifications of professional staff for performance of desired services; (3) whether the required work will be done in-house or joint venture; and (4) past experience, if any, with respect to the firm's state and federal contract performance. A revised list of qualified engineering firms and other firms furnishing the services as described above, who will be eligible for contracts at uncontrolled hazardous waste disposal sites, will be established, maintained and annually updated.

Contracts awarded under this request for qualifications may be funded in part by a grant from the United States Environmental Protection Agency. This procurement will be subject to regulations contained in Attachment O of the United States OMB Circular A-102. Neither the United States nor the United States Environmental Protection Agency will be a party to this request for qualifications or any resulting contract.

This is not a request for proposals. As actual projects arise, proposals from at least three prequalified firms will be requested. Minority business enterprises will be afforded full opportunity to submit qualifications and are encouraged to respond to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin.

A meeting will be held in Topeka at 10 a.m. Tuesday, January 28, at Forbes Field, Building 321, to discuss specifics of the qualification process. All interested firms are invited to send representatives to this meeting. Attendance at the meeting is not a prerequisite for submission of qualifications; however, failure to provide appropriate information which may be further discussed at this meeting may affect the relative evaluation and ranking of a submission.

BARBARA J. SABOL
Secretary of Health
and Environment

Doc. No. 003831

State of Kansas

**SOCIAL AND REHABILITATION SERVICES
KANSAS CITIZENS ADVISORY COMMITTEE
ON ALCOHOL AND OTHER DRUG ABUSE**
NOTICE OF MEETING

The quarterly meeting of the Kansas Citizens Advisory Committee on Alcohol and Other Drug Abuse will be conducted at 8:30 a.m. Friday, January 17, at the Holiday Inn West (Holidome), 605 Fairlawn, Topeka, in Executive Suites A and B. Several issues will be addressed, including a presentation by Secretary of Social and Rehabilitation Services Robert C. Harder; 1986 legislative issues; the legislative network; and the long-range planning update.

JAMES A. McHENRY, JR.
Commissioner of Alcohol and
Drug Abuse Services

Doc. No. 003834

(Published in the KANSAS REGISTER, January 9, 1986.)

**NOTICE OF BOND SALE
\$133,986.63 PAR VALUE
GENERAL OBLIGATION BONDS
INTERNAL IMPROVEMENT BONDS
(SEWER, WATER, STORM SEWER)
CITY OF INMAN, KANSAS**

The City Council of the City of Inman, Kansas, on January 20, 1986, at 8 p.m. at the City Hall, Inman, will receive and consider written sealed bids for the sale of \$133,986.63 of internal improvement bonds for cash at not less than par and accrued interest. Such bonds are primarily special assessment in nature; however, such bonds constitute general obligations of the city of Inman, payable from unlimited ad valorem taxes if need be.

Such bonds will be dated December 1, 1985, and shall consist of 27 bonds each in the denomination of \$5,000 except bond no. 1, which shall be \$3,986.63. Interest will be payable on June 1 and December 1 of each year with the first interest payable June 1, 1986. Both principal and interest shall be payable at the office of the State Treasurer, Topeka, Kansas. Said bonds will be issued in series, maturing as follows: \$8,986.63 due December 1, 1986; \$10,000 due December 1 of the years 1987 and 1988; and \$15,000 due December 1 of the years 1989 to 1995, inclusive, and shall not be subject to call for prior payment.

Said bonds will be printed at the expense of the city of Inman, and said bonds will be sold subject to the legal opinion of William P. Timmerman, Municipal Bond Counsel, Wichita, Kansas, whose unqualified approving opinion will be furnished to the successful bidder, and the cost of this legal opinion shall be at the expense of the city of Inman. All other expenses of legal services shall be at the expense of the city of Inman.

Proposals 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 same rate shall apply to all bonds of the same maturity. Each

interest rate specified shall be a multiple of 1/8 or 1/20 of 1 percent. No interest rate shall exceed a rate equal to the 20 bond index of tax exempt municipal bonds published by Credit Markets in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2 percent. No rate specified shall be lower than any rate specified for an earlier maturity of the bonds. No bid of less than the par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be authorized. Each bid shall specify the total interest cost to the city during the life of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid. Each bid shall also specify the average annual net interest rate to the city on the basis of such bid.

Purchasers shall submit their bids in writing, sealed and marked "Bond Bid," for all or any part of such bonds. All bids must state the average interest rate and the total interest cost, certified by the bidder to be correct. Each bid must be accompanied by a certified check equal to 2 percent of the total amount of the bid. In case any purchaser whose bid is accepted shall fail to carry out his contract, said deposit shall be forfeited to the municipality. The checks of unsuccessful bidders will be returned.

Such sealed bids shall be opened publicly and only at the time and place specified in this notice, and will be sold to the highest bidder or bidders. The city of Inman reserves the right to reject any or all bids.

The assessed valuation of the city of Inman for the year 1985 is \$2,942,208. The total bonded indebtedness of the municipality on December 1, 1985, including the bonds submitted for bid, will be \$563,734.12, of which sum \$273,673.95 is exempt from the debt limit.

Said bonds duly printed, executed and registered will be delivered to the successful bidder on or about January 31, 1986. Place of delivery will be at such bank in Inman, Kansas; Topeka, Kansas; Wichita, Kansas; or Kansas City, Missouri, as the purchaser may designate.

The purchaser will prepare the bond registry.

The CUSIP number will be furnished.

This notice of bond sale is a re-publication of a previous notice which is made in order to comply with K.S.A. 10-106, the bond statute for public sale of bonds.

Dated at Inman, Kansas, this 30th day of December, 1985.

CITY OF INMAN, KANSAS
By: Adolf W. Neufeld, Mayor
Attest: Malinda Toews, City Clerk

Doc. No. 003836

State of Kansas

**STATE HISTORICAL SOCIETY
STATE RECORDS BOARD**

NOTICE OF MEETING

The Kansas State Records Board will meet at 10 a.m. Thursday, January 16, in the conference room on the fourth floor of the Memorial Building, 120 W. 10th, Topeka, to consider requests from state agencies submitting proposals for disposition of noncurrent government records.

In addition, general administrative matters and other business will be discussed.

EUGENE D. DECKER
State Archivist
Secretary, State Records Board

Doc. No. 003823

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Notice is hereby given that sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m., January 16, 1986, and then publicly opened:

DISTRICT ONE—Northeast

Wyandotte—105 U-0916-01—James Street at Kansas River in Kansas City, 0.3 mile, bridge replacement. (Federal Funds)

DISTRICT THREE—Northwest

Decatur—83-20 K-0223-01—US-83, 9.0 miles north of Sheridan-Decatur county line, then north to Oberlin, 8.0 miles, grading, surfacing and bridge. (Federal Funds)

DISTRICT FOUR—Southeast

Cherokee—66-11 K-0178-01—US-66, Spring River bridges 4 and 6, east of the west junction of K-26, 0.3 mile, bridge replacement. (Federal Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment, and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone regardless of race, religion, color, sex, physical handicap, national origin or ancestry in the award of contracts.

Plans and specifications for the projects may be examined at the offices of the respective county clerks or at the Kansas Department of Transportation district offices responsible for the work.

JOHN B. KEMP
Secretary of Transportation

Doc. No. 003808

State of Kansas

ATTORNEY GENERAL

Opinion No. 85-178

Schools—Organization, Powers and Finances of Boards of Education—Closing or Changing the Use of School Buildings. Steve Piper, City Clerk, Marquette, December 18, 1985.

Under K.S.A. 1984 Supp. 72-8213, it is a prerequisite to the closing of a school building that a majority of the voters approve such closing in a special election held for that purpose. However, that statute authorizes a school board to change the use of a school building without an election, and does not require that a school board offer in any one building six grades of elementary school, three grades of junior high, and three grades of high school. Additionally, a statute does not constitute an express or implied contract between the state of Kansas and the people of the state. Cited herein: K.S.A. 1984 Supp. 72-8213; L. 1982, ch. 301, Sec. 3. KG

Opinion No. 85-179

Taxation—Retailers' Sales Tax—Exempt Sales to Educational Institutions. William R. Kauffman, General Counsel, Kansas Board of Regents, Topeka, December 19, 1985.

Regents' institutions are governed by subsections (c) and (d), but not subsection (b), of K.S.A. 79-3606. The sales tax exemption provided in K.S.A. 79-3606(c) does not apply to materials used in extraordinary "repair" of housing facilities at educational institutions, but does include minor items involved in the routine maintenance of such facilities. Cited herein: K.S.A. 79-3606, as amended by L. 1985, ch. 331, Sec. 1; L. 1967, ch. 500, Sec. 1; L. 1970, ch. 389, Sec. 4; L. 1971, ch. 321, Sec. 3. KG

Opinion No. 85-180

Taxation—Retailers' Sales Tax—Tax Imposed; Admissions to County Free Fair. Robert G. Frey, Haskell County Counselor, Liberal, December 20, 1985.

Gross receipts from the sale of admissions to the Haskell County Free Fair are taxable pursuant to K.S.A. 79-3603(e). However, gross receipts from fees charged by political subdivisions, which includes the fair, for participation in sports, games and other recreational activities are excluded from taxation by the same subsection. Cited herein: K.S.A. 2-125; 2-132; 79-3602; as amended by L. 1985, ch. 330, 1; 79-3603. JLM

Opinion No. 85-181

Taxation—Miscellaneous Provisions—Transfer of Moneys From County General Fund. A. J. Albertini, Crawford County Commissioner, Pittsburg, December 20, 1985.

A board of county commissioners' use of general fund moneys directly toward a road and bridge obligation does not violate the dictates of K.S.A. 79-2934.

(continued)

Although this statute prohibits a county from transferring moneys from its general fund to any other specific fund, it sets no limitations on the purposes for which moneys from the general fund can be directly spent. Cited herein: K.S.A. 79-1946; 79-2927; 79-2934; Kan. Const., Art. 11, § 5. BPA

Opinion No. 85-182

Taxation—Listing Property for Taxation—Situs of Personal Property in Transit. Representative Benjamin Foster, 85th District, Wichita, December 20, 1985.

Pursuant to K.S.A. 79-304, personal property in transit is required to be listed and taxed in the district where the owner resides, unless the property is intended for a particular business. In such event, the taxing district where the business is to be transacted is to be used. In the case of industrial laundries, the property is not intended for a particular business other than the cleaning, maintenance and delivery services which are performed from the home office. Accordingly, industrial laundries should list their personal property in the taxing district in which they are located, not the district where each individual customer resides. Cited herein: K.S.A. 79-304. JSS

Opinion No. 85-183

Courts—District Courts—Classes of Judges of the District Court. Representative Edwin Bideau III, Fifth District, Chanute, December 30, 1985.

The method of selecting and retaining district magistrate judges does not violate the "one person—one vote" principle. Additionally, the provisions of K.S.A. 20-301a, K.S.A. 20-329, K.S.A. 20-336(d) and K.S.A. 1984 Supp. 20-2908, whereby district magistrate judges are elected or retained in office by county voters while exercising judicial power anywhere within a judicial district, do not violate the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. Cited herein: K.S.A. 20-301a, 20-329, 20-334, 20-336, 20-338, K.S.A. 1984 Supp. 20-2908; U.S. Const., 14th Amend. TRH

Opinion No. 85-184

Grain and Forage—Inspecting, Sampling, Storing, Weighing and Grading Grain; Terminal and Local Warehouses—Lost or Destroyed Receipts; Indemnity Bonds. Marvin R. Webb, Director, Grain Inspection Department, Topeka, December 30, 1985.

K.S.A. 34-257a establishes a procedure by which a lost or destroyed negotiable warehouse receipt may be replaced by a duplicate receipt. One of the requirements which a claimant for a duplicate must meet is the filing of a bond conditioned to indemnify the warehouseman against any loss occasioned by the issuance of such duplicate receipt. The statute does not indicate the length of time for which such bond must remain in effect. In that there is no time limit during which a negotiable warehouse receipt must be negotiated, the bond technically should be maintained as long as the receipt is outstanding. Realisti-

cally, however, storage fees and other expenses incurred by the warehouseman will eventually consume the value of the grain for which the warehouse receipt and its duplicate were issued, so that the bond will no longer be necessary for the warehouseman's protection. Cited herein: K.S.A. 34-244; 34-254; 34-257a; 34-266; 34-276. JLM

ROBERT T. STEPHAN
Attorney General

Doc. No. 003833

State of Kansas

BOARD OF HEALING ARTS

TEMPORARY ADMINISTRATIVE REGULATIONS

(Effective December 11, 1985. Expire May 1, 1986.)

Article 6.—LICENSES

100-6-2. General qualifications. (a) Each applicant for licensure shall be of legal age.

(b) Each applicant shall possess the following minimum educational qualifications:

(1) Each applicant for licensure shall be a graduate of an approved healing arts school or college.

(2) Each applicant for licensure in medicine and surgery and osteopathic medicine and surgery shall have completed postgraduate training approved by the Kansas state board of healing arts.

(A) Each applicant for licensure in medicine and surgery shall present to the board proof of completion of a postgraduate training or residency training program which is at least one year in length. This program shall have been approved by the council of education of the American medical association or its equivalent in the year in which the training took place.

(B) Each applicant for licensure in osteopathic medicine and surgery shall present to the board proof of completion of a postgraduate training program that is at least one year in length. This program shall have been approved by the American osteopathic association or its equivalent in the year in which the training took place.

(3) Each applicant for licensure in chiropractic shall furnish to the board:

(A) Satisfactory evidence of not less than 60 transferable units of study by a college or university accredited by the north central association of colleges and schools, or an accredited agency recognized by the north central association of colleges and schools;

(B) Evidence of passing an examination in the basic science subjects as required by the board; and

(C) A certificate of the applicant's professional character signed by two reputable teachers or practitioners of the healing arts who are licensed in some state of the United States and who are personally acquainted with the applicant. (Authorized by K.S.A. 65-2865; 65-2873; implementing L. 1985, ch. 216; §§ 2, 3, 4; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1979; amended, T-86-44, Dec. 18, 1985.)

100-6-3. Approved school of medicine and surgery. (a) Each school of medicine and surgery seeking approval pursuant to L. 1985, ch. 216, Sec. 3, shall on balance meet the following minimum standards:

(1) The school shall be accredited by the liaison committee on medical education of the association of American medical colleges or the council on medical education of the American medical association, the American osteopathic association bureau of professional education and the committee on postdoctoral training or the committee on accreditation of Canadian medical schools of the association of Canadian medical colleges and the Canadian medical association.

(2) The school shall have been approved for licensure in other states or its students shall have been authorized to perform clerkships or postgraduate training in other states.

(3) The school shall have been in existence for a sufficient number of years to ensure that an adequate program has been developed.

(4) The school shall be located in a college that is legally recognized and authorized by the jurisdiction in which it is located to confer the M.D. or D.O. degree.

(5) The school shall require the applicant, upon graduation, to have completed a total medical instruction of not less than 132 weeks in duration over a time period of not less than 35 months.

(6) The school shall include instruction in at least the following:

- | | |
|--------------------------|---------------------------|
| (A) Basic science | (B) Clinical process |
| (i) Anatomy | (i) Obstetrics/gynecology |
| (ii) Biochemistry | (ii) Medicine |
| (iii) Physiology | (iii) Pediatrics |
| (iv) Microbiology | (iv) Psychiatry |
| (v) Pharmacology | (v) Surgery |
| (vi) Pathology | |
| (vii) Physical diagnosis | |

(7) Clinical clerkships.

(A) The school shall have a clerkship phase which the student performs in a clinical facility or facilities controlled by or affiliated with the medical college and supervised by one or more faculty members.

(B) The clerkship shall consist of a hands-on, supervised exposure to patients which is planned, supervised, and monitored by the medical college in cooperation with the clinical facility.

(C) Each clerkship shall last between four to 12 weeks with the total clerkship phase lasting at least 18 months.

(D) The students shall satisfactorily perform clerkships in at least the following areas: internal medicine, surgery, pediatrics, obstetrics/gynecology and psychiatry.

(E) Any additional electives shall be taken in a clinical facility approved for active postgraduate training in that school.

(8) If the school allows students to take an examination in lieu of attending and completing courses or accepts transfer credit for courses, the applicant shall have taken semester courses at another institution of a similar quality.

(9) The school shall have articles of affiliation be-

tween the medical college and each clinical facility which clearly defines the rights and responsibilities of each party, including agreements regarding the role and authority of the governing bodies of both the hospital and the medical college, and if portions of the required clinical or basic science curriculum are offered at different geographical sites, the curriculum shall be planned, supervised, administered, and evaluated in concert with appropriate faculty committees, department chairpersons and administrative officers of the parent school.

(10) The school shall have a balanced faculty comprised of a sufficient number of full-time biomedical and clinical instructors to ensure that the educational obligations to the student are fulfilled and the ratio between full-time faculty and students shall be substantially equivalent to the ratio at the University of Kansas School of Medicine. The faculty shall have an M.D. degree or an equivalent degree in the area in which they teach and shall demonstrate competence in the biological, behavioral, and clinical sciences, as evidenced by membership in appropriate specialty boards, publications or similar accomplishments.

(11) Library facilities.

(A) The school shall have a well-maintained catalogue library, sufficient in size and breadth to support the educational programs offered by the institution.

(B) The library shall receive the leading biomedical and clinical periodicals and the current volumes of those periodicals shall be readily accessible.

(C) The library and other learning resource centers shall be adequately equipped to allow students to learn new methods of retrieving information, and to use self-instructional material.

(D) The library shall have a professional library staff to supervise the library, provide instruction in its use, and respond to the needs of the medical school.

(12) The substantial cost of conducting the school shall be derived from diverse sources, such as tuition, endowments, earnings by the faculty, parent university, annual gifts, grants from organizations and individuals, and government appropriations. Tuition shall not be the predominant source of income.

(13) The school's admission requirements shall require an undergraduate degree or equivalent educational experience, and shall have instituted criteria by which applicants are evaluated and accepted for admission which shall include a balance of educational experience, pre-medical examination scores, and other relevant experience.

(14) The school shall maintain permanent student records that summarize admissions, credentials, grades, and other records of performance.

(15) The school shall have laboratory facilities with a sufficient number of modern equipment and specimens to ensure that each student obtains adequate clinical and basic science training.

(b) Effect of disapproval on pending application. When the board disapproves a school of medicine and surgery, the disapproval notice shall set forth:

(1) The period of time covered by the evaluation

(continued)

and which of the minimum requirements in subsection (a) the program failed to satisfy; or

(2) A statement that disapproval was based on the receipt of insufficient information concerning the program. If the board determines that a school, previously approved pursuant to subsection (a), must be disapproved, the board shall set a date after which a person graduating shall be considered not to have graduated from an approved school. Any school which has been disapproved may request a hearing or other appropriate action pursuant to the Kansas administrative procedures act.

(c) Annual publication. A list of all approved schools shall be published after July 1 of each year and provided to all of the approved schools of graduate medical education within the State of Kansas, the Kansas state medical society, the Kansas hospital association, Kansas osteopathic association, and to any person or organization making written request. The list shall also contain any schools disapproved in the preceding year.

(d) Reevaluation of an approved school.

(1) Any approved school of medicine and surgery may be reevaluated whenever the board has reason to believe that the school has failed to satisfy the minimum requirements of subsection (a).

(2) If any school is disapproved after the reevaluation, written notice shall be sent to the subject medical school, advising the administration that they may either submit written comments or request a hearing before the board within 15 days. The provisions of the Kansas administrative procedures act shall apply to any hearing under this subsection.

(3) If any school previously approved is subsequently disapproved by the board, the disapproval shall not disqualify any physician temporarily or permanently licensed in Kansas with respect to the license then held. For purposes of this regulation, any person holding a current and valid temporary permit issued by the board without disclaimer, conditions, or restriction on it, and who applies for and satisfies all requirements for full licensure shall not be disqualified if the program that served as the basis for that person's licensure is subsequently disapproved. (Authorized by K.S.A. 65-2865; implementing L. 1985, ch. 216, sec. 3; effective Jan. 1, 1966; amended Feb. 15, 1977; amended, T-86-44, Dec. 18, 1985.)

Article 16.—REVOCATION

100-16-1. (Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2838, 65-2839, 65-2840; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985.)

100-16-2. (Authorized by K.S.A. 65-2865; effective Jan. 1, 1966; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985.)

100-16-3. (Authorized by K.S.A. 65-2865, K.S.A. 1976 Supp. 65-2836; effective Jan. 1, 1966; amended Jan. 1, 1970; amended Feb. 15, 1977; revoked, T-86-40, Dec. 11, 1985.)

Article 19.—ADMINISTRATIVE PROCEDURES

100-19-1. Types of hearings. (a) Hearings and procedures of the state board of healing arts shall be in accordance with the hearings and procedures established by the Kansas administrative procedures act.

(b) Summary adjudicative proceedings pursuant to L. 1984, ch. 313, sections 37-41 of Kansas administrative procedures act may be used for the following types of action:

(1) denials of initial licensure;

(2) cancellation for failure to renew a license;

(3) cease and desist orders, informal admonishments, warnings, reprimands, restrictions, limitations or suspensions for violations of the Kansas healing arts act or rules and regulations promulgated thereunder.

(c) Any party who disagrees with and is subject to a summary adjudicative action may request that the proceedings be converted to a conference adjudicative proceeding or a formal adjudicative proceeding. Upon the request the summary proceeding shall be converted to the appropriate proceeding available under the Kansas administrative procedures act or rules and regulations promulgated thereunder.

(d) The order issued pursuant to subsection (b) of this regulation shall contain a notice informing the persons who are subject to the order that a request for review or conversion must be made within 15 days.

(e) The presiding officer for summary adjudicative proceedings may be the secretary or the secretary's designee.

(f) Conference adjudicative proceedings pursuant to L. 1984, ch. 313, sections 33-35 of the Kansas administrative procedures act may be used for actions in which:

(1) there is no disputed issue of material fact or;

(2) the parties agree to a conference adjudicative proceeding.

(g) All other proceedings, except those which are emergency adjudicative proceedings, or which have been initiated as or converted to conference or summary adjudicative proceedings, shall be formal adjudicative proceedings. (Authorized by K.S.A. 65-2865; implementing L. 1984, ch. 313, sec. 13, 33-41; effective January 1, 1966; amended February 15, 1977; amended T-86-44, Dec. 18, 1985.)

ELIZABETH W. CARLSON
Executive Secretary

Doc. No. 003811

State of Kansas

CRIME VICTIMS REPARATIONS BOARD**TEMPORARY ADMINISTRATIVE
REGULATIONS**

(Effective December 18, 1985. Expire May 1, 1986.)

Article 6.—DEFINITIONS

20-6-1. Definitions. (a) "Assistance" means acting, speaking, or writing on behalf of a victim or victims of domestic abuse.

(b) "Crisis intervention" means to provide assistance to a person who is in danger of or who has experienced domestic abuse.

(c) "The board" means the crime victims reparations board.

(d) "Domestic abuse" means all acts of emotional, physical, and sexual abuse between spouses, parents, children, siblings, and other related persons, present and former cohabitants, ex-spouses, other members of the same household, including elderly and physically handicapped persons.

(e) "Education" means to provide information about domestic abuse programs, services, or issues to specific groups or the public at large.

(f) "Emergency shelter" means residential care and protection for persons 18 years or older, children under 18 who are in the care or custody of adult victims, and emancipated minors.

(g) "Domestic abuse program" means an agency, board or other administrative entity that provides or proposes to provide 24-hour crisis intervention services, shelter or safe house facilities, advocacy and referral services, and emergency transportation.

(h) "Fiscal year (FY)" means a 12-month period that begins on July 1, and ends on June 30.

(i) "Grantee agency" means a program or service that is available to victims of domestic abuse and that is receiving funds from the board under K.S.A. 1984 Supp. 74-7325; and any amendments thereto.

(j) "Grantor" means the board.

(k) "Referral" means directing a victim or victims of domestic abuse to available resources for aid or information.

(l) "Safehouse" means a private residence, motel, or hotel used to provide 24-hour care to victims of domestic abuse.

(m) "Service" means a specific activity providing assistance to victims of domestic abuse.

(n) "Shelter" means a facility which provides 24-hour care for more than seven victims of domestic abuse, including dependent children.

(o) "Therapeutic counseling" means professional guidance provided towards the goal of reducing the incidence of domestic abuse and diminishing its impact on victims.

(p) "Victim" means a person who is in danger of or who has experienced domestic abuse. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-14, June 17, 1985; amended, T-86-45, Dec. 18, 1985.)

Article 7.—FUNDING PRIORITIES

20-7-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-14, June 17, 1985; revoked T-86-45, Dec. 18, 1985.)

20-7-2 through 20-7-4. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

Article 8.—ELIGIBILITY REQUIREMENTS

20-8-1. General requirements. Each applicant agency shall:

(a) either provide documentation of classification as a non-profit organization by the United States internal revenue service or provide documentation of registration in Kansas as a not-for-profit corporation; or

(b) be a local unit of government. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

20-8-2. Minimum staff qualifications. Therapeutic counseling services offered by an applicant agency shall be provided or supervised by:

(a) A medical doctor licensed by the state board of healing arts pursuant to K.S.A. 65-2801, *et seq.*, and any amendments thereto; or

(b) A certified clinical psychologist licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301, *et seq.*, and any amendments thereto; or

(c) A master social worker licensed by the behavioral sciences regulatory board pursuant to K.S.A. 75-5346, *et seq.*, and any amendments thereto. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

20-8-3. Requirements for domestic abuse programs. Each applicant agency that is a domestic abuse program as defined by K.A.R. 20-6-1 shall have and make available to the board:

(a) A document which defines organizational structure;

(b) A statement of purpose;

(c) A statement of client rights;

(d) An affirmative action policy;

(e) A governing authority that is representative of the community served and that oversees policy, finance, and general management decisions;

(f) A policy and procedures manual; and

(g) Liability insurance. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-14, June 17, 1985; amended, T-86-45, Dec. 18, 1985.)

20-8-4. Local units of government. Each applicant agency that is a local unit of government proposing to offer domestic abuse services shall have an advisory board to oversee those services. The advisory board

(continued)

shall be composed of community representatives and professionals who have knowledge of domestic abuse programs, services, or issues. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

Article 9.—ALLOCATION OF FUNDING

20-9-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-14, June 17, 1985; revoked T-86-45, Dec. 18, 1985.)

20-9-2. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

20-9-3. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1985; effective May 1, 1985; amended, T-86-14, June 17, 1985; revoked T-86-45, Dec. 18, 1985.)

20-9-4 through 20-9-6. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

Article 10.—GRANT APPLICATION REQUIREMENTS

20-10-1. Application deadlines. Each grant proposal shall be submitted to the board no later than 60 days prior to the beginning of each grant year. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

20-10-2. Grant proposal information requirements. Each grant proposal shall include:

- (a) Information about the applicant agency and staff;
- (b) A needs documentation;
- (c) A description of the project;
- (d) A goals and objectives statement;
- (e) Staffing pattern information;
- (f) A budget narrative;
- (g) Detailed budget information;
- (h) Documentation of other funding sources;
- (i) A monitoring and evaluation component; and
- (j) Documentation of community support.

No application shall be deemed complete until all of the above information has been forwarded to the board. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

Article 11.—GRANT REVIEW AND APPEALS

20-11-1. Proposal review. Each grant proposal shall be evaluated using the following criteria:

- (a) The degree to which the proposal focuses on the problems of victims of domestic abuse;
- (b) The adequacy of the needs documentation;

(c) Past performance record, if applicable relative to stated goals and objectives;

(d) Adequacy of documentation of community support;

(e) Adequacy of budget information;

(f) Adequacy of the monitoring and evaluation component; and

(g) Ability to utilize community resources. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-14, June 17, 1985; amended, T-86-45, Dec. 18, 1985.)

20-11-2. Notification of decision. Each applicant shall be notified of the grant decision no later than 30 days prior to the beginning of each grant year. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

20-11-3, 20-11-4. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

Article 12.—FUNDING DISBURSEMENT

20-12-1, 20-12-2. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

Article 13.—GRANTEE ACCOUNTABILITY

20-13-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

20-13-2. Annual report. Each grantee agency shall submit an annual report on a form provided by the board. The annual report shall include:

- (a) A year-end financial report;
- (b) Comprehensive program data; and
- (c) Measurement of outcomes relative to stated goals and objectives.

(Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; amended, T-86-45, Dec. 18, 1985.)

20-13-3. Funding limits. The amount of grant funds requested or expanded by each grantee agency shall not exceed 50% of that agency's total annual budget. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-86-45, Dec. 18, 1985.)

Article 14.—GRANTOR MONITORING RESPONSIBILITIES

20-14-1. (Authorized by and implementing K.S.A. 1984 Supp. 74-7325; effective, T-85-27, Nov. 14, 1984; effective May 1, 1985; revoked T-86-45, Dec. 18, 1985.)

DON STUMBAUGH
Director

Doc. No. 003817

**State of Kansas
SOCIAL AND REHABILITATION SERVICES**

**TEMPORARY ADMINISTRATIVE
REGULATIONS**

(Effective January 1, 1986. Expire May 1, 1986.)

Article 4.—PUBLIC ASSISTANCE PROGRAM

30-4-101. Standards for persons in own or other family home. A monetary standard addresses the costs of day to day expenses and certain special expenditures. (a) Basic standard. The basic standards are set forth below. The basic standards include \$7.00 per person as an energy supplement.

PERSONS IN PLAN

1	2	3	4
\$120.00	\$193.00	\$259.00	\$315.00

For each additional person, add \$50.00.

(b) Shelter standard. A standard has been established for shelter based on location in the state. The county shelter standards are set forth below.

Standard.	Group I		Group II	
	\$76.00		\$86.00	
	Allen	Anderson	Logan	
	Barber	Atchison	Lyon	
	Bourbon	Barton	Marshall	
	Chase	Brown	McPherson	
	Chautauqua	Cheyenne	Miami	
	Cherokee	Clark	Mitchell	
	Comanche	Clay	Morris	
	Cowley	Cloud	Nemaha	
	Crawford	Coffey	Ness	
	Edwards	Decatur	Norton	
	Elk	Dickinson	Osborne	
	Finney	Doniphan	Ottawa	
	Greenwood	Ellis	Phillips	
	Harper	Ellsworth	Pottawatomie	
	Labette	Ford	Rawlins	
	Marion	Geary	Republic	
	Meade	Gove	Rice	
	Montgomery	Graham	Rooks	
	Neosho	Grant	Rush	
	Pratt	Greeley	Russell	
	Reno	Hamilton	Saline	
	Stafford	Haskell	Scott	
	Stanton	Hodgeman	Sheridan	
	Sumner	Jackson	Smith	
	Wilson	Jewell	Stevens	
	Woodson	Kearny	Thomas	
		Kingman	Trego	
		Lane	Wabaunsee	
		Lincoln	Wallace	
		Linn	Washington	
			Wichita	
Standard.	Group III		Group IV	
	\$97.00		\$109.00	
	Franklin	Butler	Harvey	
	Gray	Douglas	Johnson	
	Kiowa	Jefferson		
	Morton	Leavenworth		
	Pawnee	Osage		
	Seward	Riley		
	Sherman	Sedgwick		
		Shawnee		
		Wyandotte		

The effective date of this regulation shall be January 1, 1986. (Authorized by K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24; implementing K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24, 39-709, as amended by L. 1985, ch. 115, sec. 43; effective May 1, 1981; amended, E-82-11,

June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-85-19, July 1, 1984; amended May 1, 1985; amended, T-86-19, July 1, 1985; amended, T-86-42, Jan. 1, 1986.)

30-4-102. Standards for persons in room, board, specialized living or care. The standards below shall be used for all persons in the assistance plan who are living in board and room situations, renting a room and eating out, or residing in a specialized living arrangement or in a foster family home. (a) The cost of care for any child placed in a care facility other than a foster family home shall be as established by the secretary.

(b) The board and room standard shall be used only if the applicant or recipient is living in a commercial facility.

(c) The room only standard shall be used only if the applicant or recipient is living in a facility offering rooms to the public.

(d) The specialized living standard shall be used only if the applicant or recipient is eligible for GAU and residing in a living arrangement in which there is an element of care or supervision and a current, approved provider agreement with the secretary.

(e) The foster care standard shall be used in ADC and GAU only if an approved service plan is on file which documents that the child is temporarily absent from the home because of illness of another member of the household or incarceration of the caretaker.

(f) The residential standard shall be used only if an approved service plan is on file which documents that the child is temporarily absent from the home because of basic education or training, if the training results in gainful employment.

	Standards		
	1 Child(ren) Foster Care	2 Board and Room or Specialized Living	3 Room Only
Care or Rent	\$ *	**	***
Meals	XXXXXX	XXXXXX)
Clothing	XXXXXX))
Personal Needs	XXXXXX)\$26.00)\$128.00
Miscellaneous	XXXXXX))
Energy Supplement	XXXXXX)\$ 7.00)\$ 7.00
		Monthly Rate	Daily Rate
* Infant through 4 years		\$184.00	\$6.04
5 through 11 years		\$249.00	\$8.17
12 years and older		\$315.00	\$10.35
** As incurred, not to exceed \$180.00.			
*** As incurred, not to exceed the maximum shelter standard for county of residence.			

The effective date of this regulation shall be January 1, 1986. (Authorized by K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24; implementing K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24, 39-709, as amended by L. 1985, ch. 115,

(continued)

sec. 43; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended, T-84-8, April 1, 1983; amended, T-84-9, May 1, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-19, July 1, 1984; amended May 1, 1985; amended, T-86-19, July 1, 1985; amended, T-86-42, Jan. 1, 1986.)

Article 6.—MEDICAL ASSISTANCE PROGRAM—CLIENTS' ELIGIBILITY FOR PARTICIPATION

30-6-103. Determined eligibles; protected income levels. (a) Independent living.

(1) The protected income level for persons in independent living arrangements shall be based on the total number of persons in the assistance plan and the legally responsible persons in the family group who are not included in the plan.

(2) The protected income levels for independent living shall also be used when an applicant or recipient:

(A) Enters a medicaid-approved facility;

(B) is absent from the home for medical care for a period not to exceed three months to allow for maintaining their independent living arrangements; or

(C) is in the home- and community- based services program.

(3) The following table shall be used to determine the protected income level for persons in independent living.

PERSONS IN INDEPENDENT LIVING
(Per Month)

1	2	3	4
\$341.00	\$442.00	\$450.00	\$460.00

The protected income level for additional persons shall be the sum of the basic standard for a like public assistance family plus the maximum state shelter standard.

(4) For any child in foster family care, the protected income level shall equal the foster family care rate pursuant to K.A.R. 30-4-102.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be \$25.00 except as noted in paragraph (2) of subsection (a).

(c) Specialized living arrangements. The protected income level for persons residing in approved, specialized living arrangements, including adult family homes, home- and community- based congregate care facilities, and child care facilities, shall be as established by the secretary. The effective date of this regulation shall be January 1, 1986. (Authorized by and implementing K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24, 39-709, as amended by L. 1985, ch. 115, sec. 43; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-36, Dec. 21, 1983; amended May 1, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985;

amended, T-86-19, July 1, 1985; amended, T-86-42, Jan. 1, 1986.)

30-6-107. Property exemption. Each assistance family group may own otherwise nonexempt real or personal property with an aggregate resource value not in excess of \$1,700.00 for one person and \$2,550.00 for two or more persons. (a) For non-SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance. However, if there is ineligibility due to excess real property, assistance shall be provided for a period of up to nine months if the applicant or recipient is making a bona fide and documented effort to dispose of the property.

(b) For SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance unless the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value. Assistance under this provision shall not exceed nine months. The effective date of this regulation shall be January 1, 1986. (Authorized by and implementing K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24, 39-709, as amended by L. 1985, ch. 115, sec. 43; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-33, Dec. 19, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985; amended, T-86-42, Jan. 1, 1986.)

Article 10.—ADULT CARE HOME PROGRAM OF THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

30-10-29. Reimbursement for 24-hour nursing care. Adult care homes participating in the medicaid/medikan program shall be reimbursed for providing 24-hour nursing care subject to the following limitations: (a) Adult care homes which are currently providing 24-hour nursing care, whose costs are included in such home's rate but whose costs exceed the health care cost center limitation or the total cost center limitation shall be entitled to the difference in cost between a licensed nurse and a medication aide.

(b) Adult care homes which are currently providing 24-hour nursing care, whose costs are included in such home's rate and which do not exceed the health care cost center limitations or the total cost center limitation shall not be entitled to any further reimbursement under this regulation.

(c) Adult care homes which are providing 24-hour nursing care but who do not have these costs included in the home's rate shall be reimbursed the difference in cost between a licensed nurse and a medication aide.

(d) Adult care homes shall be limited to an additional 16 hours of reimbursement per facility per day for the difference in cost between a licensed nurse and a medication aide.

(e) Twenty-four hour nursing care reimbursement

shall be provided in addition to an adult care home's current medicaid/medikan rate. (Authorized by and implementing K.S.A. 1984 Supp. 39-708c, as amended by L. 1985, ch. 114, sec. 24; effective, T-86-42, Dec. 18, 1985.)

ROBERT C. HARDER
Secretary of Social
and Rehabilitation Services

Doc. No. 003815

State of Kansas

STATE CONSERVATION COMMISSION

TEMPORARY ADMINISTRATIVE REGULATIONS

(Effective December 18, 1985. Expire May 1, 1986.)

Article 1.—WATER RESOURCES COST-SHARE PROGRAM

11-1-2. Definitions. (a) "Actual cost" means charges to the landowner by the contractor for conservation practices and their components.

(b) "Computed cost" means the total number of units multiplied by the county average cost for conservation practices and their components.

(c) "Conservation" means the development, use, and management of soil, water, and related resources in a way that will restore, enhance, protect, and maintain the quality and quantity of the natural resources.

(d) "Conservation district" means a subdivision of state government with its own governing body created under K.S.A. 2-1901 *et seq.* as a special purpose district to develop and carry out a conservation program within its boundaries. The boundaries of each Kansas district are coterminous with the respective boundaries of the state's 105 counties.

(e) "Conservation standards" means standards for various types of soils and land uses, including criteria, techniques, and methods for control of erosion and sediment, the control of critical areas, and the control and management of water, all as prescribed by section IV, "USDA Soil Conservation Service (SCS) Technical Guide" indexed by TG Notice KS-129, August 1985.

(f) "Cost-share" means assumption by the state of a proportional share of the actual cost or computed cost, whichever is less, of installing conservation structures.

(g) "Cost-share level" means that percentage of the total cost of installing a structure that is to be paid by the state under the program.

(h) "County average cost" means the county-wide average cost per unit for installing a structure.

(i) "Critical area" means a severely eroded sediment-producing area that requires special treatment to establish and maintain vegetation in order to stabilize soil conditions.

(j) "Enduring water conservation structure" means a practical and effective device or measure or combination of the two which, when applied to land will reduce the loss of soil, water, or nutrients to other

land, streams, or lakes and can be expected to function usefully for an extended period of years.

(k) "Erosion" means the wearing away of the land surface by running water, wind, ice and other geological agents.

(l) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and that has come to rest on the earth's surface.

(m) "Units" means cubic yards, acres, linear feet and other measurements used in determining costs of structures. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; effective, E-81-26, Sep. 10, 1980; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended T-86-43, Dec. 18, 1985.)

11-1-3. Availability. (a) Each Kansas conservation district shall be notified of the amount of money allocated by the state conservation commission and credited to that district for cost-sharing with the owners of private and public land for the installation of enduring water conservation structures. The initial allocation will be based upon the number of rural acres within the district, water quality needs, and the water quantity needs. The commission shall establish a time period for the conservation district to recommend commitment of the cost-sharing grants to owners of land.

(b) With the allocation of credit to each district, the state conservation commission shall furnish a list of enduring water conservation structures which may be offered, subject to the judgment of the district's board of supervisors, to the owners of land in each district for installation with state cost-sharing. This list shall also prescribe a maximum cost-share level. Each district may set priorities for the use of or may offer fewer than the full list of structures for cost-sharing eligibility in that district and may prescribe less than the commission's maximum cost-share level. The district may also prescribe a maximum payment to an individual landowner. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; effective, E-81-26, Sep. 10, 1980; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended T-86-43, Dec. 18, 1985.)

Article 2.—HIGH PRIORITY COST-SHARE PROGRAM

11-2-1. Availability. (a) The high priority cost-share program shall address priority water quantity and water quality problems identified in each of the 12 major river basins in Kansas.

(b) The definition of terms contained in K.A.R. 11-1-2 shall apply to the regulations in article 2. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

(continued)

11-2-2. Criteria. The criteria to determine the relative priority of water quality and quantity problems in each river basin shall be determined by the commission with recommendations from basin advisory committees, conservation districts, watershed districts, and other entities involved in water quantity and water quality. The criteria shall address high priority problems in rural flood management, agriculture water conservation and agricultural runoff. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-2-3. Procedures. (a) The appropriated funds shall be allocated by basin, with financial accounting performed by the commission.

(b) A basin high priority program shall be established and each conservation district that has land in the priority area shall be notified of the amount of funds allocated to each basin, the priority areas involved, and land treatment practices that are designated for each priority.

(c) Based on the commission's high priority program, each conservation district shall establish and implement a high priority program for the basin or portion of the basin in the district. The program shall identify enduring water conservation structures eligible for cost-sharing, county-average costs of the structure, district maximum cost-share level, and the district officials authorized to certify cost-share forms.

(d) Each district shall publicize information about the program, shall accept applications from landowners and shall, if approval is recommended, forward each application to the commission.

(e) Each application shall be approved or disapproved by the commission and the landowner shall be notified of the commission action through the district office.

(f) When the approved structure is completely installed, the district shall certify to the commission the total cost of the structure and that the structure was installed in accordance with applicable conservation standards.

(g) The appropriate cost-share amount shall be paid to the landowner by the commission. The warrant for payment shall be transmitted to the landowner through the district office. Total payments to the landowners shall not exceed the amount of money allocated to the basin by the commission.

(h) Each conservation district shall provide all information required and shall report all actions pertaining to the high priority cost-share program on forms supplied by the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

Article 3.—WATERSHED DAM CONSTRUCTION PROGRAM

11-3-1. Definitions. (a) "Chief engineer" means the chief engineer, division of water resources, state board of agriculture.

(b) "Commission" means the state conservation commission.

(c) "Detention dam" means a single purpose dam designed for temporary storage of floodwaters and for its controlled release.

(d) "District" means a watershed district, drainage district or any other special purpose district that has been organized and incorporated according to appropriate statutes and has power to levy taxes and power of eminent domain.

(e) "General plan" means a preliminary engineering report describing the characteristics of the project area, and the nature and methods of dealing with the soil and water problems within the project area. The plan shall include maps, descriptions and other data as necessary for the location, identification and establishment of the character of the work to be undertaken and any other data and information the chief engineer may require.

(f) "Grade stabilization dam" means a structure designed to control the erosion of a watercourse.

(g) "Permit" means the formal document issued by the chief engineer or other issuing agency to the district authorizing the construction of the project.

(h) "Project" means the construction of a new detention or grade stabilization dam. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-2. Application. Any organized watershed district, with a general plan approved by the chief engineer, or a drainage district or other special purpose district with a general plan reviewed by the chief engineer, shall apply on forms supplied by the commission for state cost-share assistance funds appropriated for construction of detention and grade stabilizations dams. Applications shall be due at the commission office by April first to be included in the evaluation process for possible funding during the next fiscal year. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-3. Permit to construct. A copy of the permit to construct, issued by the chief engineer, shall be submitted to the commission before the allocation of funds to the project and before the district advertises for bids. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-4. Allocation of funds. (a) An evaluation team consisting of designees from state and federal water related agencies shall be appointed by the commission.

(b) The team shall evaluate each application according to criteria established by the commission and shall recommend to the commission a rank ordering of applications. Funding allocations shall be made by the commission.

(c) The commission shall establish the cost-share

assistance level and may establish a maximum assistance per structure or district. An amount shall be designated for construction of detention dams in drainage or other special purpose districts.

(d) The district shall be notified by the commission when the application is approved for funding and the amount approved. The district may then initiate procedures to contract for construction of the project. The district shall be notified of applications not approved and may request the commission to hold the application on file or to return the application to the district.

(e) The project shall be advertised for bidding after the notification of approved funding and after the required permits have been issued.

(f) Competitive bidding shall be employed prior to contract awards.

(g) The construction of the project shall conform to applicable requirements of federal, state and local laws, ordinances, and regulations.

(h) Adequate and separate accounting and fiscal records shall be maintained to reflect the receipts and expenditures of all funds of the project.

(i) The district shall submit project documents and information as required by the commission.

(j) The district shall construct or cause the project to be constructed to final completion in accordance with the plans and specifications or modifications approved by the chief engineer and the application approved by the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-5. Contract. (a) The commission and the district shall enter into a contract for state assistance of approved structures. The contract shall become a fund-obligating document and shall include contractual provisions required by the commission and the state.

(b) Each contract shall terminate at the end of the fiscal year in which appropriation was made, unless extended by written notice from the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-6. Partial payments. Partial payments of appropriated funds shall be made to the district no more often than once each month. The partial payment shall be requested on forms furnished by the commission. All partial payments shall be documented by the district as directed by the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-7. Notification of completion. (a) The district shall notify the commission and chief engineer when the project is complete and ready for final inspection.

(b) The notification to the commission shall include:

- (1) The date of completion of the project;
- (2) An itemized list of all costs of construction, en-

gineering, geological investigations and inspections; and

(3) A request for final payment of state funds for the project on forms provided by the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-8. Modifications to construction plan. Modification of or change orders regarding the original construction plans shall require the prior approval of the chief engineer and notification to the commission. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-9. Supplemental application procedures. (a) The district shall promptly report, in writing to the commission, all increases in cost, and all proposed additions, deletions and modifications of the project.

(b) A supplemental application may be submitted on forms supplied by the commission for costs of construction and engineering exceeding the approved funding. (Authorized by K.S.A. 2-1904, 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915, as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

11-3-10. Annual inspection. An annual inspection of the completed structure shall be made and an inspection report shall be filed on forms provided by the commission. A copy of the inspection report shall be distributed to the commission and chief engineer. Corrective maintenance or repair shall be implemented by the district when needed. (Authorized by K.S.A. 2-1904, 2-1915; as amended by L. 1985, Ch. 342, Sec. 9; implementing K.S.A. 2-1915; as amended by L. 1985, Ch. 342, Sec. 9; T-86-43, Dec. 18, 1985.)

Article 4.—STATE GRANTS FOR CONSTRUCTION OR RENOVATION OF MULTIPURPOSE SMALL LAKES

11-4-1. Definitions. (a) "Authorized representative" means the individual designated by the sponsor to be responsible for all correspondence. The authorized representative shall be the point of contact for the proposed project.

(b) "Commission" means the state conservation commission.

(c) "Cost-share limit" means the limitation of state funds as established by statute for class I, class II, and class III projects.

(d) "Land treatment" means a combination of conservation practices identified by the primary use of land or water that protect the resource base. For purposes of this program, the definition is expanded to include enduring measures, installed or rebuilt in accordance with conservation district standards, that are effective in reducing transportation of sediment and pollutants to the structure to be constructed or renovated.

(continued)

(e) "Phase I letter of interest" means an initial written request from a sponsor for a determination as to whether a proposed project is eligible for the multipurpose small lakes program.

(f) "Phase II letter of intent" means a letter providing the necessary information for establishing the funds required for the proposed project. Project plans, budgets and schedules shall be developed in sufficient detail to support funding required and perform benefit cost analyses. An approved general plan, submitted with the letter of intent, shall supply detailed information to allow comparison with other projects. The signed letter of intent and supporting documentation shall be reviewed by the state water related agencies. A rank ordering of the proposed projects shall be established by the commission from the information provided in the letter of intent and recommendations from the reviewing agencies.

(g) "Phase III application" means the application for the appropriated funds for the project. This development phase shall result in preparation of construction documents including technical specifications, contract documents, bidding plans and procedures, and documentation showing that required permits, titles or options on the necessary lands and easements have been obtained.

(h) "Program" means the multipurpose small lakes program.

(i) "Project" means proposed construction or renovation of a multipurpose small lake by the sponsor including acquisition of land rights, installation of land treatment structures, dams and recreation facilities.

(j) "Renovation" means the act of restoring an existing structure to safe and efficient functioning for the original purpose or new purpose or purposes. (Authorized by and implementing L. 1985, Ch. 342, Sec. 2; T-86-43, Dec. 18, 1985.)

11-4-2. Letter of interest. (a) Each prospective sponsor shall submit a phase I letter of interest to the commission to determine if the proposed project will qualify for the program. The letter of interest shall be submitted on a form furnished by the commission.

(b) The letter of interest shall be reviewed by the commission and the sponsor shall be notified in writing of the status of the proposed project. A copy of the letter of interest shall be furnished by the commission to the reviewing agencies. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-3. Letter of intent. (a) The phase II letter of intent may be submitted by the sponsor following receipt of a letter from the commission that the proposed project is eligible for possible funding. The letter of intent, submitted on forms furnished by the commission, shall include an approved general plan. Proposed projects involving community development block grant funds shall include an application for these funds. The sponsor shall include an agricultural impact statement and resources inventory when five acres or more of agricultural land is taken under the power of eminent domain.

(b) The original letter of intent, plus one copy for each reviewing agency, shall be submitted to the commission no later than the first Monday in June to be considered in the next fiscal year budget request. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-4. Review process. (a) Each state water related agency shall review the letter of intent. Agencies in the review process shall include, but not be limited to:

- (1) Department of health and environment;
- (2) Department of economic development;
- (3) Division of water resources, state board of agriculture;
- (4) Fish and game commission;
- (5) Historical society;
- (6) Park and resource authority;
- (7) State conservation commission;
- (8) Water office;
- (9) Any other agency designated by the commission.

(b) The review comments shall be summarized by the commission in the rank ordering process. The project shall be recommended for funding by the commission or shall be returned to the sponsor with reasons for rejection. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-5. Funding. Each project recommended for funding through the review process and approved by the commission shall be included as a line item in the commission's budget request. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-6. Application. (a) After funds have been appropriated by the legislature for the project, the sponsor shall submit to the commission the phase III application for funds to construct the project. The application shall be on forms furnished by the commission.

(b) The sponsor shall be responsible for securing all required permits before a state contract can be authorized. A copy of each permit shall be furnished to the commission. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-7. State contract. (a) The Commission and sponsor shall enter into a state contract for cost-share assistance in construction of funded projects. The state contract shall become a fund-obligating document for the state and shall include contractual provisions required by the commission and the state.

(b) Each state contract shall terminate at the end of the fiscal year in which appropriation was made. Any state contract may be extended by written notice from the commission. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-8. Procedures. (a) Each engineering plan submitted to the chief engineer shall reflect profes-

sional responsibility with regard to economical design and construction and shall conform to or exceed the construction requirements of the chief engineer.

(b) Each sponsor shall have acquired fee simple title or such other estate or interest in the site of the project, including necessary easements and right-of-ways, to assure undisturbed use and possession for the purpose of construction, operation and maintenance for the life of the project.

(c) The sponsor shall advertise the project for bidding after required permits have been issued and the state contract signed.

(d) The sponsor shall use competitive bidding procedures prior to contract awards.

(e) The construction of the project shall conform to applicable requirements of federal, state and local laws, ordinances, and regulations.

(f) The sponsor shall maintain adequate and separate accounting and fiscal records to reflect the receipt and expenditure of all funds on the project.

(g) The sponsor shall submit documents and information as required by the commission.

(h) The sponsor shall construct the project or cause it to be constructed to final completion in accordance with the application and the plans and specifications or modifications approved by the chief engineer. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-9. Partial payments. Partial payments of appropriated state funds shall be made by the commission to the sponsor no more often than once each month. The partial payment shall be requested by the sponsor on forms furnished by the commission. All claims shall be documented by the sponsor as directed by the commission. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-10. Notification of completion. (a) The sponsor shall notify the commission and the chief engineer when the project is complete and ready for final certification by the chief engineer. The notification of completion shall be on forms supplied by the commission and shall include:

- (1) The date of completion of the project;
- (2) An itemized list of construction, engineering, geological investigations, inspections and other eligible costs of the project; and
- (3) A request for final payment of funds for the project.

(b) Final disbursement of the funds due from appropriated state funds shall be made after receipt of certification of approval of the work from the chief engineer. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-11. Modifications to construction plan. Modification of or change orders regarding the original construction plan shall require the prior approval of the chief engineer and notification to the commission. When the sponsor is being assisted in contract administration by an agency other than the commission, the

procedures established by the agency shall be used. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-12. Amendment to costs of project. (a) The sponsor shall notify the commission of all increases in costs, and of all proposed additions, deletions and modifications of the project.

(b) An amendment to the application for state funds may be submitted to the commission for costs of construction, engineering and landrights above the approved application funding. The amendment shall be submitted on forms furnished by the commission and shall be fully documented. The amendment to the application shall be submitted as authorized by the commission.

(c) After review by the commission, an approved amendment for increased funding shall be either:

- (1) Funded from appropriations made available for necessary amendments; or
- (2) Included as a line item request in the commission budget.

(d) Amendments to project costs not approved shall be returned to the sponsor with reasons for rejection. The sponsor may appeal the non-approved amendment in writing and by requesting a hearing with the commission. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 7; T-86-43, Dec. 18, 1985.)

11-4-13. Maintenance. The sponsor shall provide maintenance of the completed structure throughout its designed life. (Authorized by and implementing L. 1985, Ch. 342, Sec. 2; T-86-43, Dec. 18, 1985.)

11-4-14. Annual inspection. An annual inspection of the completed structure shall be made and an inspection report shall be filed on forms provided by the commission. The inspection shall be made by a person experienced in dam design and construction. A copy of the inspection report shall be distributed to the commission and chief engineer. Corrective maintenance or repair shall be implemented by the sponsor when needed. (Authorized by and implementing L. 1985, Ch. 342, Sec. 2; T-86-43, Dec. 18, 1985.)

Article 5.—COST-SHARING FOR LAND TREATMENT ABOVE MULTIPURPOSE SMALL LAKE PROJECTS

11-5-1. Availability. (a) A land treatment program shall be established by the commission for accelerated installation or rebuilding of enduring land treatment in the drainage area for each multipurpose small lakes project to adequately protect the project from siltation and pollution.

(b) The conservation district or districts in which the drainage area is located shall develop a land treatment plan and implementation schedule.

(c) The accelerated land treatment shall be completed within the time period established by the commission.

(d) Land treatment funds appropriated for the project shall be used only in the project drainage area.

(continued)

(e) The definitions of terms contained in K.A.R. 11-1-2 shall apply to the regulations in article 5. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 8; T-86-43, Dec. 18, 1985.)

11-5-2. Standards. Cost-share assistance shall be furnished for enduring land treatment structures installed in accordance with conservation standards. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342; Sec. 2 and 8; T-86-43, Dec. 18, 1985.)

11-5-3. Land treatment contracts. (a) Three types of contracts for accelerated land treatment shall be available in each project drainage area and in the conservation plan. Contracts shall be on forms supplied by the commission.

(b) The contract types are:

(1) An annual contract between a landowner and the commission;

(2) A long-term contract between a landowner and the commission; and

(3) A contract between the sponsor or co-sponsor and the commission to construct detention or grade stabilization structures or other structures necessary to control siltation and pollution.

(c) The following requirements shall apply to long term contracts between the landowner and the commission:

(1) The length of the long-term contract shall be determined by the commission;

(2) A long-term contract shall not be entered into on land that is under another program using long-term contracts or agreements for conservation land treatment; and

(3) An annual status review of the progress of the long term contract shall be submitted to the commission by June 1st of each year until the contract is complete or terminated. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342; Sec. 2 and 8; T-86-43, Dec. 18, 1985.)

11-5-4. Disbursement of funds. (a) Conservation districts shall report all actions pertaining to land treatment cost-share program on forms supplied by the commission.

(b) Recommended applications for eligible land treatment shall be forwarded to the commission for review and approval or disapproval.

(c) Upon completion of installation of each approved land treatment practice, the district shall certify to the commission that the land treatment practice is installed in accordance with applicable conservation standards and shall include the total cost of the land treatment practice.

(d) Cost-share payments shall be made to the landowner upon completion of the installation of the land treatment practice and components in accordance with conservation standards.

(e) Warrant for payment of the cost-share shall be sent to the conservation district for transmittal to the landowner.

(f) Total payments to landowners in the project drainage area shall not exceed the funds appropriated for land treatment.

(g) The landowner shall be responsible for the operation and proper maintenance of the enduring land treatment.

(h) Contracts with the sponsor or co-sponsor for detention or grade stabilization structures shall be subject to the administrative regulations established in Article 3, 11-3-1 through 11-3-10. (Authorized by L. 1985, Ch. 342, Sec. 2; implementing L. 1985, Ch. 342, Sec. 2 and 8; T-86-43, Dec. 18, 1985.)

KENNETH F. KERN
Executive Director

Doc. No. 003816

State of Kansas

BOARD OF AGRICULTURE DIVISION OF WATER RESOURCES

PERMANENT ADMINISTRATIVE REGULATIONS (Effective May 1, 1986)

Article 1.—DEFINITIONS

5-1-1. Definitions. As used in these rules and regulations, the Kansas water appropriation act, and by division of water resources in the administration of the Kansas water appropriation act, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section: (a) Application means the formal document submitted on the prescribed form furnished by the division for a permit to appropriate water for beneficial use and filed in the office of the chief engineer as provided by K.S.A. 82a-708a and 709.

(b) Approval of application means a permit to proceed with construction of diversion works and the diversion and use of water in accordance with the terms and conditions set forth in the permit. Approval of application does not constitute any permit which may be required by other state laws.

(c) Artificial recharge means the use of water to artificially replenish the water supply in an aquifer.

(d) Authorized representative means any staff employee designated by the chief engineer to perform duties and functions in the chief engineer's behalf.

(e) Battery of wells means two or more wells connected to a common pump by a manifold, or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a maximum of 200 gallons per minute per well and which supply water to a common distribution system.

(f) Beneficial uses of water are domestic, stockwatering, municipal, irrigation, industrial, recreational, water power and artificial recharge.

(g) Diversion means the act of bringing water under control by means of a well, pump, dam or other device for delivery and distribution for the proposed use.

(h) Diversion works means all well(s), pump(s), power unit(s), power source(s), dam(s) and all other devices necessary to bring water under control for delivery to a distribution system by which the water will be distributed to the proposed use.

(i) Division means the division of water resources of the Kansas state board of agriculture.

(j) Full irrigation means the application of water to crops during the growing season. Full irrigation includes water for preirrigation.

(k) Groundwater means water below the surface of the earth.

(l) Growing season means the average frost-free period of the year.

(m) Household purposes means the use of water by a person for cooking, cleaning, washing, bathing, human consumption, restroom facilities or other uses normally associated with the operation of a household. Household purposes includes the use of one and one-half acre-feet of water or less per calendar year by an industrial user.

(n) Industrial use means the use of water in connection with the manufacture, production, transport or storage of products, or the use of water in connection with providing commercial services, including water used in connection with steam electric power plants, secondary and tertiary oil recovery, air conditioning, heat pumps, restaurants, hotels and motels.

(o) Irrigation use means the use of water for the growing of crops and the watering of lawns, golf courses and parks.

(p) Municipal use means the various uses made of water delivered through a common distribution system operated by a municipality, a rural water district, public wholesale water supply district, a group of householders, mobile home parks, or any other similar entity distributing water to other water users for household purposes.

(q) Off-season irrigation means the application of water to land for the purpose of storing moisture in the soil for future use by a crop which will not be irrigated during the growing season.

(r) Perfect means the actions of a water user to bring an appropriation right into final form by the completion of diversion works and application of water to the proposed use in accordance with the approved application.

(s) Point of diversion means the point at which water is diverted or withdrawn from a source of water supply.

(t) Preirrigation means the application of water to the land for a crop prior to planting to assure adequate moisture for early plant growth.

(u) Prior right means a vested right, an appropriation right with earlier priority or a permit with earlier priority to that of a subsequent appropriation right or permit.

(v) Recreational use means a use of water in accordance with a water right which provides entertainment, enjoyment and relaxation.

(w) Static water level means the depth of the top of the groundwater level below land surface which is not affected by recent pumpage.

(x) Stockwatering means the use of water for the watering of livestock and other uses of water directly related to the operation of a feedlot with the capacity to confine 1,000 head or more of livestock. Such use

shall not include the irrigation of feed grains or other crops.

(y) Surface water means water in creeks, rivers or other water courses, and in reservoirs, lakes and ponds.

(z) Waste of water means any act or omission which causes:

(1) Water to be diverted or withdrawn from a source of supply and not used or reapplied to a beneficial use on or in connection with land authorized as the place of use by a vested right, an appropriation right or an approved application for permit to appropriate water for beneficial use;

(2) The unreasonable deterioration of the quality of water in any source of supply thereby causing impairment of a person's right to the use of water;

(3) Water intended for irrigation use to escape and drain from the authorized place of use; or

(4) Water to be applied to an authorized beneficial use in excess of the needs for such use.

(aa) Water power use means the use of falling water for hydro-electric or hydro-mechanical power.

(bb) Immediate vicinity, as used in specifying the place of use for a water right in which the water is authorized to be used for municipal purposes, means within 2,640 feet of the corporate limits of the municipality, rural water district or other entity.

(cc) Completed substantially as shown on aerial photograph, topographic map or plat, as used to define the authorized point of diversion, means within 300 feet of the location as shown on the aerial photograph, topographic map or plat accompanying the application. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-701; modified, L. 1978, ch. 460, May 1, 1978; amended May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1986.)

Article 7.—ABANDONMENT AND TERMINATION

5-7-1. Nonuse. "Due and sufficient cause," as used in K.S.A. 82a-718, shall include the following:

(a) Adequate moisture provided by natural precipitation, for production of crops normally requiring full or partial irrigation within the region of the State in which the place of use is located;

(b) A right has been established or is in the process of being perfected for use of water from one or more preferred sources in which a supply is available currently but is likely to be depleted during periods of drought;

(c) Water is not available from the source for the authorized use at times needed;

(d) Purpose for which water is used is temporarily discontinued for a definite period of time to permit soil, moisture and water conservation;

(e) Management and conservation practices are being applied which require the use of less water than authorized; and

(f) Any other reason constituting due and sufficient cause as determined by the chief engineer. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-

(continued)

718, modified, L. 1978, ch. 460, May 1, 1978; amended May 1, 1986.)

Article 10.—WATER APPROPRIATION

5-10-5. Administration of water use among vested right holders. If, during the administration of water rights, each appropriation right and approved permit to appropriate water for beneficial use has been regulated in accordance with the provisions of K.S.A. 82a-706b, the division of water resources shall administer the water available from that source of supply among the holders who have active vested rights, including vested rights for domestic purposes, on a proportional basis and in a manner which will provide, if possible, sufficient flow in the stream for vested rights for domestic purposes. The proportionment may be accomplished by a pro rata reduction in the rate or quantity that each vested right shall be allowed to divert, by setting up a rotation system or by any other equitable method. Vested rights shall be administered in this manner unless they have been adjudicated by a court of competent jurisdiction as to priority or rotation and then the chief engineer shall administer them in accordance with the order of the court. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-704a and K.S.A. 82a-706; effective May 1, 1986.)

Article 23.—SOUTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 3

5-23-4. Aquifer depletion. (a) The approval of all applications for a permit to appropriate water for beneficial use from the unconsolidated Ogallala aquifer, except those for domestic use and those requesting less than 25 acre-feet per calendar year, and the approval of all applications for a change in the point of diversion if the diversion works have not been completed under the original approved application, shall be subject to the following criteria.

(1) The proposed appropriation, when added to the vested rights, prior appropriation rights and earlier priority applications shall not exceed a calculated rate of depletion of more than 40 percent in 25 years of the saturated thickness underlying the area included within a two mile radius (approximately 8,042 acres) of the proposed well.

(2) For the purpose of analysis, all vested rights, certificates, permits and prior unapproved applications shall be considered to be fully exercised and all limitation clauses listed on permits to appropriate water and certificates shall be considered to be in force.

(3) In the case of an application for change in the point of diversion, referred to above, all applications with a priority earlier than the priority established by the filing of the application for change shall be included in the analysis.

(4) The allowable annual appropriation shall be calculated using the following formula:

$$Q = \frac{0.40 (AMS) + AR}{25 \quad 12}$$

Q = allowable annual appropriation, acre-feet per year

A = area of consideration, acres

M = average saturated thickness, feet

S = storage coefficient (specific yield)

R = average annual recharge, and return flow from irrigation, inches per year

(5) The average saturated thickness of the 8,042 acre area shall be determined from maps developed by the United States geological survey, the Kansas geological survey, or other reliable information.

(6) (A) The average saturated thickness of the two mile radius circle for a well proposed to be located in the west ½ of townships 33, 34 and 35 south, range 28 west; the east ½ of township 33 south, range 29 west; all of townships 34 and 35 south, ranges 29 and 30 west in Meade County, Kansas; and all of townships 34 and 35 south, range 31 and 32 west and the east ½ of townships 34 and 35 south, range 33 west in Seward County, Kansas, shall be limited to that portion of the saturated thickness containing less than 250 milligrams per liter of chlorides.

(B) Each application within this area shall include a driller's log, an electric log, and an analysis of a water sample taken from the bottom 20 feet of saturated thickness of the Ogallala aquifer. If such sample contains concentrations of chlorides of more than 250 milligrams per liter, additional samples of water shall be taken from selected depths which shall be sufficient to determine the location of water containing more than 250 milligrams per liter chlorides. Wells drilled in this area shall be constructed so they do not penetrate into that portion of the aquifer containing concentrations of chlorides of more than 250 milligrams per liter.

(7) The storage coefficient used shall be 15 percent. A value of one inch per year shall be used for recharge and return flow from irrigation.

(8) If part of the radial area is outside the district boundary, it shall be excluded from the depletion analysis. Only that portion lying within the boundary of the district shall be a part of the evaluation.

(9) If wells authorized under a vested right, a certified water right or a permit to appropriate water are divided by the circumference of the radial area, the authorized quantity of water shall be assigned to each well. If specific quantities are not authorized for each well, a proportional amount shall be assigned to each well.

(b) Exceptions to this regulation may be granted on an individual basis by recommendation by the board in conjunction with the approval of the chief engineer. The board may require the applicant to submit information necessary in order to make the determination. (Authorized by K.S.A. 82a-1028(o); implementing K.S.A. 82a-1028(n); effective May 1, 1981; amended May 1, 1986.)

Article 25.—BIG BEND GROUNDWATER MANAGEMENT DISTRICT NO. 5

5-25-4. Safe yield. (a) The approval of all applications for a permit to appropriate water for beneficial

use, except those for domestic use, and the approval of all applications for a change in the point of diversion, for which the diversion works have not been completed under the original approved application, shall be subject to the following criteria.

(1) The proposed appropriation, when added to the vested rights, prior appropriation rights and earlier priority applications within a two mile radius circle whose center is the location of the proposed well shall not exceed 3,000 acre-feet. It shall be assumed, for purpose of analysis, that all prior applications, permits, certificates and vested rights are being fully exercised and all limitation clauses listed on permits and certificates shall be in force.

(2) If part of the area within the two mile radius circle about the proposed well is outside the district boundary, the 3,000 acre-feet quantity of water referred to above shall be reduced proportionately by the percentage of acreage lying outside of the district boundaries. Only the vested rights, prior appropriations and earlier priority applications ascribed to wells within the portion of the circle that is within the district shall be considered.

(3) If wells authorized under a vested right or an application are divided by the circumference of the circle, then a reasonable quantity shall be allocated to each well or wells based upon the best available information.

(4) Each analysis for an application for a change in the point of diversion, referred to above, shall include all applications with a priority earlier than the priority established by the filing of the application for change.

(b) Exceptions to this regulation may be granted if it is proven to the satisfaction of the board and the chief engineer that such exceptions neither will impair a use under an existing right, nor prejudicially and unreasonably affect the public interest. (Authorized by K.S.A. 1983 Supp. 82a-1028(o); implementing K.S.A. 1983 Supp. 82a-1028(n); effective May 1, 1980; amended May 1, 1981; amended, T-86-4; March 22, 1985; amended May 1, 1986.)

Article 40.—DAM CONSTRUCTION

5-40-4. Preparer of maps, plans, profiles and specifications. (a) Except as provided in subsection (b), each map, plan, profile and specification submitted to the chief engineer, in accordance with K.S.A. 82a-302, and its amendments, shall be prepared by a licensed professional engineer who is competent in dam design and construction. These details may be prepared by someone working under the direct supervision of a licensed professional engineer, if that engineer approves and places the engineer's seal upon the plans and specifications prior to submission to the chief engineer.

(b) Each dam which impounds less than 50 acre-feet at top of dam, which is less than 25 feet in height, and which is a class (a), low hazard dam as defined in engineering guide-1 may be designed by any person competent to design a dam of this size and classification. (Authorized by K.S.A. 82a-303a; implementing

K.S.A. 82a-302; effective May 1, 1983; amended May 1, 1986.)

5-40-9. Adoption by reference. All of "engineering guide-1" (eg-1), relating to earth dams, hazard classes, spillway requirements, detention storage requirements and rainfall data, as revised May 1, 1986, by the Kansas state board of agriculture, division of water resources, is hereby adopted by reference and shall apply to dams constructed in this state. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986.)

5-40-10. Adoption by reference. All of "engineering guide-2" (eg-2), relating to administrative requirements and criteria for the design of earth dams, as revised May 1, 1986, by the Kansas state board of agriculture, division of water resources, is hereby adopted by reference and shall apply to dams constructed or modified in this state. (Authorized by K.S.A. 82a-303a; implementing K.S.A. 82a-302; effective May 1, 1984; amended May 1, 1985; amended May 1, 1986.)

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