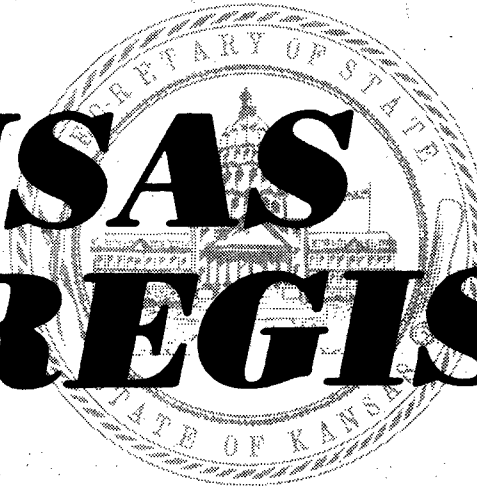


# KANSAS REGISTER



State of Kansas

**BILL GRAVES**  
Secretary of State

Vol. 6, No. 17

April 23, 1987

Pages 627-698

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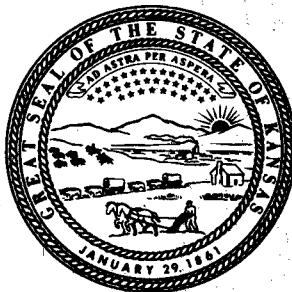
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The *Kansas Register* is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The *Kansas Register* is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$47.50. Single copies may be purchased, if available, for \$2 each. Second class postage paid at Topeka, KS. ISSN No. 0744-2254.

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 Topeka, KS 66612-1594



Phone: (913) 296-3489

## State of Kansas

## SOCIAL AND REHABILITATION SERVICES

## NOTICE OF MEETING

The Department of Social and Rehabilitation Services will meet at 9 a.m. Tuesday, May 5, in the Staff Development Training Center, 2700 W. 6th, Topeka.

The scheduled agenda includes an overview of legislation passed in the 1987 session, preliminary discussion of possible budget guidelines for fiscal year 1989 SRS budget, and presentation of proposed social service block grant plan.

The public is invited to this meeting. Telephone hook-ups are provided at the following locations of Social and Rehabilitation Services offices: Chanute, Emporia, Garden City, Hays, Hiawatha, Hutchinson, Junction City, Kansas City, Lawrence, Olathe, Osawatimie, Parsons, Pittsburg, Pratt, Salina, Topeka (area office and Docking State Office Building), Wichita and Winfield.

ROBERT C. HARDER  
Secretary of Social and  
Rehabilitation Services

Doc. No. 005266

## State of Kansas

## LEGISLATURE

## LEGISLATIVE BILLS INTRODUCED

The following lists the numbers and titles of bills and resolutions recently introduced in the Kansas Legislature.

Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N State Capitol, Topeka 66612, (913) 296-4096. There is a limit of 25 copies of any one item.

## Bills introduced April 9 and 10:

## House Bills

- HB 2596, by Committee on Appropriations: An act relating to motor vehicles; indexing certain motor vehicle registration fees and drivers' license fees.
- HB 2597, by Committee on Appropriations: An act establishing the Kansas prison crisis commission; providing for recommendations to the governor, supreme court and legislature on matters relating to criminal justice.
- HB 2598, by Committee on Appropriations: An act repealing K.S.A. 75-5911, 75-5912, 75-5913 and 75-5914, relating to the advisory council on aging.
- HB 2599, by Committee on Appropriations: An act concerning the state legislature; relating to compensation and expense allowances of members; authorizing certain adjustments for reductions in compensation during the fiscal year ending June 30, 1987.
- HB 2600, by Committee on Appropriations: An act concerning commercial motor carriers; imposing certain powers, duties and functions with respect to the regulation thereof upon the Kansas highway patrol; relating to the operation of motor carrier inspection stations; amending K.S.A. 66-1140, 66-1302, 66-1314, 66-1318, 66-1319, 66-1320, 66-1321, 66-1322, 66-1323, 66-1324, 66-1326 and 74-2108 and K.S.A. 1986 Supp. 8-1904, 8-1910, 8-2106 and 8-2107 and repealing the existing sections; also repealing K.S.A. 66-1316, 66-1317 and 66-1325.
- HB 2601, by Committee on Appropriations: An act authorizing the secretary of state to grant an easement to the city of Topeka, Kansas, along the Kansas river for diversion of water; prescribing certain conditions; amending section 1 of 1987 House Bill No. 2115 and repealing the existing section.
- HB 2602, by Committee on Appropriations: An act authorizing the state board of regents to sell certain real property in Saline county, Kansas; imposing conditions thereon; authorizing disposition of proceeds.

## Senate Bills

- SB 427, by Committee on Ways and Means: An act authorizing the state board of regents to sell certain real estate in Riley county; imposing conditions thereon.
- SB 428, by Committee on Ways and Means: An act relating to fish and game; authorizing the issuance of institutional group fishing licenses; amending K.S.A. 32-1040 and repealing the existing section.
- SB 429, by Committee on Ways and Means: An act concerning social welfare; relating to transitional general assistance; amending K.S.A. 39-702 and 39-709 and repealing the existing sections.
- SB 430, by Committee on Ways and Means: An act concerning the department of commerce; authorizing the acquisition of real property and interest or rights therein for certain purposes; granting power of eminent domain under certain circumstances; granting certain rights to and imposing certain duties upon the secretary of commerce; authorizing entry upon land in certain circumstances.

## Resolutions

- HCR 5031, by Representatives Long, Baker, Duncan, Fox, Fuller, Harper, D. Miller, O'Neal, Patrick, Pottorff, Roenbaugh, Smith, Snowbarger, Walker, Williams and Wunsch: A concurrent resolution memorializing the Congress of the United States to return the statue of George W. Click, presented by the State of Kansas for placement in Statuary Hall, and to accept in return, for placement in Statuary Hall, a statue of Dwight David Eisenhower.
- HR 6100, by Representatives Sughree, Amos, Aylward, Blumenthal, Brady, Bryant, Crumbaker, Douville, Dyck, Fox, Hamm, Hoy, Kennard, Kline, Knopp, Lowther, O'Neal, Ott, Sader, Sand, Shore, Sifers, Turnquist, Vancrum and Weimer: A resolution congratulating and commending the eleven teachers to be inducted into the Kansas Teachers' Hall of Fame in Dodge City.
- HR 6101, by Representative Blumenthal: A resolution congratulating and commending A. C. Eley on achieving his fourth diamond from the National Forensic League.
- HR 6102, by Representative Blumenthal: A resolution congratulating and commending Larry Brown on achieving his fourth diamond from the National Forensic League.
- HR 6103, by Representatives Bowden and Roenbaugh: A resolution congratulating and commending the St. John-Antrim-Hudson schools on their 100th anniversary.
- HR 6104, by Representative Crowell: A resolution congratulating Heather Huntington on being chosen Miss Rodeo Kansas for 1987.
- HR 6105, by Representative Fry: A resolution congratulating and commending the City of Bushton on its Centennial anniversary.
- HR 6106, by Representative Fry: A resolution congratulating and commending the City of Geneseo on its Centennial anniversary.
- HR 6107, by Representatives Moomaw, Knopp and Sand: A resolution congratulating and commending the Kansas State University Crew rowing team on its outstanding 1986-1987 season.
- HR 6108, by Representative Rezac: A resolution congratulating and commending the Beecher Bible and Rifle Church on its 125th anniversary.
- HR 6109, by Representative Rezac: A resolution congratulating and commending the City of Maple Hill on its Centennial anniversary.
- HR 6110, by Representative Apt: A resolution commending the Kansas Wing of the Civil Air Patrol for public service to the citizens of the State of Kansas.
- HR 6111, by Representative Whiteman: A resolution congratulating and commending Richard Young on achieving his fourth diamond from the National Forensic League.
- HR 6112, by Representative Wagnon: A resolution commemorating the week of June 1-7, 1987, as NATIONAL POLIO WEEK.
- HR 6113, by Representative Branson: A resolution in memory of the Reverend Robert John Lewis Matthews III.
- HR 6114, by Representative Fox: A resolution congratulating and commending Harold Dent on being elected to the Kansas Teachers' Hall of Fame.
- HR 6115, by Representative Blumenthal: A resolution in memory of Jeanne Bailey.
- HR 6116, by Representative Rezac: A resolution congratulating and commending the City of McFarland on its Centennial anniversary.
- HR 6117, by Representative Rezac: A resolution congratulating and commending the City of Alta Vista on its Centennial anniversary.
- HR 6118, by Representative R. D. Miller: A resolution congratulating and commending the McCracken Middle School football team and its coach, Benny Viegra, on an undefeated and untied season in 1986.
- HR 6119, by Representatives Baker, Bowden, Dean, Duncan, Gjerstad, Helgeson, Pottorff, Sawyer, Schauf, Spaniol and Williams: A resolution recognizing National Consumers Week 1987.
- HR 6120, by Representatives Branson and Sebelius: A resolution commending the "The Promise of World Peace" letter by the Universal House of Justice.
- SCR 1611, by Senator Burke: A concurrent resolution relating to adjournment of the senate and house of representatives for a period during the 1987 regular session of the legislature.
- SR 1870, by Senator Arasmith: A resolution congratulating and commending the City of Formoso on its Centennial Anniversary.
- SR 1871, by Senator Gaines: A resolution congratulating Butler County Community College on the celebration of its 60th anniversary.
- SR 1872, by Senator Gaines: A resolution in memory of Hugh "Cap" Edwards.
- SR 1873, by Senators Karr, Anderson, Arasmith, Bogina, Frey, Cannon, Hayden, Johnston, D. Kerr, F. Kerr, Vidricksen and Werts: A resolution congratulating and commending the Kansas teachers selected to the Kansas Teachers' Hall of Fame.
- SR 1874, by Senator Norvell: A resolution congratulating and commending Christine E. Chalender of Hays, Kansas, on being named the 1987 Kansas Teacher of the Year.
- SR 1875, by Senator D. Kerr: A resolution congratulating and commending the Kansas CosmoSphere and Space Center in Hutchinson for its outstanding achievements in the areas of preservation of space artifacts, youth education and public awareness of the value of space exploration.
- SR 1876, by Senator Talkington: A resolution in memory of Beverly Ann Handley Rogers.
- SR 1877, by Senators Vidricksen and Norvell: A resolution commending the Kansas Wing of the Civil Air Patrol for public service to the citizens of the State of Kansas.
- SR 1878, by Senator Harder: A resolution congratulating and commending the City of Moundridge on its Centennial anniversary.
- SR 1879, by Senator Montgomery: A resolution congratulating and commending the City of McFarland on its Centennial anniversary.
- SR 1880, by Senator Montgomery: A resolution congratulating and commending the City of Maple Hill on its Centennial anniversary.
- SR 1881, by Senator Montgomery: A resolution congratulating and commending the City of Alta Vista on its Centennial anniversary.
- SR 1882, by Senator Langworthy: A resolution congratulating and commending A. C. Eley on achieving his fourth diamond from the National Forensic League.
- SR 1883, by Senator Langworthy: A resolution congratulating and commending Larry Brown on achieving his fourth diamond from the National Forensic League.
- SR 1884, by Senator D. Kerr: A resolution congratulating and commending Richard Young on achieving his fourth diamond from the National Forensic League.
- SR 1885, by Senator Werts: A resolution congratulating and commending Roger Branson on achieving his fourth diamond from the National Forensic League.
- SR 1886, by Senator Bogina: A resolution in memory of Jeanne Bailey.

## State of Kansas

**SOCIAL AND REHABILITATION SERVICES  
STATE PLANNING COUNCIL ON  
DEVELOPMENTAL DISABILITIES SERVICES****NOTICE OF MEETING**

The State Planning Council on Developmental Disabilities Services will meet from 9 a.m. to 4 p.m. Wednesday, April 29, in the Versailles I Room of the Holidome, 6th and Fairlawn, Topeka.

The executive committee will meet at 6 p.m. Tuesday, April 28, at the Ramada Inn Downtown, Topeka.

JOHN F. KELLY  
Executive Director

Doc. No. 005267

## State of Kansas

**ATTORNEY GENERAL****Opinion No. 87-64**

**Automobiles and Other Vehicles—Driving Under the Influence of Alcohol or Drugs; Related Provisions—Tests for Alcohol or Drugs; Who May Administer.** Richard Sanborn, Mulvane City Attorney, Wichita, April 9, 1987.

Subsequent to a DUI arrest, the withdrawal of blood may be performed by a person acting under the supervision of a licensed physician or surgeon. The term "supervision" is not defined by statute, but connotes overseeing with direction, superintending, and inspecting with authority. Cited herein: K.S.A. 1986 Supp. 8-1001; K.S.A. 65-2872. JLM

**Opinion No. 87-65**

**Constitution of the State of Kansas—Judicial—Selection of Justices of the Supreme Court.** Lewis S. Carter, Clerk, Kansas Supreme Court, Topeka, April 9, 1987.

Under the provisions of Article 3, § 5 of the Kansas Constitution, no member of the Supreme Court Nominating Commission shall, while he or she is a member, hold any other "public office" by appointment. The term "public office" refers to the common-law concept of a public office, and except where the office of city attorney has been stripped of all prosecutorial and other sovereign power (through the exercise of home rule powers), a city attorney holds a public office. Cited herein: Kan. Const., Article 3, § 5. TRH

**Opinion No. 87-66**

**Domestic Relations—Family Planning Centers—Parental Consent for Family Planning Services for Minors.** Thomas J. Burgardt, Finney County Counselor, Garden City, April 9, 1987.

In that minors are protected by the United States Constitution and possess constitutional rights, absolute prohibitions on family planning (contraceptive) services for minors are unconstitutional. However,

because activities of minors may constitutionally be regulated more strictly than those of adults, reasonable parental consultation restrictions, such as notice, may be placed on a minor's decision of whether or not to use contraceptive devices. Mandatory parental consent requirements for all contraceptive services to minors are unconstitutional. Cited herein: K.S.A. 23-501; 38-123; 38-123b; K.S.A. 1986 Supp. 65-2891; K.S.A. 65-2892; 65-2892a. BPA

**Opinion No. 87-67**

**Veterans, Wives, and Widows Employment Assistance and Preference and Veterans' Reemployment Rights—Veterans' Reemployment Rights—Enlistees Right to Reemployment.** John E. Lang, Pottawatomie County Counselor, Westmoreland, April 10, 1987.

If a veteran satisfies the requirements set forth in the Veterans' Reemployment Rights Statute (38 U.S.C. § 2021 *et seq.*) for establishing his or her right to be rehired, an employer is required to reemploy the veteran to the same or a similar position as that which the veteran held before service in the military, with all the rights and benefits that have accrued. Cited herein: 38 U.S.C. §§ 2021(a)(A)(B); 2021(b)(1); 2024(a). BPA

**Opinion No. 87-68**

**Taxation—Mortgage Registration and Intangibles; Mortgage Registration—Refunds.** Dixie Rose, Butler County Register of Deeds, El Dorado, April 10, 1987.

Mortgage registration fees which are voluntarily paid by the taxpayer without mistake, duress or fraud on the part of the county are not refundable. However, in situations which involve county mistake, duress or fraud, the taxpayer is entitled to initiate the protest procedures set forth in K.S.A. 1986 Supp. 79-2005 and 79-1702. Upon an order issued by the Board of Tax Appeals pursuant to K.S.A. 1986 Supp. 79-2005 or 79-1702, the county treasurer is the official authorized to process the refund. Cited herein: K.S.A. 1986 Supp. 79-1702; 79-2005; 79-3102; K.S.A. 79-3104. JLM

**Opinion No. 87-69**

**Labor—Fair Labor Standards Act—Definitions; Employee.** Curtis E. Watkins, Kingman County Attorney, Kingman, April 10, 1987.

The terms "employer," "employee" and "employ" are construed broadly under the Fair Labor Standards Act. The United States Department of Labor's determination that an individual is an employee of both the city of Norwich and the Kingman County sheriff's office is reasonable under the circumstances and should be observed. Cited herein: 29 U.S.C. §§ 203, 207, 213; 29 C.F.R. §§ 553.9, 553.200, 791.2. JLM

ROBERT T. STEPHAN  
Attorney General

Doc. No. 005272

## State of Kansas

**STATE HISTORICAL SOCIETY  
STATE RECORDS BOARD****NOTICE OF MEETING**

The Kansas State Records Board will meet at 10 a.m. Thursday, April 30, in the conference room, fourth floor, Memorial Building, 120 W. 10th, Topeka. The board will 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

Doc. No. 005259

## State of Kansas

**BOARD OF HEALING ARTS****NOTICE OF HEARING  
ON PROPOSED  
ADMINISTRATIVE REGULATIONS**

A public hearing will be held at 10 a.m. Monday, May 11, in the office of the Board of Healing Arts, Suite 553, 900 S.W. Jackson, Topeka, to consider the adoption of a proposed temporary and permanent amendment to K.A.R. 100-11-1 to increase the annual renewal fees for licensees under the Healing Arts Act from \$100 to \$115.

All interested parties may attend and will be given an opportunity to express comments either orally or in writing, or both. Those persons unable to attend may submit written comments before the hearing to the Kansas Board of Healing Arts at the address above. For those who desire to present testimony in person at the hearing, prior notice to the board would be helpful in arranging the agenda. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentation to five minutes.

Following the hearing, all written and oral comments submitted by interested parties will be considered by the board as the basis for making the proposed changes to this regulation. Final board action will be taken by a telephone poll on the afternoon of May 11.

Copies of the regulation and fiscal impact statement may be obtained from the Board of Healing Arts.

CHARLENE K. ABBOTT  
Executive Secretary

Doc. No. 005257

## State of Kansas

**DEPARTMENT OF TRANSPORTATION****NOTICE TO BIDDERS**

Sealed bids on Quotation 6927 for the sale of heavy equipment, shop equipment and radio equipment, located in the Kansas Department of Transportation district yards and the Materials and Research Center, Topeka, will be received until 10 a.m. Thursday, May 7.

Bid blanks may be obtained from H. E. Shubert, purchasing agent, 7th Floor, Docking State Office Building, Topeka; J. D. Jones, district engineer, Topeka; and G. N. Clark, geotechnical engineer, Topeka.

HORACE B. EDWARDS  
Secretary of Transportation

Doc. No. 005264

## State of Kansas

**DEPARTMENT ON AGING****REQUEST FOR PROPOSALS  
FOR OLDER WORKERS  
EMPLOYMENT PROGRAMS**

The Kansas Department on Aging is currently accepting proposals for older workers employment programs funded by state and federal sources for the program periods July 1, 1987 through June 30, 1988, and July 1, 1988 through June 30, 1989.

State funds in the amount of \$75,000 may be available each program period to provide employment and training services for Kansans age 55 and older. One program will serve older Kansans in a major population center, one program will serve older Kansans in an intermediate-size city, and one program will serve older Kansans in a small-size city. Applications are due by the close of business May 15, 1987.

Federal funds in the amount of approximately \$256,000 may be available each program period to provide employment and training services to Kansans age 55 and older who are economically disadvantaged. Federal Job Training Partnership Act 3% Older Workers Program rules and regulations are applicable to this program. Applications are due by the close of business May 15, 1987.

Organizations interested in receiving formal proposals should contact Richard Wagner, Program Operations Director, Kansas Department on Aging, 610 W. 10th, Topeka 66612, (913) 296-4986.

RONALD L. HARPER, Ph.D.  
Acting Secretary of Aging

Doc. No. 005268

## State of Kansas

## DEPARTMENT ON AGING

REQUEST FOR PROPOSALS FOR  
IN-HOME NUTRITION PROGRAMS

The Kansas Department on Aging is currently accepting proposals for in-home nutrition programs funded by state resources for the program period July 1, 1987 through June 30, 1988. Complete proposals must be submitted by May 15, 1987.

The In-Home Nutrition Program provides home-delivered meals containing at least one-third of the current recommended dietary allowance to income eligible homebound individuals age 60 or older once a day, five or more days a week. Programs may be funded in all areas of the state; however, priority will be given to maintaining services in areas currently served by the In-Home Nutrition Program.

Organizations interested in receiving a formal request for proposal should contact Jan Stegelman, R.D., Nutrition Specialist, Kansas Department on Aging, 610 W. 10th, Topeka 66612, (913) 296-4986.

RONALD L. HARPER, Ph.D.  
Acting Secretary of Aging

Doc. No. 005258

## State of Kansas

## DEPARTMENT OF TRANSPORTATION

## NOTICE TO CONTRACTORS

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. C.D.T. May 21, 1987, and then publicly opened:

## DISTRICT ONE—Northeast

**Doniphan**—36-22 K-2882-01—U.S. 36, 10 miles east of the Brown-Doniphan county line southeast to 1 mile east of Troy, 5.5 miles, grading and bridge. (State Funds)

**Johnson**—35-46 K-2434-02—I-35, Miami-Johnson county line, northeast to east of Olathe, 8.3 miles of pavement reconstruction and 6.7 miles of overlay. (Federal Funds)

**Johnson**—635-46 K-2134-04—I-635 and I-35 interchange, grading, surfacing and bridge. (Federal Funds)

**Johnson**—46 U-0830-01—Woodland Road at Clear Creek in Shawnee, 0.1 mile, bridge replacement. (Federal Funds)

**Johnson**—46 U-0939-01—Roe Avenue from 121st Street north to 112th in Leawood, 1.3 miles, grading and surfacing. (Federal Funds)

**Johnson**—46 U-1035-01—Switzer Road at Indian Creek in Overland Park, 0.1 mile, bridge replacement. (Federal Funds)

**Osage**—70 C-1491-01—County road, 1.2 miles south of Quenemo, then south, 0.1 mile, bridge repair. (Federal Funds)

**Riley**—18-81 K-2804-01—K-18, Kansas River bridge 31, in Manhattan, bridge repair. (State Funds)

**Riley**—18-81 U-1120-01—K-18, Fort Riley (K-18) and Richards Drive in Manhattan, traffic signal. (Federal Funds)

**Wyandotte**—70-105 K-0966-09—I-70 from east of I-635 east to I-670, 1.7 miles, seeding. (Federal Funds)

## DISTRICT TWO—Northcentral

**Cloud**—15 U-0996-01—Tootle Avenue over Chapman Creek in Miltonvale, bridge. (Federal Funds)

**Dickinson**—21 U-0993-01—5th Street over Solomon River tributary in Solomon, grading and bridge. (Federal Funds)

**Ellsworth**—27 C-1986-01—County road, 7.2 miles south and 6.3 miles east of Kanopolis, then east, 0.1 mile, bridge replacement. (Federal Funds)

**Jewell**—45 C-2039-01—County road, 2.0 miles east and 10.9 miles south of Esbon, then south, 0.5 mile, bridge replacement. (Federal Funds)

**Jewell**—45 C-2042-01—County road, 2.0 miles east and 11.5 miles south of Esbon, then south, 0.2 mile, bridge replacement. (Federal Funds)

**Marion**—50-57 K-2423-01—U.S. 50, 0.1 mile east of FAS 1410 east to the Marion-Chase county line, 4.0 miles, overlay and widen. (Federal Funds)

**Marion**—56-57 K-0561-02—U.S. 56, FAS 428 Spur east of Canada east to U.S. 77, 7.2 miles, surfacing. (Federal Funds)

**Marion**—56-57 K-0562-02—U.S. 56, east junction of K-15 to FAS 428 Spur east of Canada, 6.9 miles, surfacing. (Federal Funds)

**Washington**—101 C-2151-01—County road, 2.6 miles north and 3.0 miles west of Hanover, then west, 0.1 mile, bridge replacement. (Federal Funds)

## DISTRICT FOUR—Southeast

**Allen**—54-1 M-1478-01—U.S. 54, 790 feet east of U.S. 59 approximately 1,460 feet, 0.3 mile, slide repair. (State Funds)

**Greenwood**—99-37 M-1462-01—K-99, Otter Creek bridge 30, 5.3 miles north of K-96, bridge repair. (State Funds)

## DISTRICT FIVE—Southcentral

**Butler**—96-8 K-2826-01—K-96, 1.0 mile west of Keighley east to Butler-Greenwood county line, 7.8 miles, grading, surfacing and bridge. (State Funds)

**Butler**—8 C-2458-01—Kansas Turnpike Authority bridge in Andover, 0.2 mile, grading and bridge (Federal Funds)

**Harvey**—50-40 K-2594-01—U.S. 50, west Emma Creek bridge 51, 2.1 miles east of K-89, bridge replacement. (Federal Funds)

**Harvey**—196-40 K-2599-01—K-196, Jester Creek bridge 66, 0.4 mile east of the junction of I-135, bridge replacement. (Federal Funds)

**Harvey**—40 C-2064-01—Lincoln Street in Hesston, 0.6 mile, grading and surfacing. (Federal Funds)

**Kingman**—54-48 K-1877-01—U.S. 54, Pratt county line east to Kingman and 0.4 mile east of Kingman,

18.8 miles, grading, surfacing and bridge. (State Funds)

**Rice**—80 C-2345-01—County road, 5.0 miles east of Lyons, then east, bridge replacement. (Federal Funds)

**Sedgwick**—87 C-1948-01—County road, 2.8 miles north of Derby, then east, 5.0 miles, surfacing. (Federal Funds)

**Sumner**—160-96 K-2023-01—U.S. 160, Arkansas River bridge 72 at Oxford, bridge repair. (Federal Funds)

#### DISTRICT SIX—Southwest

**Scott**—86 C-2200-01—County road, 0.5 miles south of Shallow Water, then west, 1.0 mile, surfacing. (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 because of race, age, religion, color, sex, handicap, or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid. This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of the affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid-approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the K.D.O.T. district office responsible for the work.

**HORACE B. EDWARDS**  
Secretary of Transportation

Doc. No. 005265

#### State of Kansas

### DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASES

#### NOTICE TO BIDDERS

Sealed bids for the following items will be received by the Director of Purchases, Landon State Office Building, 900 Jackson, Room 102, Topeka, until 2 p.m. C.D.T. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

**MONDAY, MAY 4, 1987**

#27092

University of Kansas Medical Center; University of Kansas; Kansas State University; and Wichita State University—BLOOD BANK AND RELATED PRODUCTS

#27113

University of Kansas Medical Center—DIAGNOSTICS AND THERAPEUTIC DRUG SCREENING ITEMS

#27623

Kansas Public Employees Retirement System—PRODUCTION OF VIDEO TAPE

#27628

Department of Social and Rehabilitation Services—RAW MATERIALS FOR LETTER PAD MANUFACTURING, Kansas City

#27629

Statewide—LASER PRINTER EP CARTRIDGES (BDS/HEWLETT-PACKARD/QMS)

#68680

Adjutant General's Department—ARMORY ALTERATION/ADDITION, Junction City

#68812

University of Kansas Medical Center—LAB RECORDER, Kansas City, Missouri

#68813

Department of Transportation—TRUCK AND DERRICK, Garden City

#68815

University of Kansas Medical Center—COST MANAGEMENT SOFTWARE

#68816

Department of Transportation—AS-1, AB-3 AGGREGATE, Cherokee and Anderson counties

#68817

University of Kansas Medical Center—RECORDS MICROFILMING

**TUESDAY, MAY 5, 1987**

#A-0000 (658-77305)

University of Kansas/Architectural Services—2ND FLOOR REMODELING, Carruth O'Leary Hall

#A-5561

Parsons State Hospital and Training Center—REPLACE AIR CONDITIONING EQUIPMENT, Cafeteria and Research buildings

#27244

Department of Transportation—LUBRICANTS

#27630

Kansas Fish and Game Commission—FLOATING FISH FEED

#68825

Kansas Correctional Industries—STEEL POSTS AND SIGN BRACKETS

(continued)

#68826

Department of Transportation—AS-1, AS-3  
AGGREGATE, various locations

#68827

Kansas Fish and Game Commission—FISH  
FEED—SEMI MOIST, Milford Fish Hatchery

#68828

Kansas Fish and Game Commission—  
FEED—AQUATIC (FLOATING), various locations

#68833

Department of Transportation—LATHE, Hutchinson  
and Topeka

#68834

Department of Social and Rehabilitation  
Services—SEWING MACHINES

#68835

Kansas State University—NUCLEAR  
ENGINEERING EQUIPMENT

#68836

Kansas State University—WAVEGUIDE LASER

#68837

Kansas State University—QUADRUPOLE  
APPARATUS

#68886

Kansas Fish and Game Commission—SALE OF  
NATIVE GRASS

**WEDNESDAY, MAY 6, 1987**

#A-5603(a)

University of Kansas—ROOFING SYSTEM  
REPLACEMENT, Art and Design Building

#27116

University of Kansas Medical Center—HIGH  
EFFICIENCY AIR FILTERS, FILTER MEDIA

#27144

Statewide—WORK GLOVES

#68620-A

University of Kansas—MICROCOMPUTER  
SYSTEM

#68829

Adjutant General's Department—LABOR AND  
MATERIALS TO CONSTRUCT ARMORY UNIT  
STORAGE SPACE ADDITIONS, Cherryvale and  
Neodesha

#68838

Department of Social and Rehabilitation  
Services—RIBBONS

#68839

Department of Transportation—PLOW HITCH  
QUICK COUPLERS, various locations

#68840

University of Kansas—CARPET

#68844

University of Kansas—COMPUTER  
WORKSTATION

#68845

University of Kansas Medical Center—TAPE  
CONTROL UNITS AND TAPE DRIVES

#68885

Department of Health and Environment—MOVING  
SERVICES

**THURSDAY, MAY 7, 1987**

#26559

Various agencies—LOW LEVEL RADIOACTIVE  
WASTE DISPOSAL SERVICE

#27069

University of Kansas Medical Center—BLOOD  
BANK SETS

#68852

Department of Revenue—ENVELOPES—VEHICLE  
REGISTRATION RENEWAL

#68853

Wichita State University—COMPCORP WORD  
PROCESSING UPDATE

#68858

Kansas Fish and Game Commission—CONCRETE,  
CRUSHED STONE AND RIP RAP, various locations

#68859

Department of Administration, Division of  
Information Systems and Communications—  
SOFTWARE—MAINFRAME COMPATIBLE

#68860

Pittsburg State University—  
CONTROLLER—PRIME COMPUTER

#68861

Kansas State Fair—TICKETS

#68862

Kansas Fish and Game Commission—LOAD AND  
HAUL BROKEN CONCRETE, Scott County

#68863

Kansas Technical Institute—ROBOT TRAINING  
SYSTEM

#68864

University of Kansas Medical Center—LAB  
EQUIPMENT

#68865

University of Kansas Medical Center—LAB  
CENTRIFUGE/ROTORS

#68866

University of Kansas Medical Center—HPLC  
EQUIPMENT

#68867

Department of Administration, Division of  
Printing—ENVELOPES—BROWN KRAFT

#68868

University of Kansas Medical Center and Pittsburg  
State University—CONTINUOUS FORMS

**FRIDAY, MAY 8, 1987**

#27624

Statewide—TELEPHONE WIRE

#68880

Kansas State University—TIMECLOCK SYSTEM

#68881

University of Kansas Medical Center—ION  
CHROMATOGRAPH

#68882

University of Kansas Medical Center—GRAPHIC  
ARTS EQUIPMENT

#68883

University of Kansas Medical Center—UV-VIS  
DETECTOR

#68884

University of Kansas Medical Center—  
MONITORING EQUIPMENT

#68888

University of Kansas—KITCHEN EQUIPMENT

**MONDAY, JUNE 1, 1987**

#25997

Adjutant General's Department—PROPERTY  
INSURANCE

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 005273



**State of Kansas  
DEPARTMENT OF REVENUE  
DIVISION OF PROPERTY VALUATION**

**NOTICE OF AMENDMENTS TO  
THE 1987 OIL & GAS GUIDE**

The following amendments have been incorporated by reference into the 1987 Oil & Gas Guide issued by the Division of Property Valuation:

1. Page 9, Section XI paragraph c:
  - (1) A shut-in lease (SI) is defined as a lease which has well equipment in place, but production has been stopped, shut-down, or curtailed due to economic reasons such as a lack of market demand or negative cash flow rather than reserve depletion. Shut-in wells on shut-in leases, i.e., no production due to economics or only minimal production to maintain lease terms and/or to protect the reserve, appraise each well per equipment values listed on Table I or Table II (Pages 10 and 11) per depth and water cut as established in prior valuation years.

Example: Two SI wells, 2950 ft., 93% water.  
Table II, page 11:  $\$5665 \times 2 = \$11,330$ .

- (2) For shut-in wells on producing leases, appraise the lease as of January 1 based on the number of producing wells as of January 1 (see Section I, Production, paragraph numbered 4, parts a and b, pages 2 and 3; and Section X—Operating Cost Allowance, paragraph f, page 9) and appraise the shut-in well(s) at \$1.50 per ft. of depth per well (deeper than 2000 ft.); \$.50 per ft. of depth per well (2000 ft. & less). *Note:* Special consideration may be required on leases that have a multitude of shut-in wells.

2. Page 9, Section XI, paragraph d, first paragraph: "A salt water disposal well (SWD) used in conjunction with an operating lease and disposing water from only that lease or an associated lease operated by the same operator. . ." *delete* "and disposing water from only that lease or an associated lease operated by the same operator. . ." Amended sentence to read: "A salt water disposal well (SWD) used in conjunction with an operating lease is appraised by depth per Table I or II, SWD column."

3. Itemized Equipment Section—*Service Units* (Page 24)

Revise "Used" column:

	<i>From</i>	<i>To</i>
(1)	\$ 9,000	\$ 5,000
(2)	\$16,000	\$ 8,500
(3)	\$36,500	\$27,500
	\$46,750	\$35,000
	\$54,500	\$40,000
	\$67,500	\$50,000

Questions concerning these revisions should be addressed to John R. Cooper, Division of Property Valuation,

Department of Revenue, Docking State Office Building, Topeka 66612, (913) 296-4104.

HARLEY T. DUNCAN  
Secretary of Revenue

Doc. No. 005283

**State of Kansas  
STATE HISTORICAL SOCIETY  
HISTORIC SITES BOARD OF REVIEW**

**NOTICE OF MEETING**

The Kansas Historic Sites Board of Review will meet at 10 a.m. Saturday, May 9, in a classroom at the Kansas Museum of History, 6425 S.W. 6th, Topeka, to evaluate the following properties for nomination to the National Register of Historic Places and the Register of Historic Kansas Places:

- (Old) Rock Island Depot, N. 6th St., Herington, Dickinson County
- St. Patrick's Mission Church, one mile northeast of Chapman, Dickinson County
- Ralph Achning House, 846 Missouri, Lawrence, Douglas County
- (Old) Garden City Carnegie Library, Main and Cedar, Garden City, Finney County
- Fromme-Birney Barn, six miles southwest of Mullinville, Kiowa County
- Nathaniel Burt House, 400 5th Ave., Leavenworth, Leavenworth County
- Flanders-Lee House, 200 S. 7th, Salina, Saline County
- W. A. Dye Chili Factory, 120 N. Mosely, Wichita, Sedgwick County

The board will also evaluate a joint National Register nomination which has already been approved by the Nebraska State Review Board for two Nebraska-Kansas public land survey markers. One is located on the Republic-Washington county line at the Kansas-Nebraska state line. The other is located on the Brown-Doniphan county line at the Kansas-Nebraska state line.

The board will consider a request that the following property be removed from the Register of Historic Kansas Places:

- Henry F. Stockebrand House, 211 S. Main, Yates Center, Woodson County

JOSEPH W. SNELL  
Executive Director

Doc. No. 005260

## State of Kansas

**DEPARTMENT OF REVENUE**  
**DIVISION OF PROPERTY VALUATION**  
**NOTICE OF UPDATED MANUFACTURED**  
**HOUSING VALUE GUIDELINES**

(Published in the KANSAS REGISTER, April 23, 1987.)

**NOTICE OF BOND SALE**  
**\$190,000**  
**GENERAL OBLIGATION**  
**CAPITAL OUTLAY BONDS**  
**SERIES 1987**

**OF UNIFIED SCHOOL DISTRICT 448**  
**MCPHERSON COUNTY, KANSAS (INMAN)**

An analysis of the manufactured housing market was conducted in an effort to determine whether an update to the 1983 Manufactured Housing Guide would be necessary.

Average 1986 sale prices were reported for standard size models within the three construction quality grades as outlined in the 1983 guide. Analysis of these sales indicated that manufactured housing values have increased, thus dictating an update to the 1983 guide. Further review indicated that, while values have increased overall, the market has consistently responded more favorably to better construction quality. In addition, a review of the N.A.D.A. Manufactured Housing Appraisal Guide revealed similar results.

After discussions with members of the division, it was determined that, rather than an all inclusive update, a line item value supplement for 1986 models would suffice. For homes manufactured prior to 1986, procedures employed to date should be continued.

The following chart reflects the recommended 1987 values for those homes manufactured in 1986; however, this does not relieve county appraisers of the responsibility to equalize manufactured housing values with those of conventional single family dwellings as outlined in the 1983 Manufactured Housing Appraisal Guide.

**Per Sq. Ft. Value For 1986 Models—60' Length**

Quality	8'	10'	12'	14'	16'	20'	24'	28'	34'	36'
Economy	16.10	15.50	15.20	16.00	15.60	15.50	15.40	15.20	15.00	14.80
Good	17.60	17.00	16.40	18.80	18.60	18.50	18.20	18.00	17.80	17.60
Custom	22.80	22.20	21.70	23.60	23.30	23.20	23.40	22.80	22.30	22.20

Deduct \$.06 per sq. ft. for each foot of length more than 60 feet

Increase \$.06 per sq. ft. for each foot of length less than 60 feet

**Additions**

1. Additional Living Area—Follow procedures outlined in 1983 guide.
2. Fireplace—\$750
3. Bow and/or Bay Windows—\$400
4. Carport—\$3 per sq. ft.; no slab, subtract \$1 per sq. ft.
5. Patio/Porch—Concrete, \$100 per sq. ft.; wood deck, \$2 per sq. ft.

For further information, contact Bill Tucker of the Division of Property Valuation, (913) 296-2365.

**HARLEY T. DUNCAN**  
Secretary of Revenue

Doc. No. 0052281

**Date, Time and Place of Receiving Bids**

The Board of Education of Unified School District 448, McPherson County, Kansas (Inman), will receive sealed bids at the district's central offices at 119 S. Main, Inman, until 7 p.m. C.D.T. on Monday, May 4, 1987, for \$190,000 par value general obligation capital outlay bonds, Series 1987, of the district, at which time and place the Board of Education will meet to publicly open the bids. No oral or auction bids will be considered.

**Description of Bonds**

The Series 1987 bonds will be dated as of May 1, 1987, and shall mature on November 1 in each of the years and in the amounts set forth below. The bonds shall consist of fully registered certificated bonds in denominations of \$5,000, or integral multiples thereof not exceeding the principal amount of bonds maturing in each year. Interest on the bonds will be payable semiannually on each May 1 and November 1, commencing May 1, 1988. The principal of, and premium, if any, on the bonds shall be payable in lawful money of the United States of America, at the principal office of the Treasurer of the State of Kansas (the paying agent and bond registrar) to the registered owners thereof upon presentation of the bonds for payment and cancellation. Interest on the bonds shall be payable in lawful money of the United States of America by mailing of check or draft of paying agent to the registered owners thereof as their names appear on the registration books of the district maintained by bond registrar as of the 15th day of the month next preceding the interest payment dates (the record dates). The fees of bond registrar for registration and transfer of the bonds shall be paid by the district.

The bonds will mature serially in accordance with the following schedule:

Principal Amount	Maturity Date
\$30,000	November 1, 1988
35,000	November 1, 1989
40,000	November 1, 1990
40,000	November 1, 1991
45,000	November 1, 1992

**Redemption of Bonds**

The bonds are not subject to call for redemption and payment prior to their respective maturities.

**Interest Rate**

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidder. The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be in an even multiple of 1/8, or 1/20 of 1 percent. No

interest rate shall exceed the maximum interest rate allowed by Kansas law, said rate being the 20 bond index of tax-exempt municipal bonds published by Credit Markets in New York, New York, on the Monday next preceding the date on which the bonds are sold, plus 2 percent, and no bid of less than par and accrued interest will be considered. Bids for less than the entire issue of bonds will not be considered.

#### **Bid Form and Good Faith Deposit**

Bids shall be submitted on the official bid form furnished by the district, shall be addressed to the Board of Education, Unified School District 448, 119 S. Main, P.O. Box 129, Inman, KS 67546, Attention: Beverly Quillin, Clerk, and shall be plainly marked "Bond Bid." All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct, and the Board of Education will be entitled to rely on the certificate of correctness of the bidder. Each bid must be accompanied by a certified or cashier's check equal to 2 percent of the total amount of the bid and shall be payable to "Treasurer, Unified School District 448." In the event a bidder whose bid is accepted shall fail to carry out his contract of purchase, said deposit shall be retained by the district as liquidated damages. The checks of unsuccessful bidders will be promptly returned.

#### **Award of Bonds**

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

#### **Delivery of the Bonds**

The bonds, duly printed, executed and registered, will be furnished and paid for by the district, and the bonds will be sold subject to the approving opinion of Hinkle, Eberhart, Elkouri & Jensen, bond counsel, of Wichita, Kansas. The number, denomination of bonds, and the names of the initial registered owners to be initially printed on the bonds shall be submitted in writing by the successful bidder to bond registrar not later than May 29, 1987. The purchaser will be furnished with a complete transcript of proceedings evidencing authorization and issuance of the bonds and shall also be furnished with the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity. Payment for the bonds shall be made in immediately available funds. Delivery of the bonds will be made to the successful bidder on or about June 19, 1987, at any bank in the state of Kansas or in Kansas City, Missouri, at the

expense of the district. Delivery elsewhere will be made at the expense of the purchaser.

#### **The Internal Revenue Code of 1986**

The Internal Revenue Code of 1986 was signed into law by the President of the United States on October 22, 1986. The provisions of the code relating to obligations of state and local governments would generally be effective for obligations issued after August 15, 1986. Certain of these provisions would impose requirements which must be met subsequent to the issuance and delivery of such obligations, including the bonds, in order for the interest thereon to remain exempt from federal income taxation. The Board of Education will covenant to comply with the provisions of the code and all other applicable federal laws, regulations, published rulings and court decisions, in order to preserve the tax-exempt status of the bonds to the extent such actions can be taken by it. Failure of the Board of Education to comply with such covenants could adversely affect the tax-exempt status of the bonds. A purchaser of the bonds should be aware that in such event, the bonds are not callable, nor will the interest rate on the bonds be adjusted to reflect the loss of federal tax exemption.

The code includes interest on certain obligations, such as the bonds, in the adjusted net book income of certain corporations for taxable years after 1986 and would include in the calculation of alternative minimum taxable income, 50 percent of the excess of a corporation's adjusted net book income over its pre-book alternative taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). In addition, the code provides that banks and thrift institutions would be unable to deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations (with certain exceptions described below) if such interest costs are incurred in taxable years ending after December 31, 1986 with respect to bonds acquired after August 7, 1986. The code provides that certain "qualified tax-exempt obligations" as defined in Section 265 (b)(3) will be treated as having been acquired on August 7, 1986. The Board of Education will covenant to take such actions as are necessary to designate the bonds as "qualified tax-exempt obligations" as described above.

The code provides that property and casualty insurance companies would be required for taxable years beginning on or after January 1, 1986 to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986. If the amount of this reduction exceeds the amount otherwise deductible as losses incurred, such excess may be includable in income.

#### **Superfund Amendments and Reauthorization Act of 1986**

H.R. 2005, the Superfund Amendments and Reauthorization Act of 1986, which was enacted on October 17, 1986, includes among its provisions the imposition of a new environmental tax. Calculation of

(continued)

the tax is to be based generally on a percentage of the corporate alternative minimum taxable income as defined in the 1986 code which would include interest on tax-exempt obligations, including the bonds. The amount of tax is equal to 0.12 percent of the excess of the alternative minimum taxable income (without regard to net operating losses and the deduction for the environmental tax) over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax, but is deductible from gross income. The environmental tax is effective for taxable years beginning after 1991. The imposition of this environmental tax could result in additional taxation of interest on the bonds for certain bondowners.

**Legal Opinion**

Bids for the bonds shall be conditioned upon the approving opinion of Hinkle, Eberhart, Elkouri & Jensen, bond counsel, Wichita, Kansas, a copy of which opinion will be printed on the reverse side of each bond, and a manually signed original will be furnished without expense to the purchaser of the bonds on delivery thereof. The cost of this legal opinion and the expense of printing the bonds and legal opinion will be paid by the district. The legal opinion will state in part that the bonds will constitute general obligations of the district, payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the district; and that, under existing laws and regulations, subject to the assumptions and limitations contained therein, the interest on said bonds is exempt from present federal income taxation and the bonds are exempt from intangible personal property taxes levied by Kansas cities, counties and townships.

Reference is made to the preceding section entitled "The Internal Revenue Code of 1986."

**Purpose of Issue**

The bonds are being issued for the purpose of paying the costs of constructing additions to an existing elementary school building in the district, pursuant to the authority of K.S.A. 72-8801 *et seq.*, as amended and supplemented.

**CUSIP Identification Numbers**

It is not expected that CUSIP identification numbers will be printed on the bonds since the amount of the issue does not meet the CUSIP Service Bureau's guidelines for the assignment of CUSIP numbers.

**Assessed Valuation**

Assessed valuation figures for Unified School District 448, McPherson County, Kansas (Inman), for the year 1986, are as follows:

Assessed valuation of taxable tangible property .....	\$12,523,361
Taxable value of motor vehicles .....	914,999
Equalized assessed tangible valuation for computation of bonded debt limitations ..	\$13,438,360

**Bonded Indebtedness**

The total outstanding general obligation indebted-

ness of Unified School District 448, McPherson County, Kansas (Inman), at the date hereof, including this proposed \$190,000 issue of bonds, is \$245,000.

**Official Statement**

Additional copies of this notice of bond sale, copies of the district's official statement relating to the bonds, or further information may be received from the office of the clerk of the district, 119 S. Main, P.O. Box 129, Inman, KS 67846, (316) 585-6424; or from the district's financial consultant, Stern Brothers & Co., 810 One Main Place, P.O. Box 47584, Wichita, KS 67201, (316) 265-8622.

Dated April 9, 1987.

BOARD OF EDUCATION  
UNIFIED SCHOOL DISTRICT 448  
McPHERSON COUNTY, KANSAS (INMAN)  
By Beverly Quillin, Clerk

Doc. No. 005262

(Published in the KANSAS REGISTER, April 23, 1987.)

**NOTICE OF BOND SALE  
GENERAL OBLIGATION  
SANITARY SEWER MAIN,  
LATERAL SEWERS AND WATER BONDS  
OF THE  
CITY OF ANDOVER, KANSAS**

The city of Andover, Kansas will receive sealed bids at the office of the City Clerk, City Building, 909 Andover Road, P.O. Box 295, Andover 67002, until 7 p.m. local time on Tuesday, April 28, 1987, for \$560,392.81 par value general obligation bonds, Series 1987, of the city, at which time and place such bids will be publicly opened. No oral or auction bids will be considered.

The Series 1987 bonds will be dated April 15, 1987, and shall mature on October 1 in each of the years and in the amounts set forth below. Such bonds shall consist of fully registered certificated bonds, each in the denomination of \$5,000 or integral multiples thereof, except bond no. 1 in the denomination of \$5,392.81. Interest will be payable semiannually commencing April 1, 1988, and each October 1 and April 1 thereafter. The principal of, and premium, if any, on the bonds shall be payable in lawful money of the United States of America at the principal office of the Treasurer of the State of Kansas (the paying agent and bond registrar) to the registered owners thereof upon presentation of the bonds for payment and cancellation. Interest on the bonds shall be payable in lawful money of the United States of America by check or draft of the paying agent to the registered owners appearing on the books maintained by the bond registrar as of the 15th day of the month next preceding the interest payment dates (the record dates). The fees of the bond registrar for registration and transfer of the bonds shall be paid by the city.

The bonds will mature serially in accordance with the following schedule:

Principal Amount	Maturity Date
\$ 5,392.81	October 1, 1988
35,000.00	October 1, 1988

45,000.00	October 1, 1989
45,000.00	October 1, 1990
50,000.00	October 1, 1991
55,000.00	October 1, 1992
55,000.00	October 1, 1993
60,000.00	October 1, 1994
65,000.00	October 1, 1995
70,000.00	October 1, 1996
75,000.00	October 1, 1997

#### Redemption of Bonds Prior to Maturity

Bonds maturing in the year 1992 and thereafter may be called for redemption and payment prior to maturity in whole or in part in inverse order of maturity (selection of bonds within the same maturity to be by lot by the city in such equitable manner as it may determine) on October 1, 1991 or on any interest payment date thereafter at the redemption price of 102 percent (expressed as a percentage of the principal amount), plus accrued interest to the redemption date.

Whenever the city is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

If the city shall elect to call any bonds for redemption and payment prior to the maturity thereof, the city shall give written notice of its intention to call and pay said bonds on a specified date, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said bonds, to the Treasurer of the State of Kansas, Topeka, Kansas, and to the manager or managers of the underwriting account making the successful bid, each of said notices to be mailed not less than 30 days prior to the date fixed for redemption. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

#### Interest Rates

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. The difference between the highest rate specified and the lowest rate specified shall not exceed 2.5 percent. No bid of less than the entire 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.

#### Bid Form and Good Faith Deposit

Bids shall be submitted on the official bid form furnished by the city, shall be addressed to Andover City Clerk at the City Building, 909 N. Andover Road,

P.O. Box 295, Andover, KS 67002, and shall be plainly marked "Bond Bid." All bids must state the total interest cost of the bid, the premium, if any, the net interest cost of the bid, and the average annual interest rate, all certified by the bidder to be correct. Each bid must be accompanied by a certified or cashier's check equal to 2 percent of the total amount of the bid, and shall be payable to Treasurer, City of Andover, Kansas. In the event a bidder whose bid is accepted shall fail to carry out his contract of purchase, said deposit shall be retained by the city as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

#### Award of Bids

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

#### Tax Exemption

On October 11, 1986, the President of the United States signed into law H.R. 3838, the Tax Reform Act of 1986, which redesignates the Internal Revenue Code of 1954 as the Internal Revenue Code of 1986. The 1986 code imposes certain additional requirements and restrictions which must be met subsequent to the issuance of state and local government obligations in order to maintain the exemption from federal income taxation of the interest on such obligations. The city will covenant in the bond ordinance to comply with the provisions of the Act and to take all action as may be necessary to comply with the Act and all applicable future law to preserve the tax-exempt status of the bonds, to the extent such actions can be taken by the governing body of the city.

In the opinion of bond counsel, under existing law, statutes, regulations, rulings and judicial decisions, assuming continued compliance by the city with the terms of the bond ordinance, the bonds are exempt from intangible personal property taxes levied by Kansas counties, cities or townships, and the interest on the bonds is exempt from federal income taxation except as follows:

- (a) For taxable years beginning in the years 1987, 1988 and 1989, the interest on the bonds will be included in the adjusted net book income of corporations. For purposes of computing the corporate alternative minimum tax, a corporation's alternative minimum taxable income must be increased by 50 percent of the amount by which such corporation's adjusted net book income exceeds such corporation's alternative minimum taxable income determined without regard to this adjustment or the alternative tax, net operating loss deduction. For

(continued)

taxable years beginning after 1989, the use of "book income" will be replaced by "adjusted current earnings," and "50%" will be replaced by "75%."

(b) For taxable years beginning after December 31, 1986, property and casualty insurance companies will be required to reduce their deduction for losses incurred on insurance contracts by 15 percent of the amount of interest received or accrued on tax-exempt obligations acquired after August 7, 1986, including the bonds.

H.R. 2005, the Superfund Amendments and Reauthorization Act of 1986, which was enacted on October 17, 1986, includes among its provisions the imposition of a new environmental tax. Calculation of the tax is to be based generally on a percentage of the corporate alternative minimum taxable income as defined in the 1986 code which would include interest on tax-exempt obligations, including the bonds. The amount of tax is equal to 0.12 percent of excess of the alternative minimum taxable income (without regard to net operating losses and the deduction for the environmental tax) over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax, but is deductible from gross income. The environmental tax is effective for taxable years beginning after 1991. The imposition of this environmental tax could result in additional taxation of interest on the bonds for certain bondowners.

#### Qualified Tax-Exempt Obligations

The Tax Reform Act of 1986, H.R. 3838, was signed into law by the President of the United States on October 22, 1986. The Act provides that banks and thrift institutions would be unable to deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations (with certain exceptions) if such interest costs are incurred in taxable years ending after December 31, 1986 with respect to bonds acquired after August 7, 1986. The Act provides that certain "qualified tax-exempt obligations" as defined in Section 902(b)(3) will be treated as having been acquired on August 7, 1986. The city will covenant to take such actions as are necessary to designate the bonds as "qualified tax-exempt obligations" described above.

#### Delivery of Bonds

The bonds, duly printed, executed and registered, will be furnished and paid for by the city, and the bonds will be sold subject to the unqualified approving opinion of William P. Timmerman, bond counsel, of Wichita, Kansas. The number, denomination of bonds, and names of the initial registered owners to be initially printed on the bonds shall be submitted in writing by the successful bidder to the bond registrar not later than May 5, 1987. The purchaser will be furnished with a complete transcript of proceedings evidencing the authorization and issuance of the bonds and the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity. Payment for the bonds shall be made in immediately available funds. Delivery of the

bonds will be made to the successful bidder approximately May 8, 1987, at any bank in the state of Kansas or Kansas City, Missouri, at the expense of the city. Delivery elsewhere will be made at the expense of the purchaser.

#### CUSIP Numbers

It is anticipated that CUSIP identification numbers will be printed on certificated bonds or assigned to uncertificated bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of the successful bid and this notice of bond sale. All expenses in relation to the assignment and printing of CUSIP numbers on the bonds will be paid for by the city.

#### Purpose of Issue

The bonds are being issued for the purpose of constructing certain sanitary sewer main, lateral sewers and water improvements in the city of Andover, Kansas.

#### Assessed Valuation

Assessed valuation for the city of Andover, Kansas, a third class city with population of 3,353, for the year 1986 is as follows:

Real estate, etc.	\$ 9,300,161
Motor vehicles	2,634,715
Total:	\$11,934,876
30% of tangible =	\$3,580,462.80
General obligation debt as of now:	\$ 1,534,000
Revenue debt	\$ 40,000
All temporary notes outstanding are being picked up by this bond issue.	
Overlapping debts:	
Butler County	\$ 1,110,000
of which Andover is responsible for only 5.24%	
U.S.D. 385	\$ 3,000,000
of which Andover is responsible for only 35.8%	
Butler County Junior College	\$ 650,000
of which Andover is responsible for only 5.24%	
Industrial revenue issues, and are not a debt of the city:	\$13,750,000

Additional copies of this notice of bond sale or further information may be received from the city's bond counsel, William P. Timmerman, 400 N. Woodlawn, Suite 208, Wichita, KS 67208, (316) 685-7212, or the Andover City Clerk, (316) 733-1303.

Dated April 15, 1987.

CITY OF ANDOVER, KANSAS  
By Patricia M. Stuenkel  
City Clerk

Doc. No. 005261

(Published in the KANSAS REGISTER, April 23, 1987.)

**NOTICE OF BOND SALE**  
**\$6,400,000**  
**CITY OF TOPEKA, KANSAS**  
**GENERAL OBLIGATION BONDS**  
**SERIES 1987-A**  
**(INTERNAL IMPROVEMENT BONDS)**

**Sealed Bids**

Sealed bids for the purchase of \$6,400,000 principal amount of general obligation bonds, Series 1987-A (internal improvement bonds), of the city hereinafter described will be received by the undersigned, city clerk of the city of Topeka, Kansas, on behalf of the governing body of the city at City Hall, 215 E. 7th, Topeka, until 11 a.m. C.D.T. on Tuesday, April 28, 1987.

All bids will be publicly opened and read at said time and place and will be acted upon by the city immediately thereafter. No oral or auction bids will be considered.

**Bond Details**

The bonds will consist of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated May 1, 1987 and will become due serially on August 1 in the years as follows:

Year	Principal Amount
1989	\$100,000
1990	100,000
1991	100,000
1992	250,000
1993	250,000
1994	250,000
1995	250,000
1996	250,000
1997	250,000
1998	300,000
1999	300,000
2000	500,000
2001	500,000
2002	500,000
2003	500,000
2004	500,000
2005	500,000
2006	500,000
2007	500,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on February 1 and August 1 in each year, beginning on February 1, 1988.

**Place of Payment and Bond Registration**

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Treasurer of the State of Kansas, Topeka, Kansas (the paying agent and bond registrar). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons in whose names the bonds are registered on the registration books maintained by

the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

The city will pay for the fees of the bond registrar for registration and transfer of the bonds and will also pay for printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the bond registrar, will be the responsibility of the bondholders.

**Redemption of Bonds Prior to Maturity**

At the option of the city, bonds maturing on August 1, 1998 and thereafter will be subject to redemption and payment prior to maturity on August 1, 1997, and thereafter in whole or in part on any interest payment date (bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the paying agent and bond registrar in such equitable manner as it shall designate), at the principal amount thereof, plus accrued interest to the redemption date, without premium.

Whenever the city is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all of the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

If the city shall elect to call any bond for redemption and payment prior to the maturity thereof, the city shall give written notice of its intention to redeem and pay said bonds on a specified date, the same being described by number and maturity, said notice to be mailed by United States registered or certified mail addressed to the registered owners of said bonds, to the paying agent and bond registrar, and to the manager or managers of the underwriting account making the successful bid, each of said notices to be mailed at least 30 days prior to the redemption date. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

**Conditions of Bids**

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. The difference between the highest rate specified and the lowest rate specified shall not exceed 1.5 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest will be considered. Each bid shall

*(continued)*

specify the total interest cost to the city during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the 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. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the "Initial Reoffering Prices").

#### **Basis of Award**

The award of the bonds will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the city shall determine which bid, if any, shall be accepted, and its determination shall be final.

#### **Authorization, Purpose and Security for the Bonds**

The bonds are being authorized and issued to permanently finance various internal improvements to the city. The bonds will be general obligations of the city payable as to both principal and interest in part from special assessments levied upon specially benefited property and, if not so paid, from ad valorem taxes which may be levied without limitation upon all the taxable tangible property, real and personal, within the territorial limits of the city. The balance of the principal of and interest on the bonds is payable from ad valorem taxes which may be levied, without limitation as to rate or amount on all the taxable tangible property, real and personal, within the territorial limits of the city.

#### **Internal Revenue Code of 1986**

The Internal Revenue Code of 1986 was signed into law by the President of the United States on October 22, 1986. The provisions of the code regarding obligations of state and local units of government are generally effective for obligations such as the bonds issued after August 31, 1986. Certain of these provisions impose requirements on the city which must be met subsequent to the issuance of the bonds by the city and, as a result, the city will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted net book

income of certain corporations for taxable years beginning after December 31, 1986, and includes, through 1989, in the calculation of alternative minimum taxable income one-half of the excess of a corporation's adjusted net book income over its alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). After 1989, the use of "book income" will be replaced by "adjusted current earnings," with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for a new environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax. The environmental tax, which is effective for taxable years beginning after December 31, 1986, may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies, for taxable years beginning on or after January 1, 1987, to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986.

With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the bonds if such interest cost is incurred in taxable years ending after December 31, 1986, with respect to obligations acquired after August 7, 1986. The city does not intend to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

#### **Legal Opinion**

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city, printed on the bonds and delivered to the successful bidder when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the city with the provisions of the ordinance authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation.

#### **Delivery and Payment**

The city will pay for printing the bonds and will deliver the bonds without cost to the successful bidder, properly prepared, executed and registered, on or prior to May 13, 1987, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents,



including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the bonds shall be made in federal reserve funds, immediately subject to use by the city. The denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the city and bond registrar not later than 4 p.m. C.D.T. on May 5, 1987. In the absence of such information, the city will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the city by 4 p.m. C.D.T. on May 5, 1987 a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

#### Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$128,000 payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of his bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if his bid is not accepted. If a bid is accepted, said check shall be held by the city until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall be returned to the successful bidder or deducted from the purchase price at the option of the city. If a bid is accepted but the city shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be retained by the city as and for liquidated damages.

#### CUSIP Numbers

CUSIP identification numbers will be printed on the bonds, but neither the failure to print such number on any bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with the terms of this notice. All expenses in relation to the assignment and printing of CUSIP numbers on the bonds will be paid by the city.

#### Bond Ratings

The outstanding general obligation bonds of the city

are rated "Aa1" by Moody's Investor Service, Inc., and the city has applied for rating on the bonds herein offered for sale.

#### Bid Forms

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

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for the Purchase of General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at City Hall and must be received by the undersigned prior to 11 a.m. C.D.T. on Tuesday, April 28, 1987.

#### Official Statement

Upon the sale of the bonds, the city will adopt an official statement in substantially the form as the preliminary official statement, subject to minor amendments and supplementation. Copies of the city's preliminary official statement relating to the bonds may be obtained from the city clerk or the city's financial adviser, Shearson Lehman Brothers Inc., 2345 Grand Ave., Suite 1600, Kansas City, MO 64112, (816) 346-6101. Upon request, a reasonable number of copies of the official statement will be made available to the successful bidder without charge. Additional copies may be obtained at the expense of such bidder.

#### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city for the year 1986 is \$448,205,819. The total general obligation bonded indebtedness of the city as of the date on the bonds, including the bonds, is \$69,125,000, including, as of the date of the bonds, temporary notes outstanding in the principal amount of \$6,500,000, of which, \$4,876,000 will be retired out of the proceeds of the bonds herein offered for sale with the balance being payable from a portion of the proceeds derived from the sale of \$4,200,000 principal amount of the city's temporary notes, Series 1987-A, dated May 1, 1987, being offered for sale by the city concurrently with the bonds, as described in the city's preliminary official statement relating to said notes, copies of which may be obtained from the city clerk or the financial adviser. In accordance with the financial adviser's agreement with the city, the financial adviser will not be submitting a bid or participating in a group submitting a bid for the purchase of the bonds.

Dated April 15, 1987.

CITY OF TOPEKA, KANSAS  
Norma E. Robbins  
City Clerk  
City Hall  
215 E. 7th  
Topeka, KS 66603  
(913) 295-3940

(Published in the KANSAS REGISTER, April 23, 1987.)

**NOTICE OF NOTE SALE**  
**\$4,200,000**  
**CITY OF TOPEKA, KANSAS**  
**TEMPORARY NOTES**  
**SERIES 1987-A**

**Sealed Bids**

Sealed bids for the purchase of \$4,200,000 principal amount of temporary notes, Series 1987-A, of the city hereinafter described will be received by the undersigned, city clerk of the city of Topeka, Kansas, on behalf of the governing body of the city at City Hall, 215 E. 7th, Topeka, until noon C.D.T. on Tuesday, April 28, 1987.

All bids will be publicly opened and read at said time and place and will be acted upon by the city immediately thereafter.

**Note Details**

The notes will be issued in the principal amount of \$4,200,000 as negotiable bearer notes, dated May 1, 1987, and maturing on October 30, 1987. The notes will be numbered from 1 consecutively upward and will be in the denomination of \$5,000 or any integral multiple thereof as designated by the successful bidder. No more than 150 notes will be issued. The notes will bear interest at the rate to be determined when the notes are sold as hereinafter provided, which interest will be payable at maturity. The principal of and interest on the notes will be payable in federal reserve funds at a bank or trust company located in a city in which a federal reserve bank is located which is specified by the successful bidder and approved by the city. Any collection charges made by a bank or trust company in connection with payment of the principal of and interest on the notes will be paid by the successful bidder. The city clerk must be advised within 48 hours after the time of the bid opening of the denominations of the notes and of the place of payment of the principal of and interest on the notes. In the absence of such information, the city will deliver notes in the denomination determined by the city, and the notes will be payable at the office of the Kansas State Treasurer in the city of Topeka, Kansas. The notes will not be subject to redemption prior to maturity.

**Conditions of Bids**

Proposals will be received on the notes bearing such rate of interest as may be specified by the bidders, subject to the following conditions: The bid shall offer to purchase all of the notes for not less than par plus accrued interest. The same interest rate shall apply to all notes, and 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 notes are sold, plus 2 percent. Each bid shall specify the total interest cost to the city 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 annual net interest rate to the city on the basis of such bid. Bids

should be computed on a 30-day month and 360-day year basis.

If the bidder intends to offer the notes to the public, it shall specify in the bid form the price (exclusive of accrued interest), expressed as a dollar price, at which it intends to initially offer the notes to the public (the initial reoffering price). If the bidder does not intend to reoffer the notes, it shall upon the closing of the issuance of the notes certify by executing a certificate acceptable to the city's bond counsel that it is purchasing the notes as its own investment and that it has no present intent to reoffer the notes to the public.

**Basis of Award**

The award of the notes will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there is any discrepancy between the net interest cost and the annual net interest rate specified, the specified net interest cost shall govern and the interest rate specified in the bid shall be adjusted accordingly. If two or more proper bids providing the identical amounts for the lowest net interest cost are received, the city shall determine which bid, if any, shall be accepted, and its determination shall be final.

**Authority and Security for the Notes**

The notes are being issued pursuant to K.S.A. 10-123, which authorizes municipalities to issue temporary notes to finance the costs of improvements which have been duly authorized by the municipality and which will be paid for by the issuance of general obligation bonds. The statute provides that renewal temporary notes may be issued upon the maturity of such temporary notes for improvements that have not been completed or for other specified reasons. The statute further provides that such temporary notes shall constitute general obligations of the municipality which issues them.

**Internal Revenue Code of 1986**

The Internal Revenue Code of 1986 was signed into law by the President of the United States on October 22, 1986. The provisions of the code regarding obligations of state and local units of government are generally effective for obligations such as the notes issued after August 31, 1986. Certain of these provisions impose requirements on the city which must be met subsequent to the issuance of the notes by the city and, as a result, the city will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the notes. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the notes. Purchasers of the notes should be aware that should the notes lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the notes are neither callable nor will the rate of interest on the notes be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the notes, in the adjusted net book income of certain corporations for taxable years beginning after December 31, 1986, and includes,

through 1989, in the calculation of alternative minimum taxable income one-half of the excess of a corporation's adjusted net book income over its alternative minimum taxable income (determined without regard to this adjustment and prior to reduction for certain net operating losses). After 1989, the use of "book income" will be replaced by "adjusted current earnings," with certain other adjustments. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of 1986, provides for a new environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax. The environmental tax, which is effective for taxable years beginning after December 31, 1986, may subject certain bondowners to additional taxation for interest earned on the notes.

The code also requires property and casualty insurance companies, for taxable years beginning on or after January 1, 1987, to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on obligations acquired after August 7, 1986.

With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the notes if such interest cost is incurred in taxable years ending after December 31, 1986, with respect to obligations acquired after August 7, 1986. The city does not intend to designate the notes as "qualified tax-exempt obligations" under Section 265 of the code.

#### Legal Opinion

The notes will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the notes will be furnished and paid for by the city, and delivered to the successful bidder when the notes are delivered.

#### Delivery and Payment

The city will pay for printing the notes and will deliver the notes without cost to the successful bidder properly prepared, executed and registered in the office of the Kansas State Treasurer on or prior to May 13, 1987 at such bank or trust company located in a city in which a federal reserve bank is located as may be specified by the successful bidder and approved by the city. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the notes and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the notes affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the notes shall be made in federal reserve funds, immediately subject to use by the city.

The successful bidder shall, if it has offered the notes to the public, furnish the city by 4 p.m. C.D.T. on May 5, 1987, a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the notes at the initial reoffering prices, and (ii) a substantial amount of the notes was sold to the public (excluding brokers and other intermediaries) at such initial reoffering price. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder, and (2) 10 percent or more in par amount of the notes was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the notes).

#### Note Rating

The outstanding general obligation notes of the city are rated "MIG-1" by Moody's Investor Service, Inc., and the city has applied for rating on the notes herein offered for sale.

#### Bid Forms

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

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for the Purchase of Temporary Notes." Bids may be submitted by mail or delivered in person to the undersigned at City Hall and must be received by the undersigned prior to noon C.D.T. on Tuesday, April 28, 1987.

#### Official Statement

Upon the sale of the notes, the city will adopt an official statement in substantially the form as the preliminary official statement, subject to minor amendments and supplementation. Copies of the city's preliminary official statement relating to the notes may be obtained from the city clerk or the city's financial adviser, Shearson Lehman Brothers Inc., 2345 Grand Ave., Suite 1600, Kansas City, MO 64112, (816) 346-6101. Upon request, a reasonable number of copies of the official statement will be made available to the successful bidder without charge. Additional copies may be obtained at the expense of such bidder. In accordance with the financial adviser's agreement with the city, the financial adviser will not be submitting a bid or participating in a group submitting a bid for the purchase of the notes.

Dated April 15, 1987.

CITY OF TOPEKA, KANSAS  
Norma E. Robbins  
City Clerk  
City Hall  
215 E. 7th  
Topeka, KS 66603  
(913) 295-3940

(Published in the KANSAS REGISTER, April 23, 1987.)

**NOTICE OF REDEMPTION AND  
NOTICE OF ELECTION TO  
PURCHASE THE FACILITY  
\$700,000  
CITY OF LANSING, KANSAS  
INDUSTRIAL REVENUE BONDS  
SERIES 1983-A  
(THE FIRST STATE BANK OF  
LANSING PROJECT)**

The city of Lansing, Kansas, by and through Security Bank of Kansas City, as fiscal agent, hereby notifies all of the holders of the city of Lansing, Kansas, industrial revenue bonds, Series 1983-A (the First State Bank of Lansing Project), dated June 1, 1983, issued June 30, 1983, that all of the bonds outstanding on June 1, 1987 will be called for redemption and payment on June 1, 1987, and that the bonds will no longer bear interest after June 1, 1987.

The bonds will be redeemed as follows:

Redemption Date: June 1, 1987  
Place of Redemption: Security Bank of Kansas City  
One Security Plaza  
P.O. Box 1250  
Kansas City, KS 66117  
Attention: Trust Department  
Telephone: (913) 621-8434

Maturities to be Redeemed:

All of the bonds outstanding on June 1, 1987, will be redeemed, including specifically all of the bonds maturing on June 1, 1987, through June 1, 1993, inclusive, as follows:

Number	Maturity June 1	Interest Rate	Amount
43- 56	1987	8.5%	\$70,000
57- 70	1988	8.5%	\$70,000
71- 84	1989	8.5%	\$70,000
85- 98	1990	8.5%	\$70,000
99-112	1991	8.5%	\$70,000
113-126	1992	8.5%	\$70,000
127-140	1993	8.5%	\$70,000

Interest: All of the bonds called for redemption will no longer bear interest after June 1, 1987.

Redemption Price: The bonds will be redeemed at a redemption price equal to 100 percent of the principal amount redeemed, plus accrued interest through the redemption date, without premium.

The bondholders are also notified that the company has exercised its option to purchase the facility which was acquired with the proceeds of the bonds (the facility) in accordance with Section 16.1 of the lease agreement dated as of June 1, 1983 by and between the city, as lessor, and the First State Bank of Lansing, as lessee (the company). The lease provides that the company may purchase the facility upon payment of the purchase price of the facility determined as provided in the lease as follows:

(a) The full amount which is required when added to the amount in the principal and interest account on the closing date, to provide landlord and

the fiscal agent with funds necessary to pay, at maturity, or to redeem and pay in full (1) the principal of all of the landlord's outstanding bonds, (2) all interest due thereon to date of maturity or redemption, whichever occurs first, and (3) all costs, expenses and premiums incident to the redemption and payment of said bonds in full; plus (b) \$100.

The closing date is June 1, 1987.

The company will purchase the facility from the city for the purchase price described above. From the proceeds of the sale of the facility, the fiscal agent will purchase United States Government obligations which will be deposited into an irrevocable trust fund and pledged to the payment of the principal of, premium, if any, and interest on the bonds. The principal of and interest payments on the United States Government securities will be sufficient to provide for the timely payment of the principal, redemption premium, if any, and interest on the bonds to the redemption date. Following the deposit of the United States Government securities into the escrow account, the bondholders shall only be entitled to look to the securities on deposit in the escrow account to secure the payment of the bonds.

Any questions concerning this notice should be directed to the fiscal agent at the address and telephone number given above.

Dated April 23, 1987.

**SECURITY BANK OF KANSAS CITY**  
as Fiscal Agent  
By Raymond J. Hintz  
Vice President  
**CITY OF LANSING, KANSAS**  
By Kenneth W. Bernard  
Mayor

Doc. No. 005279

State of Kansas

**DEPARTMENT OF HEALTH  
AND ENVIRONMENT**

**PERMANENT ADMINISTRATIVE  
REGULATIONS**

(Effective May 1, 1987)

The complete text of the following regulations has not been published because of its length and the resulting cost of publication. Copies of the complete text of any of the following regulations may be obtained by contacting Charles V. Hamm, Office of the Secretary, Department of Health and Environment, Building 740, Forbes Field, Topeka 66620, (913) 862-9360, ext. 585.

**Article 4**

**Licensure of Child Care Facilities**

**K.A.R. 28-4-92. License fees.** This regulation is amended to set the fee for license of \$15 for facilities licensed for 12 or fewer children, \$75 for facilities licensed for 13 or more children, and \$75 for child

placing agencies, maternity centers and day care referral agencies.

**K.A.R. 28-4-115. The Home.** This regulation is amended to put into regulatory form the specific requirements for constructing, arranging, and maintaining the home so as to provide adequately for the health and safety of children in care. It also corrects an error in the regulations specifying a safe nitrate level for children.

**K.A.R. 28-4-116. The Children in Care.** This regulation is amended to require individual bedding and the use of pasteurized milk products.

**K.A.R. 28-4-127. Emergencies.** This regulation is amended to require recording of accidents to children and of notifying parents immediately if a child becomes seriously ill or suffers an injury requiring hospitalization.

**K.A.R. 28-4-130. Transportation.** This regulation is amended to delete the requirement that staff/child ratios be met when transporting children.

**K.A.R. 28-4-187. Administration.** This regulation is amended to allow day care referral agencies to make referrals to facilities which have temporary permits, as well as to those which are registered or licensed.

**K.A.R. 28-4-269. Licensing Procedures.** This regulation is amended to repeal the requirement that the Kansas Department of Health and Environment must approve building plans for group boarding homes and residential centers.

**K.A.R. 28-4-271. Administration.** This regulation is amended to repeal the requirement that sharp or dangerous instruments and tools must be in locked storage. It proposes that the use of such tools by residents be supervised by staff.

**K.A.R. 28-4-275. Health Care.** This regulation amends general health policies regarding supervision of sharp or dangerous instruments and tools and notification as soon as possible of injury to staff or facility.

**K.A.R. 28-4-277. Environmental Standards.** This regulation is amended to repeal the requirement that the Kansas Department of Health and Environment approve plans for construction or alteration of buildings used for residential care.

**K.A.R. 28-4-351. Licensing Procedures—Detention Centers, and K.A.R. 28-4-359. Environmental Standards—Detention Centers.** These regulations are amended to repeal the requirement that the Kansas Department of Health and Environment approve plans for buildings used as detention centers.

**K.A.R. 28-4-377. Maternity Centers, Environmental Standards.** This regulation is amended to repeal the requirement that the Kansas Department of Health and Environment approve plans for construction or alteration of buildings to be used for maternity centers.

**K.A.R. 28-4-420. Definition.** This regulation is amended to include school-age programs in the definition of child care centers.

**K.A.R. 28-4-422. Procedures.** This regulation is amended to repeal the requirement that the Kansas Department of Health and Environment approve plans for construction or alteration of buildings to be used for child care centers or preschools.

**K.A.R. 28-4-429. Staff Qualifications.** This regulation is amended to specify requirements for assistant program directors in centers or preschools enrolling more than 160 children.

**K.A.R. 28-4-440. Infant and Toddler Programs.** This regulation is amended to prohibit the use of stacking cribs and to clarify what disinfectant may be used to sanitize diaper changing tables.

#### **Crippled and Chronically Ill Children's Program**

**K.A.R. 28-4-401, 28-4-402 (Revoked), 28-4-405, 28-4-405b and 28-4-408** are amended regulations that clarify the regulations and define the responsibility of the applicant or eligible person enrolled in the Department of Social and Rehabilitation Services Primary Care Network to report their Medicaid number and name of the primary care physician and any subsequent changes in these; clarify the qualifications of certain service procedures, including the opportunity for a hearing before the secretary when a provider is terminated for unethical and unprofessional conduct or non-compliance with state laws or regulations; and qualify diagnostic services out of state as "initial" diagnostic services.

#### **Screening of Newborn Infants**

**K.A.R. 28-4-501 through 28-4-513** are new regulations pertaining to phenylketonuria, congenital hypothyroidism and galactosemia, which identify the persons responsible for obtaining the specimens on which the screening tests will be performed; the time at which the specimens should be obtained relative to the age of the infant and health status; methods of specimen collection; what constitutes an unsatisfactory specimen and the handling of an unsatisfactory specimen; the way the laboratory handles the specimen; the methods of reporting for normal and abnormal test results; procedures for following up on the abnormal test result; the registry of individuals with a confirmed diagnosis; the treatment available for individuals with a confirmed diagnosis; documentation of test refusals to be a part of the child's record; parents be informed about newborn screening as part of prenatal care and prior to obtaining the specimen and the type of professional education provided by the program.

#### **Article 16**

##### **Surface Water Quality Standards**

**K.A.R. 28-16-28c, 28-16-28d, and 28-16-28e** are regulations amending the uses and classification of surface waters and contain water quality criteria designed to protect those uses.

##### **Water Pollution Control**

**K.A.R. 28-16-57 through 28-16-62** are regulations  
(continued)

amending discharge of sewage into waters of the state in accordance with updated federal requirements under the Clean Water Act.

**K.A.R. 28-16-57a** is a new regulation regarding effluent standards set on a case by case basis.

**K.A.R. 28-16-83 through 28-16-98** are regulations amending procedures, administrative functions and regulatory requirements for the Kansas Pretreatment Program and include provisions for adopting portions of the Code of Federal Regulations by reference.

### Article 17

#### Vital Statistics

**K.A.R. 28-17-7, 28-17-19 and 28-17-20** are regulations amending existing statutes with regard to: 1) retention of records by the local registrar, 2) filing of unattended births, and 3) procedures for amending a birth or death certificate.

### Article 19

#### Air Pollution Control

**K.A.R. 28-19-14. Permits Required.** This regulation was amended to correct an error of omission which occurred during typing of the regulation prior to submitting it to the Department of Administration last year for a previous amendment. The amendment returns agricultural activities producing 100 tons per year or more particulate to the limitations list requiring construction or alteration permits.

**K.A.R. 28-19-17. New Source Permit Requirements for Designated Attainment and Unclassified Areas.** This regulation was amended to clarify the responsibilities of the Secretary of Health and Environment and the administrator of the U.S. Environmental Protection Agency in the state's adoption by reference of the federal regulations.

**K.A.R. 28-19-19. Continuous Emission Monitoring.** This is a new regulation to comply with federal regulatory requirements that existing fossil fuel fired steam generators of greater than certain heat input and catalytic cracking units at petroleum refineries of greater than certain process rate, install, operate, maintain and report data from opacity and/or sulfur dioxide continuous monitoring equipment. Existing means that the affected sources were installed and operational prior to the effective date of any federal NSPS which would apply to new sources of the same or greater capacity.

**K.A.R. 28-19-61. Definitions.** This regulation was amended to include certain definitions required for new regulations 28-19-72 through 28-19-75.

**K.A.R. 28-19-71. Printing Operations.** This regulation was amended to make one change in terminology and certain changes in orthography and organization required by the Department of Administration.

**K.A.R. 28-19-72 through 28-19-75** are new regulations to control volatile organic compounds (VOC) emissions from source categories for which EPA has published control technique guidelines (CTG) documents. Control of VOC, a constituent of formation of

ozone in the atmosphere, is part of the strategy required of the state by EPA to achieve attainment of the national ambient air quality standard (NAAQS) for ozone in areas of the state presently designated non-attainment, these being Johnson and Wyandotte counties.

**K.A.R. 28-19-86, 28-19-96, 28-19-98 through 28-19-109, 28-19-119 through 28-19-121, 28-19-123 through 28-19-125, 28-19-127 through 28-19-131, 28-19-133 through 28-19-141, and 28-19-149 through 28-19-151** are amended regulations that adopt, by reference, federal new source performance standards (NSPS) for various stationary source categories for which the state has assumed enforcement authority.

**K.A.R. 28-19-153, 28-19-154 and 28-19-159** are amended regulations adopting, by reference, federal and national emission standards for hazardous air pollutants (NESHAPS) to adopting, by reference, more NSPS regulations.

**K.A.R. 28-19-110 to 28-19-118** are reserved.

**K.A.R. 28-19-163 to 28-19-199** are reserved.

### Article 23

#### Retail Food Store—Inspections

**K.A.R. 28-23-88.** This amended regulation establishes the frequency of regulatory inspections; describes the documentation of inspection findings, rating scores and correction of violations; and establishes the penalties for creating a public health hazard as a result of failing to correct deficiencies.

### Article 30

#### Water Well Construction and Abandonment

**K.A.R. 28-30-1.** Revoked.

**K.A.R. 28-30-2 through 28-30-10** are regulations amending the increase of the grouting requirement for water wells from 10 feet to 20 feet or more and will more specifically address the final disposition of abandoned holes and water wells.

### Article 31

#### Hazardous Waste Management

**K.A.R. 28-31-1 through 28-31-6, 28-31-8 through 28-31-10, 28-31-12 and 28-31-13.** These amended regulations implement Senate Bill 485 passed during the 1986 legislative session and adopt by reference the federal hazardous waste management regulations as in effect on November 1, 1986.

### Article 32

#### Breath Alcohol Certification Program

**K.A.R. 28-32-1 through 28-32-7** are regulations amending the general requirement of law enforcement agencies participating in the breath alcohol program with regard to test equipment, procedures, training of personnel, inspections and reports; performance evaluation program conducted by the department of health and environment for certification of operators of evidential breath alcohol test equipment;

certification of law enforcement agencies in the breath alcohol program; certification of operators of evidential breath alcohol test equipment; and establish a list of preliminary screening devices approved for testing of breath for law enforcement purposes.

K.A.R. 28-32-6 is a new regulation that establishes the criteria for preliminary screening devices for the testing of human breath for law enforcement purposes.

#### Article 34

##### Hospitals

K.A.R. 28-34-62a is an amended regulation concerning ambulatory surgical centers and requires certification by the architect that contract documents are in compliance with regulations.

K.A.R. 28-34-94. Revoked.

K.A.R. 28-34-94a is a new regulation concerning construction requirements for recuperation centers and specifies what standards are to be followed for construction and procedure requirements for architects.

K.A.R. 28-34-125 is a new regulation pertaining to hospital construction standards including new buildings and additions or alterations to existing buildings.

#### Article 35

##### Radiation

K.A.R. 28-35-145, 28-35-146 and 28-35-147 are new regulations relating to the possession and use of radiation producing equipment and radioactive materials and fees to be established by the department for the licensing and registration programs.

#### Article 38

##### Adult Care Home Administrators

K.A.R. 28-38-19 is an amended regulation concerning adult care home administrators and modifies the qualifications to sit for the adult care home administrator's licensure examination.

K.A.R. 28-38-21 is an amended regulation concerning adult care home administrators and modifies the qualifications for a person to be issued a temporary license as an adult care home administrator.

#### Article 39

##### Adult Care Homes

K.A.R. 28-39-77 is an amended regulation to eliminate duplicate language and bring new facilities, conversion of existing buildings, and modification of structures under the same procedural requirements. The requirement for supervision of construction by a registered architect has been transferred from other regulations.

K.A.R. 28-39-87 is an amended regulation to allow facilities certified only as intermediate care facilities for mental health to substitute a licensed mental health technician for the required licensed nurse. Each waiver granted shall expire on July 1, 1988.

K.A.R. 28-39-111 is an amended regulation deleting construction requirements also regulated by the State Fire Marshal. Certain architect responsibilities have been deleted.

#### Article 46

##### Underground Injection Control (UIC) Program

K.A.R. 28-46-10 and 28-46-32 are amended regulations establishing procedures, administrative functions, and regulatory requirements for the Kansas Underground Injection Control (UIC) Program.

K.A.R. 28-46-10 requires permits for Class I hazardous waste injection wells be reviewed at least annually to determine whether they should be modified, revoked and reissued, or terminated.

K.A.R. 28-46-32 extends the area of review to 1/4 mile and becomes consistent with federal regulations promulgated by the U.S. Environmental Protection Agency.

#### Article 48

##### Traumatic Health Injury Facilities

K.A.R. 28-48-1 through 28-48-8 are new regulations establishing standards and requirements for the construction and operation of post-acute trauma head-injured facilities to be certified by the Kansas Department of Health and Environment.

#### Article 50

##### Asbestos Control

K.A.R. 28-50-1 through 28-50-14 are new regulations which pertain to the licensing of businesses and the certification of persons that engage in asbestos control work.

#### Article 51

##### Home Health Agencies

K.A.R. 28-51-100 is an amended regulation that adds "social worker" to the list of "appropriate health professionals."

#### Article 52

##### Medical Care Facilities

K.A.R. 28-52-1 is a new regulation describing the format for risk management plans and patient care quality assessment concerning medical care facilities.

#### Article 55

##### PCB Facility Construction Permit Standards

K.A.R. 28-55-1 through 28-55-5 are new regulations concerning all offsite PCB treatment, storage and disposal facilities.

#### Article 60

##### Credentialing

K.A.R. 28-60-1 through 28-60-8 are new regulations pertaining to the review of applications seeking to

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have state credentialing of a health care occupational or professional group.

JACK D. WALKER, M.D.  
Secretary of Health  
and Environment

Doc. No. 005269

State of Kansas  
**SOCIAL AND REHABILITATION SERVICES**

**PERMANENT ADMINISTRATIVE  
REGULATIONS**

(Effective May 1, 1987)

The complete text of the following regulations has not been published because of its length and the resulting cost of publication. Copies of the complete text of any of the following regulations may be obtained by contacting Legal Services, State Department of Social and Rehabilitation Services, 6th Floor, Docking State Office Building, Topeka 66612, (913) 296-3969.

**A. General.**

1. **30-2-16. Permanency planning goals for title IV-E of the federal social security act.** This regulation is being amended to change the date of the federal fiscal year permanency planning goals from October 1, 1984 to October 1, 1986.

**B. Public Assistance.**

1. **30-4-40. Agency responsibility to applicants and recipients.** This regulation is being amended to delete reference to the agency's responsibility to certify to an employer that an individual is an ADC recipient in order that the employer may receive an employment incentive credit pursuant to the Tax Reduction Act of 1975 since the legal basis for this provision is no longer in effect.

2. **30-4-55. Cooperation.** This regulation is being amended to require the applicant or recipient to cooperate in identifying and providing information to assist the agency in pursuing any third party who may be liable to pay for medical services under the medical assistance program.

3. **30-4-56. Assignment or transfer of property.** This regulation is being amended July 1, 1987 to:

(a) Change the title of the regulation to "Transfer of property";

(b) exempt from consideration those transfers of property which were exempt at the time of the transfer and those transfers with an uncompensated value which, when added to the value of other nonexempt resources, does not exceed the allowable resource limits;

(c) modify the method of determining the period of ineligibility to provide that the uncompensated value of the property transferred in excess of the property's resource limit, less the difference between the value of the nonexempt resources of the applicant or recipient and the allowable nonexempt resource limit, shall

be divided by \$500 to determine the number of months of ineligibility; and

(d) reflect other clarifications.

4. **30-4-57. Job search requirements.** This regulation is being amended to expand the job search reimbursement provision to include day care costs.

5. **30-4-62. Community work experience program requirements.** This regulation is being amended to:

(a) Limit the maximum number of days a participant can be assigned to a project to 15 full eight-hour days; and

(b) expand the participant reimbursement provision to include day care costs and other expenses approved by the agency.

6. **30-4-74. Persons whose needs shall be considered with the needs of the ADC child.** This regulation is being clarified to exclude certain parents and siblings from the assistance plan who are not otherwise eligible for ADC. Such parents and siblings include: SSI recipients; persons who are ineligible due to the receipt of lump sum income; persons who are ineligible due to a sanction; minor parents whose needs are met through foster care payments; and aliens who are ineligible because of the citizenship and alienage requirements or sponsorship provisions.

7. **30-4-75. ADC work incentive program registration requirements.** This regulation is being amended to take into account "participation" as a WIN requirement.

8. **30-4-78. Eligibility factors specific to the APW program.** This regulation is being amended effective July 1, 1987 to:

(a) Require that, in addition to there being apparent ADC eligibility in the month of anticipated birth, there must be apparent eligibility in any of the three preceding months;

(b) require that eligibility be determined for each month as if the child were born and living with the mother; and

(c) require that in determining payment, the needs of the unborn child shall be excluded.

9. **30-4-85a. Eligibility factors specific to the EA program.** This regulation is being amended to reinstate the emergency assistance provisions for evictions and potential evictions.

10. **30-4-90. Eligibility factors specific to the GA-unrestricted (GAU) program.** This regulation is being amended effective July 1, 1987 to:

(a) Adopt the ADC provision of K.A.R 30-4-74 pertaining to those persons who must be excluded from the assistance plan for GAU purposes; and

(b) expand the GAU family provision pertaining to persons who must not be voluntarily unavailable for employment to a pregnant woman and her husband and permit participation in post-secondary education or training activities during other than normal working hours.

11. **30-4-91. Eligibility factors specific to the transitional GA (TGA) program.** This regulation is being amended to:



- (a) Add a provision that limits cash assistance to a maximum of four months in a 12-month period of time;
- (b) adopt the GAU provision of K.A.R. 30-4-90(a)(5) pertaining to those persons who must be excluded from the assistance plan for TGA purposes. This change becomes effective July 1, 1987; and
- (c) expand the TGA provision pertaining to persons who must not be voluntarily unavailable for employment to permit participation in post-secondary education or training activities during other than normal working hours. This change becomes effective July 1, 1987.
- 12. 30-4-101. Standard for persons in own home, other family home, specialized living, commercial board and room, or commercial room-only living arrangements.** This regulation is being amended to increase the basic standard by \$3 per person. This increase is for the purpose of being an energy supplement.
- 13. 30-4-106. General rules for consideration of resources, including real property, personal property, and income.** This regulation is being amended to:
- (a) Require that a resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain or the likelihood of succeeding in the legal action would be unfavorable to the applicant or recipient;
- (b) provide that the costs of obtaining an estimate or appraisal of personal property be borne by the agency;
- (c) permit the exclusion of jointly held resources with a non-legally responsible person if the applicant or recipient can demonstrate that he or she has no ownership interest in the resource, has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to acting as an agent for the other person. The change becomes effective July 1, 1987; and
- (d) update the Code of Federal Regulation citations which have been adopted by reference.
- 14. 30-4-111. Applicable income.** This regulation is being amended to reflect a technical change.
- 15. 30-4-112. Income exempt from consideration as income and as a cash asset.** This regulation is being amended effective July 1, 1987 to expand the exemption pertaining to Indian judgment funds distributed or held in trust to include interest and investment income accrued on such funds while held in trust and purchases made with such funds.
- 16. 30-4-113. Income exempt as applicable income.** This regulation is being amended to limit the income exemption pertaining to irregular, occasional, or unpredictable monetary gifts to \$30 per person in any calendar quarter.
- 17. 30-4-120. Special allowances and requirements for applicants and recipients of ADC, ADC-FC, APW, GAU and GA-FC.** This regulation is being amended to:

- (a) Add the TGA program to the title of the regulation to permit the granting of the job search allowance and other applicable special needs to TGA recipients;
- (b) expand the CWEP allowance to include day care expenses and other participation expenses that are based on an agency-approved plan; and
- (c) expand the job search allowance to include day care expenses based on an agency-approved plan.

**18. 30-4-122a. Special allowances for EA.** This regulation is being amended to reinstate the special emergency assistance allowances for the prevention of eviction.

**19. 30-4-130. Types of payments.** This regulation is being amended to reflect a technical change.

**C. Medicaid/Medikan Program—Provider Participation, Scope of Services, Reimbursement.**

**1. 30-5-65. Filing limitations for medical claims.** This regulation is being amended to clarify that only correctly completed claims are subject to payment if they have been resubmitted within the 12-month filing limitation.

**2. 30-5-70. Payment of medical expenses for eligible recipients.** This regulation is being amended to:

(a) Delete the provision which provides that upon giving proper notice that prospective payment liability for any or all optional services may be terminated by the secretary upon a finding that insufficient appropriations are available to reimburse the affected providers for the rendering of such services;

(b) clarify that payment will not be made if the service is provided by an unlicensed provider if licensure is a requirement to participate in the program as a provider;

(c) clarify that payment will not be made to out-of-state providers of partial hospitalization programs; and

(d) add the clarification that payment for services related to transplant procedures which are noncovered by the medicaid/medikan program will be denied.

**3. 30-5-71. Co-pay requirements.** This regulation is being amended to delete Medicare crossover claims as being exempt from co-pay requirements.

**4. 30-5-81. Scope of hospital services.** This regulation is being amended to:

(a) Limit coverage of substance abuse treatment services to three treatment admissions per lifetime not to exceed 25 days each treatment period excepting EPSDT participants who are covered up to 45 days each treatment period;

(b) include the limitation of 48 hours of care for uncomplicated vaginal deliveries; and

(c) update the Code of Federal Regulation citations which have been adopted by reference.

**5. 30-5-81b. The basis of reimbursement for hospital services.** This regulation is being amended to include certain services specified by the secretary as an exception to the reimbursement methodology of the lessor of reasonable costs or customary charges to allow limitations based on range maximums.

(continued)

6. **30-5-81d. Hospital prospective payment system review committee.** This regulation is being amended to:

- (a) Clarify that tie votes of the committee shall be referred to the agency for final decision; and
- (b) allow any qualified alternate to vote on behalf of any absent member of the same affiliation.

7. **30-5-86. Scope of services by community mental health centers.** This regulation is being amended to:

- (a) Add that outpatient psychotherapy for drug and alcohol treatment be provided with a limitation of 800 units per lifetime;
- (b) allow the first four hours of psychological testing associated with hospitals admissions without prior authorization; and
- (c) allow services to be provided in a recipient's private residence with prior authorization.

8. **30-5-89. Scope of home health services.** This regulation is being amended to delete that home health agencies be Medicare-certified and to include that they must meet the federal requirements to participate in Medicare as determined by the Kansas department of health and environment.

9. **30-5-95. Cost report requirement for pharmacy services.** This regulation is being amended to delete reference to inflation adjustment as a technical change for the purpose of consistency with other pharmacy regulation changes as of May 1, 1986.

10. **30-5-100a. Reimbursement for dental services.** This regulation is being amended to limit reimbursement for dental services to an amount specified by the secretary per recipient per fiscal year beginning July 1, 1987, except for participants of the EPSDT program. The sum of payments per recipient shall be no less than \$75 and no more than \$200.

11. **30-5-101. Scope of chiropractic services.** This regulation is being amended to:

- (a) Add that office visits for diagnosis and treatment of EPSDT program participants shall be covered up to 24 per calendar year;
- (b) add that office visits for diagnosis and treatment of non-EPSDT program participants shall be covered up to 12 per calendar year;
- (c) add that a recipient shall be limited to one practitioner's care for a given diagnosis;
- (d) add that spinal manipulations shall be limited to neuromuscular skeletal conditions; and
- (e) add that a progress report shall be submitted to the agency after the first 60 days after the date of the first visit and every 60 days thereafter. The report shall contain the history of the present illness, the diagnosis, the type or mode of treatment, the treatment program, and the prognosis.

12. **30-5-101a. Reimbursement for chiropractic services.** This regulation is being amended to provide that reimbursement for chiropractic services shall be made on the basis of reasonable charges, except no fee shall be paid in excess of the range maximum, and the range of charges shall provide the base for computations.

13. **30-5-102. Scope of optometric and optical services.** This regulation is being amended to add that optometric and optical services shall be covered for all medicaid recipients, and that covered services include optometric examinations, grinding and edging lenses, assembling and dispensing eyeglasses, and optical materials.

14. **30-5-103. Scope of podiatric services.** This regulation is being amended to:

- (a) Add that podiatric services shall be covered for medicaid recipients, and that covered services include diagnosis; manual, medical, surgical or pharmaceutical treatment of those parts of the body below the ankle; and diagnosis and treatment of tendons and muscles of the lower leg as they relate to conditions of the foot;
- (b) add that surgery shall be limited to that performed on an outpatient basis; and
- (c) add that routine foot care shall not be covered.

15. **30-5-104. Scope of psychological services.** This regulation is being amended to:

- (a) Clarify that psychological services shall be covered for medicaid recipients when provided by clinical psychologists who are licensed by the behavioral sciences regulatory board;
- (b) clarify that office visits for EPSDT program participants shall be covered up to 36 hours per calendar year;
- (c) add that office visits for non-EPSDT participants shall be covered up to 24 hours per calendar year;
- (d) add that special psychological services for EPSDT program participants shall be rendered pursuant to a plan approved by the agency and shall require prior authorization;
- (e) add that visits to intermediate care facilities by the psychologist shall be ordered by the recipient's physician as part of the plan of care;
- (f) add that visits to intermediate care facilities for mental retardation shall be limited to psychological testing and evaluation; and
- (g) add that visits to intermediate care facilities for mental health shall be limited to psychological testing, evaluation, consultation and therapy.

16. **30-5-105. Scope of hearing services.** This regulation is being amended to:

- (a) Add that hearing services shall be covered for medicaid recipients;
- (b) add that a medical diagnosis shall be made by an ear specialist or by a general practitioner when an ear specialist is not easily available;
- (c) add that audiological testing shall be performed by a physician, audiologist or hearing aid dealer;
- (d) add that fitting, dispensing and follow-up shall be performed by a hearing aid dealer; and
- (e) add that a hearing aid shall not be covered if the physician states that the medical condition contraindicates the effectiveness of an aid.

17. **30-5-106. Scope of ambulance services.** This regulation is being amended to add that prior authorization shall be required for designated services.

**18. 30-5-110. Scope of psychiatric partial hospitalization programs.** This regulation is being amended to clarify that the services of psychiatric partial hospitalization programs shall be provided in a community mental health center or affiliated with a community mental health center unless the program was approved by the Division of Medical Programs prior to December 1, 1986.

**19. 30-5-110a. Reimbursement for psychiatric partial hospitalization programs.** This regulation is being amended to change the year used in submitting cost reports for rate determination purposes from on or before December 31, 1981 to within the base year as established by the secretary.

**20. 30-5-112. Scope of local health department services.** The secretary is promulgating a new regulation concerning scope of local health department services. The text of the regulation is set forth below:

30-5-112. Scope of local health department services. (a) Local health department services shall be covered for medicaid/medikan recipients.

(b) Covered services shall include the following:

- (1) EPSDT services;
- (2) family planning services;
- (3) maternal and child health services;
- (4) home health nursing service when home health agency services are not available to the recipient; and

(5) services to detect, diagnose and treat specific communicable diseases.

**21. 30-5-112a. Reimbursement for local health department services.** The secretary is promulgating a new regulation concerning reimbursement for local health department services. The text of the regulation is set forth below:

30-5-112a. Reimbursement for local health department services. Reasonable fees, as related to customary charges, shall be paid for local health department services, except that no fee shall be paid in excess of the range maximum. The range of charges shall provide the base for computations of the reimbursement.

**22. 30-5-150. Co-pay requirements for adult medikan program recipients.** This regulation is being amended to exempt the following from co-pay requirements: recipients enrolled in a health maintenance organization, services for family planning purposes, and services related to pregnancy.

**23. 30-5-151. Scope of hospital services for adult medikan program recipients.** This regulation is being amended to delete the limitation to cover only diagnostic computerized axial tomography scans and ultrasonic studies.

**24. 30-5-154. Scope of services by community mental health centers for adult medikan program recipients.** This regulation is being amended to provide for limiting coverage for outpatient psychotherapy to no more than 480 units as specified by the secretary.

**25. 30-5-160. Scope of chiropractic services for adult medikan program recipients.** This regulation is

being amended to provide that chiropractic services for adult medikan recipients shall be covered up to 12 office visits per calendar year.

**26. 30-5-161. Scope of podiatric services for adult medikan program recipients.** This regulation is being amended to provide that podiatric services for adult medikan recipients shall be covered up to 12 office visits per calendar year and for nonelective surgery which is performed on an outpatient basis.

**27. 30-5-162. Scope of psychological services for adult medikan program recipients.** This regulation is being amended to provide that the same scope of services for adult medicaid program recipients shall be covered for adult medikan program recipients, except that psychological testing and evaluation shall be limited to six hours per three consecutive calendar years.

**28. 30-5-169. Scope of psychiatric partial hospital programs for adult medikan program recipients.** This regulation is being amended to:

(a) Clarify that the limitation for psychiatric partial hospitalization is no more than 120 hours per calendar month unless prior approval for an extended program has been granted by the Division of Medical Programs; and

(b) clarify that only services provided in psychiatric partial hospitalization programs in community mental health centers or affiliated with community mental health centers will be covered unless the program was approved by the Division of Medical Programs prior to December 1, 1986.

#### **D. Medicaid/Medikan Program—Client Eligibility.**

**1. 30-6-41. Assistance planning.** This regulation, along with K.A.R. 30-6-79, is being amended to require that the needs of all non-ADC siblings be included in determining the needs of the non-ADC child if they are living together.

**2. 30-6-53. Financial eligibility.** This regulation is being amended to clarify that expenses for social services designated as medical services under the home- and community-based services (HCBS) program shall be allowable against spenddown only for persons in the HCBS program.

**3. 30-6-54. Citizenship, alienage, and residence.** This regulation is being amended to:

(a) Clarify the criteria used in determining residency for institutionalized individuals so that a person who becomes incapable of intent on or after age 21 shall remain a resident of the state in which the person is physically residing and any other institutionalized person shall be regarded as a resident of the state in which the person is living with the intention to remain there permanently or for an indefinite period; and

(b) reflect other clarifications.

**4. 30-6-55. Cooperation.** This regulation is being amended to require the applicant or recipient to cooperate in identifying and providing information to assist the agency in pursuing any third party who may be liable to pay for medical services under the medical assistance program.

(continued)

5. **30-6-56. Assignment or transfer of property.** This regulation is being amended effective July 1, 1987 to:

(a) Change the title of the regulation to "Transfer of property";

(b) exempt from consideration those transfers of property which were exempt at the time of the transfer and those transfers with an uncompensated value which, when added to the value of other nonexempt resources, does not exceed the allowable resource limits;

(c) modify the method of determining the period of ineligibility to provide that the uncompensated value of the property transferred in excess of the property's resource limit, less the difference between the value of the nonexempt resources of the applicant or recipient and the allowable nonexempt resource limit, shall be divided by \$500. However, for persons in institutional living arrangements, the divisor shall be \$1,300; and

(d) reflect other clarifications.

6. **30-6-57. Job search requirements.** This regulation is being amended to reflect only technical changes.

7. **30-6-65. Automatic eligibles.** This regulation is being amended to:

(a) Delete the provision that provides automatic eligibility for medical assistance to persons who are ineligible for ADC due to the provisions of K.A.R. 30-4-62, 30-4-71, or 30-4-75;

(b) provide automatic medical assistance to persons who are not receiving TGA due to the four-month time limitation provision of K.A.R. 30-4-91(b);

(c) expand coverage of non-ADC children to include all non-ADC eligible children under the age of 18 who meet the ADC income and resource requirements;

(d) provide automatic medical assistance to a child receiving foster care payments under title IV-E, regardless of the state making payment;

(e) provide automatic medical assistance to a child for whom an adoption assistance agreement under title IV-E is in effect even if assistance payments are not being made or the adoption assistance agreement was entered into with another state. Automatic eligibility begins when the child is placed for adoption even if an interlocutory decree of adoption or a judicial decree of adoption has not been issued; and

(f) provide automatic medical assistance to a child for whom a non-title IV-E adoption assistance agreement is in effect between the state and the adoptive parents and who cannot be placed without medical assistance because the child has special needs for medical or rehabilitative care.

8. **30-6-74. Persons whose needs are to be considered with the needs of the ADC child.** This regulation is being amended to:

(a) Reinstate caretaker relatives as eligible for participation in the medical assistance program; and

(b) exclude certain parents and siblings from the assistance plan who are not otherwise eligible for ADC (clarification). Such parents and siblings include: SSI recipients; persons who are ineligible due

to the receipt of lump sum income; persons who are ineligible due to a sanction; minor parents whose needs are met through foster care payments; and aliens who are ineligible because of the citizenship and alienage requirements or sponsorship provisions.

9. **30-6-78. Medicaid (title XIX) determined eligibles—eligibility factors specific to aid to pregnant women (APW).** This regulation is being amended to:

(a) Require that financial eligibility be determined for each month as if the child was born and living with the mother. This change becomes effective July 1, 1987; and

(b) provide that assistance under the APW program be continued for two calendar months following the month in which the pregnancy terminates.

10. **30-6-79. Children under age five determined eligibles.** This regulation is being amended to:

(a) Change the title of the regulation to "Non-ADC child determined eligibles";

(b) expand coverage to include all non-ADC eligible children under the age of 18; and

(c) require that the needs of all non-ADC siblings living in the same home be included in determining the needs of the non-ADC child.

11. **30-6-103. Determined eligibles; protected income levels.** This regulation is being amended to:

(a) Increase the protected income levels for other persons in independent living from: \$442 to \$450 for two persons; \$450 to \$460 for three persons; and \$460 to \$470 for four persons; and

(b) delete the special provision for children in foster family care that requires the use of the foster family care rate as the protected income level as this rate is less than the protected income level which is contrary to the approved state plan.

12. **30-6-106. General rules for consideration of resources, including real property, personal property, and income.** This regulation is being amended to:

(a) Require that a resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain or the likelihood of succeeding in the legal action would be unfavorable to the applicant or recipient;

(b) permit the exclusion of jointly held resources with a non-legally responsible person if the applicant or recipient can demonstrate that he or she has no ownership interest in the resource, has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to acting as an agent for the other person. The change becomes effective July 1, 1987;

(c) provide that the costs of obtaining an estimate or appraisal of personal property be borne by the agency;

(d) clarify the treatment of resource provisions when one or both spouses enter a care situation;

(e) require that the combined income of both spouses be considered for six months following the

month the care situation begins if both spouses are applicants or recipients and they share the same room; and

(f) provide that a revocable or irrevocable trust, established by an applicant or recipient or their spouse, shall be considered available to the applicant or recipient up to the maximum value of the funds which may be made available under the terms of the trust in behalf of the applicant or recipient, if that applicant or recipient is a beneficiary and if the trustees are permitted to exercise any discretion with respect to distribution to the applicant or recipient.

**13. 30-6-107. Property exemption.** This regulation is being amended to increase the allowable nonexempt resource level from \$1,700 to \$1,800 for one person and from \$2,550 to \$2,700 for two or more persons.

**14. 30-6-108. Real property.** This regulation is being amended to:

(a) Redefine the term "other real property" for SSI purposes as either real property other than a home or a home from which an applicant or recipient has been absent and does not intend to return; and

(b) delete the requirement that a dependent relative must meet the age, blindness, or disability criteria set forth in K.A.R. 30-6-85.

**15. 30-6-109. Personal property.** This regulation is being amended, for SSI purposes, to shorten the period of time in which the proceeds from the sale of a home can be exempted from six months to three months.

**16. 30-6-111. Applicable income.** This regulation is being amended effective July 1, 1987 to:

(a) Require that for non-SSI the earned income disregards be applied to all legally responsible persons in the home who are excluded from the assistance plan except for stepparents and parents of minor parents; and

(b) delete the provision for non-SSI that all nonexempt unearned income and gross earnings be considered for a legally responsible person in the home who is not included in the assistance plan without the application of any income disregards.

**17. 30-6-112. Income exempt from consideration as income and as a cash asset.** This regulation is being amended effective July 1, 1987 to expand the exemption pertaining to Indian judgment funds distributed or held in trust to include interest and investment income accrued on such funds while held in trust and purchases made with such funds.

**18. 30-6-113. Income exempt as applicable income.** This regulation is being amended to:

(a) Limit the income exemption pertaining to irregular, occasional, or unpredictable monetary gifts to \$30 per person in any calendar quarter;

(b) add an exemption for SSI purposes to exempt the amount of the December 1983 increase in social security widow or widower benefits resulting from the changes in the actuarial reduction formula and all subsequent cost-of-living adjustments for a person who was concurrently receiving SSI and social secur-

ity disabled widow or widower benefits under section 202(e) or 202(f) of the social security act provided that:

(1) The person became ineligible for SSI due solely to the 1983 actuarial increase;

(2) the person has continuously received social security widow or widower benefits since the 1983 actuarial increase;

(3) the person would be currently eligible for SSI if it were not for the 1983 actuarial increase and all subsequent cost-of-living adjustments; and

(4) the person makes application for medical assistance under this provision prior to July 1, 1987; and

(c) for SSI, exempt reparation payments made under the Republic of Germany's federal law for compensation of nationalist socialist persecution. This change becomes effective July 1, 1987.

#### E. Medicaid/Medikan Program—Adult Care Homes.

**1. 30-10-1a. Adult care home program definitions.** This regulation is being amended to clarify the purchase of oxygen and to add a definition for heavy care as follows:

(2) Oxygen. The purchase of oxygen gas shall be reimbursed to the oxygen supplier through the social and rehabilitation services' fiscal agent or the fiscal agent may reimburse directly to the adult care home if an oxygen supplier is unavailable.

(dd) "Heavy care" means the care required by a resident that takes more time, services and supplies than the care provided an average adult care home or swing-bed hospital resident.

**2. 30-10-1d. Inadequate care.** This regulation is being amended to state that:

(a) When the agency determines that inadequate care is being provided to a recipient, payment to the adult care home for the recipient may be terminated.

(b) When the agency receives confirmation from the Kansas department of health and environment or the inspection of care teams that an adult care home has not corrected deficiencies which affect significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents, the agency shall deny payments for new admissions and withhold future payments for all recipients until confirmation that the deficiencies have been corrected.

**3. 30-10-1f. Private pay wings.** The secretary is promulgating a new regulation concerning private pay wings. The text of the regulation is set forth below:

**30-10-1f. Private pay wings.** As a prerequisite for participation in the medicaid/medikan program, an adult care home shall not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home.

Similar language currently in K.A.R. 30-10-2, 30-10-3 and 30-10-4 is being deleted.

**4. 30-10-2. Standards for participation; skilled nursing facility.** This regulation is being amended to:

(a) Delete the language "not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home";

(continued)

(b) add that as a provider of skilled nursing services, each adult care home shall provide five working days notice to the recipient, guardian or responsible person when the recipient is admitted to a hospital and the facility has decided not to re-admit the recipient. If five working days notice cannot be given, the facility shall re-admit the recipient unless the recipient needs a level of care the facility is not certified to provide; and

(c) update the Code of Federal Regulation citations which have been adopted by reference.

**5. 30-10-3. Standards for participation; intermediate care facility and intermediate care facility for mental health.** This regulation is being amended to:

(a) Delete the language "not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home";

(b) add that as a provider of intermediate care facility services or intermediate facility for mental health services, each adult care home shall provide five working days notice to the recipient, guardian or responsible person when the recipient is admitted to a hospital and the facility has decided not to re-admit the recipient. If five working days notice cannot be given, the facility shall re-admit the recipient unless the recipient needs a level of care the facility is not certified to provide; and

(c) update the Code of Federal Regulation citations which have been adopted by reference.

**6. 30-10-4. Standards for participation; intermediate care facility for the mentally retarded or persons with related conditions.** This regulation is being amended to:

(a) Delete the language "not develop private pay wings or segregate medicaid/medikan recipients to separate areas of the adult care home";

(b) add that as a provider of intermediate care facility services for the mentally retarded or persons with related conditions, each adult care home shall provide five working days notice to the client, guardian or responsible person when the client is admitted to a hospital and the facility has decided not to re-admit the client. If five working days notice cannot be given, the facility shall re-admit the client unless the client needs a level of care the facility is not certified to provide; and

(c) update the Code of Federal Regulation citations which have been adopted by reference.

**7. 30-10-6. Admission procedure.** This regulation is being amended to:

(a) An adult care home shall not require an applicant for admission to agree to pay at a private rate for a minimum period as a condition for remaining in the facility, although the applicant may at some intermediate point become eligible for medicaid/medikan. If a resident has been paying for services on a private pay basis then is approved medicaid/medikan eligible, no retroactive settlement must be made;

(b) provide that adult care homes shall be required to advise all residents of any admission limitation policy regarding medicaid residents; and

(c) update the Code of Federal Regulation citations which have been adopted by reference.

**8. 30-10-8. Medical review in skilled nursing facilities and independent professional review in intermediate care facilities, intermediate care facilities for the mentally retarded, and intermediate care facilities for mental health.** This regulation is being amended to update the Code of Federal Regulation citations which have been adopted by reference and to change the name of independent professional review to inspection of care.

**9. 30-10-9. Utilization review of adult care homes.** This regulation is being amended to:

(a) Change the wording from Division of Medical Programs to Adult Services;

(b) update the Code of Federal Regulation citations which have been adopted by reference; and

(c) to change independent professional review to inspection of care.

**10. 30-10-11. Personal needs fund.** This regulation is being amended to:

(a) Delete the language in section (a)(3)(D) stating that "the facility's obligation upon written authorization by the resident to hold, safeguard, and account for the resident's personal funds";

(b) provide that the facility may keep up to \$500 of a resident's money in a non-interest bearing account or petty cash fund;

(c) provide that the facility shall within 30 days of receipt of the money, deposit in an interest bearing account any funds in excess of \$500 from an individual resident;

(d) provide that the facility must guarantee the security of residents' funds when the amount in the aggregate exceeds \$1,000;

(e) provide that if a resident is incapable of managing personal funds and has no representative, the facility in the case of a resident who is eligible for SSI shall notify the local office of the social security administration and request that a representative be appointed or in other situations shall refer the resident to the local agency office, or the facility shall serve as a temporary representative payee for the resident until the actual appointment of a guardian or representative payee; and

(f) add an (n) to state that "The provider shall provide and maintain a system of accounting for expenditures from the recipient's personal needs fund. This system shall follow acceptable accounting procedures and shall be subject to audit by representatives of the agency."

**11. 30-10-15b. Financial data.** This regulation is being amended to provide that records and documents shall be made available in Kansas for examination by the agency.

**12. 30-10-16. Heavy care.** The secretary is promulgating a new regulation concerning heavy care. The text of the regulation is set forth below:

**30-10-16. Heavy care.** (a) Additional reimbursement shall be available to adult care homes and swing-bed hospitals for medicaid/medikan recipi-

ents in need of heavy care. Failure to obtain prior authorization shall negate reimbursement for this service.

(b) Heavy care shall be considered a covered service within the scope of the program unless the request for prior authorization is denied. Reimbursement for this service shall be contingent on approval by adult services.

**13. 30-10-17. Cost reports.** This regulation is being amended to:

(a) Require related providers to report on the same fiscal year end rather than different federal income tax return year ends used by the corporate entities. Providers related through common ownership, interests and/or control may have homes operated by different corporate entities with varying fiscal year ends. Legislative Post Audit staff recommended that related providers report on the same fiscal year;

(b) provide that a working trial balance shall be submitted with the cost report;

(c) delete the provision providing that if the provider's cost report is received on or before the 10th calendar day after the due date, the provider shall not be subject to further penalty;

(d) delete the provision providing that if the provider's cost report is received after the 10th calendar day following the due date, the provider's current rate shall be reduced by 10%, effective with the first day of the month following the due date; and

(e) provide that failure to file a cost report by the due date shall cause the provider's current rate to be reduced to the lowest rate in the state for the level of care in which the provider participates, effective the first day of the next available month, and that the reduced rate or rates shall be in effect until the effective date of the rate from the new cost report.

**14. 30-10-18. Rates of reimbursement.** This regulation is being amended to:

(a) Provide that all private pay rate structure changes and the effective dates shall be reported on the uniform cost report;

(b) provide that adult services shall be notified of any private pay rate structure changes within 30 days of the effective date;

(c) provide that rates for out-of-state providers certified to participate in the Kansas medicaid/medikan program shall be the rate or rates approved by adult services and that services for out-of-state providers require prior authorization by adult services staff; and

(b) add a new paragraph (h) to read as follows:

(h) Projected cost reports to meet survey requirements.

(1) State intermediate care facilities for the mentally retarded (ICF-MR) required by a state or federal certification survey to incur additional operating costs for active treatment in excess of \$200,000.00, to meet certification requirements, shall be allowed to file a projected cost report.

(2) Intermediate care facilities for the mentally retarded (ICF-MR) required by a state or federal certification survey to incur additional operating costs for active treatment in excess of \$125,000, for

facilities larger than 15 beds and \$40,000, for facilities with 15 beds or less to meet certification requirements, shall be allowed to file a projected cost report. A one time projection shall be allowed for a 12-month period. Projected cost reports shall be processed in accordance with K.A.R. 30-10-17(f).

(3) The adjustment resulting from the projected costs of the findings of the state and federal survey shall be treated as a pass-through for the period of the projection. The pass-through shall not exceed \$55 per day of 16-bed or more ICF-MR facilities. The pass-through shall not exceed the lowest state ICF-MR rate for 15-bed or less ICF-MR facilities.

**15. 30-10-19. Rates; effective dates.** This regulation is being amended to:

(a) Provide that if the requested information has not been received by the end of one month following the date of written notification to the provider, the provider's rate shall be reduced to the lowest rate in the state for the level of care in which the provider participates effective the first day of the next available month. The reduced rate shall be in effect until the effective date of the rate from the new cost report; and

(b) update the Code of Federal Regulation citations which have been adopted by reference.

**16. 30-10-21. Reserve days.** This regulation is being amended to provide that reimbursement shall not be made to reserve a bed in a swing-bed hospital when an adult care home will be reimbursed for the same day to reserve a bed for the recipient's return from the hospital "except in those cases where the recipient is receiving a skilled level of care in the swing-bed hospital and the recipient would ultimately be returning to an intermediate care facility."

**17. 30-10-23c. Revenues.** This regulation is being amended to include "ICF-MH" after "ICF-MR," and to provide that revenues shall be reported in accordance with general accounting rules as recorded in the accounting records of the facility and as required in the detailed revenue schedule in the uniform cost report.

**18. 30-10-24. Compensation of owners, spouses, related parties and administrators.** This regulation is being amended to add the language: "the salary schedule in effect when the cost report is processed until the subsequent cost report is filed" as another alternative under section (b)(1).

**19. 30-10-26. Interest expense.** This regulation is being amended to clarify that necessary and proper interest on working capital indebtedness shall be an allowable cost.

**20. 3-10-28. Inpatient days.** This regulation is being amended to:

(a) Provide that the provider shall report the total number of medicaid resident days in addition to the total resident days on the uniform cost report form; and

(b) delete the term "chronically" and replace it with the term "long-term."

(continued)

**21. 30-10-29. Reimbursement for 24-hour nursing care.** The secretary is promulgating a new regulation concerning reimbursement for 24-hour nursing care. The text of the regulation is set forth below:

**30-10-29. Reimbursement for 24-hour nursing care.** Adult care homes participating in the medic-aid/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. Facilities certified as intermediate care facilities for mental health may utilize a licensed mental health technician for the required licensed nurse.

(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. Facilities certified as intermediate care facilities for mental health may utilize a licensed mental health technician for the required licensed nurse.

(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. Facilities certified as intermediate care facilities for mental health may utilize a licensed mental health technician for the required licensed nurse.

(f) The pass-through shall not exceed 12 months.

**F. Licensing of Psychiatric Hospitals and Community Mental Health Centers; Funding of Community Mental Health Centers and Facilities for the Mentally Retarded and Facilities for Handicapped Persons.**

**1. 30-22-10. Application for state financing.** This regulation is being revoked and the content of this regulation is being transferred to K.A.R. 30-22-30.

**2. 30-22-11. Establishment of new community mental health centers.** The secretary is promulgating a new regulation concerning establishment of new community mental health centers. The text of the regulation is set forth below:

**30-22-11. Establishment of new community mental health centers.** No new center may be established if its proposed catchment area is already being served by one or more existing centers which are not licensed pursuant to K.S.A. 75-3307b(b) and

amendments thereto, unless approved by the agency using the criteria set forth in K.A.R. 30-22-14.

**3. 30-22-12. Realignment of an existing catchment area for a community mental health center.** The secretary is promulgating a new regulation concerning realignment of an existing catchment area for a community mental health center. The text of the regulation is set forth below:

**30-22-12. Realignment of an existing catchment area for a community mental health center.** No center may alter its existing catchment area unless approved by the agency using the criteria set forth in K.A.R. 30-22-14.

**4. 30-22-13. Request for the establishment of a new community mental health center or the realignment of a catchment area.** The secretary is promulgating a new regulation concerning request for the establishment of a new community mental health center or the realignment of a catchment area. The text of the regulation is set forth below:

**30-22-13. Request for the establishment of a new community mental health center or the realignment of a catchment area.** (a) A request for the establishment of a new center or the realignment of a catchment area shall be in writing and shall include the following:

(1) Written views of the affected boards of county commissioners, executive directors and boards of directors, as appropriate;

(2) public comments;

(3) written comments from other governmental agencies;

(4) rationale for the proposal;

(5) plan for providing services to the proposed new catchment area; and

(6) other items as appropriate.

(b) The rationale for the proposal shall include, as appropriate:

(1) How, and by whom, was the decision to create or realign the center initiated;

(2) a description of the catchment area;

(3) problems with the existing structure of mental health services;

(4) how a new or realigned center will address currently existing problems; and

(5) an assessment of the mental health needs of the proposed new catchment area, including:

(A) The method of conducting the assessment;

(B) a description of the priority mental health needs of the catchment area; and

(C) which of these needs are not being met.

(c) The service plan shall include:

(1) A description of how each of the required and other planned services will be provided;

(2) a description of how unique mental health needs of the catchment area will be met;

(3) evidence of establishing a working relationship with the appropriate state hospital;

(4) a plan for staffing;

(5) a description of the planned structure of gov-



ernance, organization, fiscal management, etc., including an organizational chart of the new or realigned center;

(6) a long range financial plan detailing how the new or realigned center proposes to finance itself during the initial five-year period; and

(7) a statement of the fiscal and service impact on all affected catchment areas.

**5. 30-22-14. Approval criteria for the establishment of a new community mental health center or the realignment of a catchment area.** The secretary is promulgating a new regulation concerning approval criteria for the establishment of a new community mental health center or the realignment of a catchment area. The text of the regulation is set forth below:

30-22-14. Approval criteria for the establishment of a new community mental health center or the realignment of a catchment area. The following factors shall be considered when reviewing a request to establish a new center or to add or subtract a county or counties from an existing center catchment area: (a) Written views of the affected boards of county commissioners, executive directors and boards of directors, as appropriate;

(b) public comments, including the results from a public forum conducted by the agency in the proposed catchment area;

(c) written comments from other governmental agencies;

(d) the rationale submitted by the requesting entity;

(e) the service plan submitted by the requesting entity; and

(f) other factors as appropriate.

**6. 30-22-15. Governing body of a community mental health center.** The secretary is promulgating a new regulation concerning the governing body of a community mental health center. The text of the regulation is set forth below:

30-22-15. Governing body of a community mental health center. A center shall have a governing body which shall exercise general direction; establish policies concerning operation; and function as the ultimate authority for the overall operation of the program. (a) If the center is established by a board or boards of county commissioners, that board or boards shall establish a governing body, representative of the area it serves.

(b) If the center is a private, nonprofit organization, it shall be incorporated in accordance with Kansas statute.

(c) The names and addresses of the governing body as well as the names and addresses of the officers and, in the case of corporations, any other directors, owners, principal stockholders or controlling persons, if existent, shall be disclosed.

(d) The governing body shall hold meetings quarterly, or more often if necessary. Minutes of the meetings shall be kept which document relevant activities of the meetings.

(e) The governing body shall establish by-laws or other policies and procedures which:

- (1) Govern the operation of the organization;
- (2) conform to legal requirements; and
- (3) clearly set out the responsibilities, authorities and roles of the members of the governing body and the organization of the center.

(f) If the center is a governmental organization, or is run by a hospital, there shall be a description of the administrative framework of the governmental agency or hospital within which it operates. The lines of authority within the governmental agency or hospital in relation to the governing body of the center shall be described.

(g) If the center is a private corporation, it shall have on file current articles of incorporation, and shall be duly registered with the secretary of state and county register of deeds. In accordance with K.S.A. 19-4007, the private corporation shall also have on file a written contract with the board of county commissioners of the county or counties it serves which address the provision of mental health services to the citizens of the county or counties. The by-laws or other organizational policies and procedures shall include the following:

(1) A definition of the powers and duties of the governing body, its officers and any committees and a definition of authority and responsibilities delegated to employed staff;

(2) the criteria for membership, types of membership, how members are elected or appointed, the length of term, membership requirement, the method of filling vacancies, officers, and committee chairpersons;

(3) the frequency of meetings, quorum requirements;

(4) the objectives of the organization; and

(5) other items as appropriate.

(h) The duties or responsibilities of the governing body shall include the following:

(1) Providing overall direction and ultimate authority to the center;

(2) hiring, evaluating and dismissing the center chief executive officer;

(3) approving the center's annual budget;

(4) formulating or approving policies regarding the operation of the center;

(5) developing or approving short range and long range programs and financial plans including goals and objectives of the center; and

(6) discharging other duties as required by K.S.A. 19-4001 *et seq.*

(i) The governing body shall file an annual report with the board or boards of county commissioners of the county or counties it serves and with the secretary of social and rehabilitation services.

**7. 30-22-16. Personnel management of a community mental health center.** The secretary is promulgating a new regulation concerning personnel management of a community mental health center. The text of the regulation is set forth below:

30-22-16. Personnel management of a community mental health center. The ultimate administrative

(continued)

authority shall be the chief executive officer, appointed by the governing body, who shall be responsible to that governing body as defined in the by-laws or regulative policies and procedures of the center. (a) The medical responsibility for each client of the center shall be vested in a physician. If the physician is not a psychiatrist, there shall be psychiatric consultation made available to such physician as well as to other center staff on a continuing and regularly scheduled basis.

(b) The center shall ensure that appropriate personnel are provided to support a high quality of care. The clinical staff shall include professionals in psychiatry, psychology, social work and other specialties as needed and appropriate.

(1) In lieu of direct employment, the center may contract for the services of those professionals.

(2) The center shall ensure that staff abide by the ethical standards of their professions.

(c) The center shall provide time for training or continuing education to maintain the professional status of clinical and administrative staff.

(d) Volunteers who are to have direct client contact, shall be screened, trained and supervised by the director of the program to which they are assigned or other designated staff.

**8. 30-22-17. Personnel policies and procedures for community mental health centers.** The secretary is promulgating a new regulation concerning personnel policies and procedures for community mental health centers. The text of the regulation is set forth below:

30-22-17. Personnel policies and procedures for community mental health centers. (a) Written personnel policies affecting all staff, consultants performing staff functions, and volunteers of the center shall be developed and maintained governing the following:

(1) Recruitment, selection, promotion and termination of staff;

(2) wage, hours and salary administration;

(3) employee benefits;

(4) employee leave;

(5) job performance appraisal;

(6) employee grievances;

(7) disciplinary systems; and

(8) suspension and termination mechanisms.

(b) The personnel policies and procedures, including all changes, shall be made available to all staff of the center.

(c) An affirmative action plan shall be developed and implemented by the center.

(d) Personnel files shall be maintained on all center personnel and on consultants and volunteers rendering psychotherapy services.

(1) The files shall only contain that information directly relevant to the individual's job.

(2) The files shall be kept in a secure and locked place with access only to the individual and administrative staff.

(e) Written job descriptions for each established position, employee, consultant performing staff functions or volunteer rendering psychotherapy

shall be developed, maintained and revised when changes occur.

(1) The job description for each position shall contain:

(A) Specific statements regarding the duties and responsibilities;

(B) the minimum level of education, training and work experience required to fulfill the duties and responsibilities;

(C) the position title and authority to whom the employee, consultant or volunteer is immediately responsible;

(D) the supervisory responsibilities, if any;

(E) the department, service or unit to which the position is assigned;

(F) the location of the job; and

(G) any other information pertinent to the job.

(2) The job description shall be available, on request, to all staff members.

(3) Newly hired employees shall be given a copy of the job description of the position for which they were hired.

(f) A written appraisal of the job performance of every staff member shall be conducted at least annually.

(1) Written procedures regarding the performance appraisal shall be available on request of all staff.

(2) The performance appraisal shall be relevant to the job performed and the job description.

(3) A copy of the written performance appraisal, countersigned by the staff member, shall be maintained in the personnel file and a copy of the performance appraisal shall be given to the individual.

(4) The performance appraisal shall address the correction of any weakness or deficiency in job performance.

**9. 30-22-18. Consultants to community mental health centers.** The secretary is promulgating a new regulation concerning consultants to community mental health centers. The text of the regulation is set forth below:

30-22-18. Consultants to community mental health centers. Agreements for consulting services shall be in writing and signed by the parties. These agreements shall set forth performance expectations and review procedures if the consultant will be performing routine or clinical staff functions.

**10. 30-22-19. Required services for community mental health centers.** The secretary is promulgating a new regulation concerning required services for community mental health centers. The text of the regulation is set forth below:

30-22-19. Required services for community mental health centers. (a) Except as set forth in subsection (b) below, as a prerequisite for licensure a center shall provide at least the following services to adults, children, families and the elderly regardless of ability to pay:

(1) Outpatient services. The services shall minimally include:

- (A) Evaluation;
- (B) diagnosis;
- (C) referral/liaison;
- (D) individual, group and family therapies; and
- (E) prescription and monitoring of psychotropic medications.

(2) Emergency services. The services shall minimally include:

(A) A procedure whereby clients and other community residents can secure assistance for mental health emergencies 24 hours a day, seven days a week. The procedures shall be communicated clearly in the center's written description of its overall program of services;

(B) availability of consultation and training to community resource people who routinely respond to psychiatric emergencies;

(C) a system for documented follow-up of persons seen for psychiatric emergency contact; and

(D) an arrangement for medical back-up in support of psychiatric emergency intervention.

(3) Screening services. The services shall minimally include evaluation, within 24 hours, to determine the need for inpatient care for persons referred for that purpose. The evaluations shall:

(A) Consider the least restrictive alternative;

(B) include a procedure for referral to state hospitals or other psychiatric inpatient units serving their area; and

(C) include an ongoing program and case oriented consultation with courts, law enforcement officials, physicians and other helping persons and agencies regarding potential voluntary and involuntary admission to state hospitals, ensuring that community alternatives are used when appropriate.

(4) Aftercare services. The services shall minimally include:

(A) A mechanism for systematic contact with state hospitals regarding service area residents in order to promote continuity of care;

(B) a mechanism for systematic contact, whenever feasible, with service area residents after their discharge from a state hospital in order to promote community adjustment;

(C) the provision or promotion of programs that provide socialization opportunities for chronically mentally ill, including those discharged from state hospitals; and

(D) provisions for prescribing and monitoring of psychotropic medications required by aftercare clients.

(5) Consultation and education services. The services shall be provided to the citizens, professionals, and agencies within the center's catchment area.

(b) Centers licensed pursuant to K.S.A. 75-3307b(b) and amendments thereto shall be exempt from the provisions of this regulation.

**11. 30-22-20. Inpatient services in community mental health centers.** The secretary is promulgating a new regulation concerning inpatient services in community mental health centers. The text of the regulation is set forth below:

30-22-20. Inpatient services in community mental health centers. If a center provides inpatient services, the services shall be provided in a humane manner, according to acceptable clinical standards of practice. The inpatient services shall, when applicable, be certified by the state department of social and rehabilitation services, the state department of health and environment or the licensing authority of the state in which the inpatient facility is located.

**12. 30-22-21. Alcohol and drug abuse services in community mental health centers.** The secretary is promulgating a new regulation concerning alcohol and drug abuse services in community mental health centers. The text of the regulation is set forth below:

30-22-21. Alcohol and drug abuse services in community mental health centers. If a center provides specialized alcohol and drug abuse services, the services shall: (a) Be provided in a humane manner, according to acceptable clinical standards of practice; and

(b) be certified by SRS alcohol and drug abuse services.

**13. 30-22-22. Partial hospitalization programs in community mental health centers.** The secretary is promulgating a new regulation concerning partial hospitalization programs in community mental health centers. The text of the regulation is set forth below:

30-22-22. Partial hospitalization programs in community mental health centers. If a center provides partial hospitalization services, the program shall be designed according to the following guidelines. (a) A partial hospitalization program shall be goal oriented to effectively address psychological, psychopharmacologic, interpersonal, daily living and environmental support system issues to help clients achieve their highest level of autonomous and independent community functioning.

(b) The treatment team shall include:

(1) A physician who is a psychiatrist or who is skilled in the treatment of mental disease;

(2) a program director who can be a masters or Ph.D. level psychologist, a masters level social worker, a registered psychiatric nurse or a physician; and

(3) a treatment manager who is a member of the center staff and who has regular program contact with the client and responsibility for implementation of the treatment plan.

(c) Services included within the scope of a partial hospitalization program shall at least include functional evaluation and assessment services, medication services, 24-hour crisis intervention, case management/outreach, daily living and self-care skills therapy, vocational oriented services, transportation services or coordination, and community integration or re-integration services. Additional services may be included if approved by the agency. The content of an individual program shall vary according to the specific needs of the client.

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(d) A case record shall be maintained for each individual in the program which shall minimally include:

- (1) A diagnosis;
- (2) an intake evaluation; completed prior to admission including a review of the clients' current health and psychosocial status;
- (3) a treatment plan which shall be written within 14 days of admission and shall minimally include:
  - (A) Measureable goals and objectives related to more autonomous community functioning;
  - (B) services to be provided to assist the client to meet established goals;
  - (C) documentation of reviews of the treatment plan, by the treatment team, at intervals of no more than 90 days reflecting modifications of the plan as needed;
- (4) progress notes, at least twice per month related to the treatment plan; and
- (5) utilization review documentation completed within 90 days of intake and prior to each 90 days of treatment thereafter.

**14. 30-22-23. Clinical records in community mental health centers.** The secretary is promulgating a new regulation concerning clinical records in community mental health centers. The text of the regulation is set forth below:

30-22-23. Clinical records in community mental health centers. Centers shall maintain an identifiable current clinical/medical record on each active client. (a) The record shall include:

- (1) An initial assessment;
  - (2) a treatment plan including client goals and objectives and services to be rendered;
  - (3) a prescribed drug profile;
  - (4) a client information form;
  - (5) notes documenting service rendered and client progress achieved; and
  - (6) other items as appropriate.
- (b) Clinical records shall be kept in locked cabinets or other secured locations.

**15. 30-22-24. Community relations for community mental health centers.** The secretary is promulgating a new regulation concerning community relations for community mental health centers. The text of the regulation is set forth below:

30-22-24. Community relations for community mental health centers. (a) A center shall establish and maintain cooperative relationships with service agencies including the local SRS area office, public health department, state hospital serving the catchment area, other hospitals, substance abuse programs, area education agencies, law enforcement agencies, and other agencies as appropriate.

(b) A center shall demonstrate coordination and follow-up of clinical referrals between the center and other agencies or practitioners.

(c) A center shall have either an informal or formal mechanism to assess the mental health needs of the community and insure relevancy of established center services.

(d) A center shall provide a mechanism through which community and clients may give feedback to the center about the services and community needs.

**16. 30-22-25. Quality review in community mental health centers.** The secretary is promulgating a new regulation concerning quality review in community mental health centers. The text of the regulation is set forth below:

30-22-25. Quality review in community mental health centers. A center shall develop its own written quality review plan designed to objectively and systematically monitor and evaluate the quality and appropriateness of treatment, pursue opportunities to improve treatment, and resolve identified problems. The written plan shall minimally include: (a)

- A plan for utilization review;
- (b) standards for staff credentialing and professional development;
- (c) a client/staff/community complaint procedure;
- (d) ethical standards and standards of practice;
- (e) other standards related to quality review; and
- (f) a plan for inclusion of data from external evaluation sources.

**17. 30-22-26. Community mental health center clients' rights.** The secretary is promulgating a new regulation concerning community mental health center clients' rights. The text of the regulation is set forth below:

30-22-26. Community mental health center clients' rights. A center shall establish written policies concerning clients' legal rights while receiving mental health services, and such policies shall be made available to all those receiving service. The policies shall minimally include: (a) The right to see his or her treatment records; except that the head of the treatment facility may refuse to disclose portions of such records if he or she states in writing that such disclosure will be injurious to the welfare of the client or former client;

(b) the right and privilege to prevent treatment personnel from disclosing that the client has been or is currently receiving treatment or from disclosing any confidential communications made for the purposes of diagnosis or treatment of the client's mental, alcoholic, drug dependency or emotional condition. Treatment personnel shall claim the privilege on behalf of the client unless the client has made a written waiver of the privilege and provided the treatment personnel with a copy of such waiver or unless one of the exceptions provided in K.S.A. 65-5603, as enacted by L. 1986, Ch. 212, New Sec. 3 is applicable;

(c) the right to an explanation of the nature of all medications prescribed, the reason for the prescription and the most common side effects, and the nature and reason for any other treatments provided;

(d) a method for processing client complaints and grievances without undue delay;

(e) the right of voluntary patients to refuse any and all treatment prescribed. Clients who have been

committed for outpatient treatment pursuant to court order should receive an explanation of the possible consequences if the client refuses to follow his or her prescribed treatment program; and

(f) access to treatment without regard to race, color, national origin, religion, sex or handicap.

**18. 30-22-27. Accessibility for community mental health centers.** The secretary is promulgating a new regulation concerning accessibility for community mental health centers. The text of the regulation is set forth below:

30-22-27. Accessibility for community mental health centers. A center shall be visible and accessible to the catchment area. (a) Visibility shall minimally include:

- (1) Visible signs identifying the facility;
  - (2) direction-giving information posted within the facility, if service is provided in a multi-purpose facility;
  - (3) the name, address and telephone number of the center on all center stationery;
  - (4) a brochure describing the center and its services, available to residents of the mental health service area; and
  - (5) a listing in major telephone directories in the mental health service area.
- (b) Accessibility shall minimally include:
- (1) Adequate parking for the clients;
  - (2) services available at times other than the usual eight-five weekday hours;
  - (3) arrangements to provide adequate accommodations to meet the needs of clients, particularly the special needs of handicapped, children and elderly; and
  - (4) services available without undue delay.
- (A) Upon initial contact with the center, the clients shall be screened to determine the severity of their problem and the appropriate intervention required.
- (B) Centers shall institute appropriate procedures to avoid waiting periods of greater than two weeks.

**19. 30-22-28. Research in community mental health centers utilizing human subjects.** The secretary is promulgating a new regulation concerning research in community mental health centers utilizing human subjects. The text of the regulation is set forth below:

30-22-28. Research in community mental health centers utilizing human subjects. (a) Prior to conducting research using human subjects, a center shall:

- (1) Develop procedural guidelines for the conduct of such research;
- (2) establish a committee to review and approve any proposed research; and
- (3) obtain the written consent of the proposed subjects.

(b) Results of any research shall be shared with appropriate staff.

**20. 30-22-30. Application for state financing of community mental health centers.** The content of this regulation was set forth in K.A.R. 30-22-10 prior to

May 1, 1987. The text of the regulation is set forth below:

30-22-30. Application for state financing of community mental health centers. (a) Community mental health centers may apply for state financing under K.S.A. 65-4401 through 65-4408 by submitting an annual budget request to the secretary of social and rehabilitation services.

(b) Budget requests shall be submitted to the secretary by July 1 of each year unless a delay is granted in writing.

(c) Budgets shall be submitted on forms and according to instructions prescribed by the secretary.

(d) "Income for capital expenditures subtracted from total income to compute income eligible for state financing" means income used for:

- (1) Fixed equipment or structures when the income used is in excess of \$5,000.00; or
- (2) movable equipment when the income used is in excess of \$15,000.00.

(e) If the value of donated equipment or structures exceeds the criteria in paragraphs (1) and (2) of subsection (d) the value of the donated equipment or structure shall be considered to be income for capital expenditures. Income for capital expenditures which is excludable because of the source shall be excluded under source of income and not as capital expenditures.

(f) Governmental third party payments shall be subtracted from total income prior to computing income eligible for state financing.

(g) The amount of salary paid to professional personnel listed below, which is above the top step for the comparable state salary as determined by the secretary, plus monetary employee benefits, shall be subtracted before computing income eligible for state financing.

- (1) Each social service worker whose primary duties consist of direct client services;
- (2) each social service worker who is an administrative department head;
- (3) each psychologist whose primary duties consist of direct client service;
- (4) each psychologist who is an administrative department head;
- (5) each psychologist whose primary duties consist of research or training;
- (6) each registered nurse whose primary duties consist of direct client service;
- (7) each registered nurse who is an administrative section head;
- (8) each registered nurse who is an administrative department head;
- (9) each physician whose primary duties consist of direct client service;
- (10) each physician who is a department head;
- (11) each psychiatrist whose primary duties consist of direct client service;
- (12) each psychiatrist who is a department or section administrator;
- (13) each assistant facility administrator who is not a physician;

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(14) each assistant facility administrator who is a physician;

(15) each facility administrator who is not a physician; and

(16) each facility administrator who is a physician.

(h) When an existing program is adequately serving a geographic area, or a major portion of it, a duplicate program shall not be requested in the budget of another center. Reasonable efforts shall be made to make the existing service available to all citizens in the area through contractual agreement with the provider of the existing service, if necessary.

(i) As soon as state appropriation bills are signed into law, the amount available for each center that has submitted a budget shall be determined by the secretary. The amount shall be based on the audited eligible income reported for the second preceding fiscal year ending December 31, or on the estimated eligible income in the budget application submitted by centers which had submitted a budget for the first time during the preceding budget cycle. The audits used for this purpose shall be those conducted by auditors of the department of social and rehabilitation services. The amounts so determined shall be paid to the centers in four payments on July 1, October 1, January 1 and April 1.

(j) Each center shall submit a quarterly report within 30 working days after the end of each calendar quarter. The report shall be on forms and in such detail as prescribed by the secretary and shall show income, deletions from income to determine eligible income, and expenditures.

(k) Each center shall file a copy of its annual audit report that has been certified by an independent auditor.

(l) The secretary shall verify the amount of income, eligible income and disbursements reported on the quarterly reports during the fiscal year (January 1 through December 31), with audits conducted by auditors of the department of social and rehabilitation services. Verification audits shall be conducted annually and shall be completed no later than August 31 following the preceding fiscal year ending December 31, or as soon thereafter as is reasonable.

(m) The actual eligible income reported on quarterly reports and audit reports, as verified by social and rehabilitation services auditors, shall become the basis for reallocating the payments described in subsection (i). Underpayments or overpayments shall be adjusted as follows:

(1) Underpayments, overpayments or payments exceeding the maximum allowed by statute because of payments made on January 1 or April 1, or resulting from audit reports or corrections to prior quarterly reports, shall be subtracted from or added to the payment made on October 1.

(2) Underpayments, overpayments or payments exceeding the maximum allowed by statute occurring because of payments made on July 1 or October 1, or resulting from audit reports or corrections to

prior quarterly reports, shall be subtracted from the payment made on April 1 or paid to the centers by March 1.

(n) The secretary may withdraw funds from any program which is not being substantially administered according to the annual budget.

(o) The secretary may withhold payments from a center or facility for one or more of the following reasons:

(1) Failure to submit required reports;

(2) Unreasonable delay in the submission of required reports; or

(3) other good cause.

**21. 30-22-31. Definitions.** The secretary is promulgating a new regulation concerning definitions related to the financing of community mental retardation facilities. The text of the regulation is set forth below:

**30-22-31. Definitions.** The following definitions apply to K.A.R. 30-22-32. (a) "State hold harmless level" means the amount appropriated for state fiscal year 1986 under the provisions of K.S.A. 1985 Supp. 65-4401 *et seq.*, and is comprised of the aggregate of each eligible facility's hold harmless level.

(b) "Facility's hold harmless level" means the amount a facility earned in state fiscal year 1986 under the provisions of K.S.A. 1985 Supp. 65-4401 *et seq.*

(c) "Part day" means any adult day activity or vocational programming service that requires at least 1.5 but no more than 3.0 hours of direct contact between a facility's staff and its client.

(d) "Full day" means any adult day activity or vocational programming service that requires in excess of 3.0 hours of direct contact between a facility's staff and its client.

(e) "Individual habilitation plan (IHP)" means a plan, in written form, which:

(1) Describes a specific strategy for treatment/rehabilitation developed and agreed upon by team members and the client or a legal representative; and

(2) includes information regarding assessment, goals and objectives, time lines, program strategies and interventions, monitoring, review and documentation procedures.

(f) "Per diem rate" means an amount per program unit that shall be paid to community mental retardation facilities for serving mentally retarded, or otherwise developmentally disabled clients.

(g) "Program unit" means a unique program provided by a community retardation facility to a client as recommended in the client's individual habilitation plan (IHP). No more than one unit can be generated in a program group for any one client on a given day, regardless of the level of disability of the client and the length or intensity of the program provided.

(h) "Adult day care" means programs for elderly or disabled adults to:

(1) Prevent institutionalization or re-institutionalization;

(2) allow individuals to remain in their own home or the least restrictive environment;

(3) protect against abuse, neglect, and exploitation; and

(4) enable family members to obtain or remain in employment.

(i) "Adult life skills training" means programs that provide training in life skills, personal social adjustment and work attitude and skills exploration to improve, maintain functions, or reduce regression of disabled individuals with very limited personal, social, and pre-vocational skills.

(j) "Work activity" means programs that provide long-term work instruction and supervision to assist disabled individuals, demonstrating pre-vocational skills, in maximizing vocational abilities.

(k) "Work adjustment" means programs that assist disabled persons, who demonstrate basic work skills, to develop or refine critical work behaviors within a short period of time. These services shall improve their prospect of obtaining employment.

(l) "Occupational skills training" means programs that assist disabled persons, who demonstrate a potential to benefit from skill training, to acquire occupational skills needed to perform jobs in competitive employment.

(m) "Supported employment" means programs that provide competitive community employment with emphasis on structural job placement or on-the-job training for as long as is necessary and provides follow-up services that assure continued employment.

(n) "Group living" means programs that improve life skills, personal and social adjustment of disabled individuals, needing daily, but non-medical supervision and support, to enable them to become more self-sufficient in the community.

(o) "Semi-independent living" means programs that enable disabled individuals, requiring less than daily supervision or training, to remain and function in the community with minimal supervision or training.

(p) "Independent living (agency operated)" means programs that enable disabled individuals to increase personal self-determination through the provision of direct services or through advocacy and referral to other community services.

(q) "Respite care" means programs that provide to families of disabled persons, through direct service provision or case coordination services, relief for emergencies or for planned short or extended periods, out of the home or in the home care.

(r) "Waiting lists" means a single listing of all persons who have, through an admissions screening process, been found appropriate for and in need of programming that the licensed community mental retardation facility should provide for persons with similar disabilities.

**22. 30-22-32. Application for state financing of community mental retardation facilities under the community mental retardation facilities assistance act.** The secretary is promulgating a new regulation con-

cerning application for state financing of community mental retardation facilities under the community mental retardation facilities assistance act. The text of the regulation is set forth below:

30-22-32. Application for state financing of community mental retardation facilities under the community mental retardation facilities assistance act. Base facilities may apply for state financing by submitting an annual grant application to the secretary of social and rehabilitation services (SRS). Applications shall be based upon the number of program units generated by eligible clients served by the facility in the previous calendar year at per diem rates established by the secretary pursuant to subsection (g). (a) Client eligibility. A client shall be eligible and shall generate program units for a facility if the client meets the following conditions:

(1) Is mentally retarded, or otherwise developmentally disabled;

(2) is 18 years of age or older;

(3) has an individual habilitation plan (IHP) acceptable by the SRS area office, except for respite care programs for which an IHP is not required; and

(4) is not being supported in whole or in part by a special grant from SRS to support clients transferred from a state hospital or training center or private ICF/MR.

(b) Program eligibility. The following programs as defined in K.A.R. 30-22-31 shall be eligible for generating state financing when provided to an eligible client:

(1) Adult day care;

(2) adult life skills training;

(3) work activity;

(4) work adjustment;

(5) occupational skills training;

(6) supported employment;

(7) group living;

(8) semi-independent living;

(9) independent living (agency operated); and

(10) respite care.

Facilities shall be restricted to programs (1) through (10) in computing program units, but shall not be restricted to programs (1) through (10) in expending the grant funds they receive.

(c) Client groupings. Client groupings shall have the following program components:

(1) Adult day activity or vocational programming:

(A) Adult day care;

(B) adult life skills training;

(C) work activity;

(D) work adjustment;

(E) occupational skills training; and

(F) supported employment.

(2) Group living and support programming:

(A) Group living; and

(B) semi-independent living.

(3) Independent living (agency operated).

(4) Respite care.

(d) Part-day and full-day equivalency. Two part-day activity or vocational program units are equiva-

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lent to one full-day activity or vocational program unit.

(e) Respite care limitations on program units. In counting the number of program units in calculating a grant award, facilities shall be limited to seven units per eligible client per calendar year.

(f) Contracts between community mental retardation facilities and other providers. Contracts between community mental retardation facilities and other providers shall define an unmet program need, and shall be subject to the approval of the secretary before any state grants shall be awarded.

(g) Per diem rate calculation. A separate per diem rate for each of the four client groups shall be calculated based upon the projected cost to serve both current clients and those on community waiting lists. The projected cost shall be based upon the most recent available audited cost as calculated by the SRS audit division, inflated by the actual and projected cost of living adjustments (COLA) for the time period between the end of the audited year and the beginning of the grant year after excluding all current and projected resources other than any funding under the Kansas community mental retardation facilities assistance act. This adjusted figure shall be divided by the sum of the program units as reported by the facilities in accordance with subsection (k) and the projected program units associated with the clients on the waiting list submitted as required by subsection (k). The resulting calculations shall constitute the per diem rates for the state fiscal year.

(h) Grant applications. Grant applications shall be submitted to the secretary by May 15 of each year unless a delay is approved in writing. Applications shall be submitted on forms and according to instructions prescribed by the secretary.

(i) Appropriation of state funds and proration of grant awards. The secretary shall determine the amount available for each facility that has submitted an application, subject to appropriation limitations. In the event that sufficient moneys to pay to all community mental retardation facilities the full amount of grant payments determined by subsection (h) have not been appropriated or are not available, the entire amount available for grant payments shall be prorated by the secretary. The amount shall be prorated among all the community mental retardation facilities applying for such grant payments in proportion to the amount each such community mental retardation facility would have received if sufficient moneys had been appropriated and available thereof, subject to the provisions of subsection (j). The prorated amounts shall be paid to the centers in four payments on July 1, October 1, January 1, and April 1.

(j) Hold harmless distribution. There are established two mechanisms for distributing the state appropriation subject to the hold harmless levels defined in K.A.R. 30-22-31.

(1) If in the event an appropriation meets or exceeds the state's hold harmless level, but the grant for a facility as determined by subsection (i) is less

than the facility's hold harmless level, then the grant award for that facility shall be increased to meet the facility's hold harmless level and other facilities awards will be reduced in total by an equivalent amount.

(2) If in the event the appropriation is less than the state's hold harmless level, then each facility shall receive a grant award that is prorated based upon the percentage that each facility's hold harmless level comprises the state's hold harmless level.

(k) Quarterly reports. Each facility shall submit a quarterly report within 30 working days after the end of each quarter. The report shall:

(1) Be on forms and in such detail as prescribed by the secretary;

(2) describe by program their income, expenditures, clients and program units; and

(3) include the number and names of clients on their waiting lists.

(l) Annual audit reports. Each center shall file a copy of its annual audit report certified by an independent auditor.

(m) Audits. The secretary shall verify program units reported on the monthly reports during the calendar year with audits conducted by auditors of the department of social and rehabilitation services.

(n) Underpayments or overpayments. Underpayments or overpayments resulting from audit reports or corrections to prior quarterly reports, shall be subtracted from or added to the payments made on October 1 and April 1.

(o) Withdrawal of funds. The secretary may withdraw funds from any facility that does not maintain eligibility or is not being substantially administered according to the grant application, including providing fewer than the number of program units upon which their grant was awarded. In the event a facility provides fewer than 95% of the number of program units in their grant award, the secretary shall calculate the amount to be withheld according to the per diem rate multiplied by the number of program units short of the grant award, subject to proration as described in subsection (i). The secretary shall take into consideration the effect of paragraph (4) of subsection (a) in determining if a withdrawal of funds is required, and shall not withdraw funds associated with clients ineligible under paragraph (4) of subsection (a). If in the event the appropriation was prorated as described in subsection (i), any withdrawn funds shall be prorated to the other facilities according to the method described in subsection (i), and shall be distributed in the April 1 payment. Facilities may appeal to a review board any withdrawn funds if there are extenuating circumstances that caused them to provide fewer than 95% of the program units in their grant award. Extenuating circumstances include unforeseen changes in funding or client caseload, or unpredictable disasters. The review board shall be comprised of two representatives each selected by the secretary and the Kansas association of rehabilitation facilities.

(p) Withholding of payments. The secretary may



withhold payments from a facility for one or more of the following reasons:

- (1) Failure to submit required reports;
- (2) unreasonable delay in the submission of required reports; or
- (3) failure to enter into an affiliate agreement with a facility in order to avoid duplication.

**G. Licensing of Non-Medical Community Based Agencies Providing Services to Handicapped Adults.**

**1. 30-41-1. Definitions.** This regulation is being amended to delete definitions for license, licensing regulations, licensing specialist, and licensing review.

**2. 30-41-2. Licensing procedures.** This regulation is being amended to:

- (a) Delete the statements on department procedures for processing license applications;
- (b) indicate that each provisional license shall become a regular license at the end of a period of 180 days if the department agrees, in writing, that the previously noted deficiencies have been corrected;
- (c) change the requirement for residential facilities with eight or more residents from being licensed to being approved by the department of health and environment under the food service and lodging act; and
- (d) specify that a license shall not be issued for a period of more than one year.

**3. 30-41-5. Terms of license.** This regulation is being amended to:

- (a) Require day program and group living programs to keep a copy of the regulations on the premises;
- (b) specify that a license can be suspended or revoked if the provisions of K.A.R. 30-2-15 are not complied with; and
- (c) delete the statements on department procedures for notifying and reviewing evidence from an agency whose license has been revoked or suspended.

**4. 30-41-6c. Disaster policies.** This regulation is being amended to reflect technical changes.

**5. 30-41-6d. Health policies.** This regulation is being amended to:

- (a) Require that outdated or discontinued medication shall be discarded in the presence of the supervisor; and
- (b) require facilities to follow proper techniques of asepsis and isolation for clients with infections and contagious diseases.

**6. 30-41-6h. Client policies.** This regulation is being amended to reflect technical changes.

**7. 30-41-7b. Buildings, general.** This regulation is being amended to:

- (a) Require facilities to adhere to any plan of correction submitted to the state fire marshal;
- (b) indicate that the state fire marshal shall approve fire protection equipment as adequate; and
- (c) eliminate the requirement that gas heaters have ridged connections and 100% safety controls.

**8. 30-41-7d. Adult residential sleeping facilities.** This regulation is being amended to clarify that bedroom windows be operable without a tool.

**9. 30-41-7g. Food service.** This regulation is being amended to change the requirement for community day programs which prepare and serve food from obtaining a license to obtaining approval from the department of health and environment under the food service and lodging act.

**H. Licensing of Non-Medical Resident Care Facilities.**

**1. 30-42-6. Definitions.** The secretary is promulgating a new regulation concerning definitions. The text of the regulation is set forth below:

**30-42-6. Definitions.** (a) "Applicant" means any facility which applies for a license issued by the department to provide residential care.

(b) "Department" means the Kansas department of social and rehabilitation services.

(c) "Facility" means any private person, group, association or corporation, or any community or local government department undertaking to provide residential care within the meaning of these regulations.

(d) "Handicapped" means a physical, mental, or emotional impairment which limits one or more major life activities.

(e) "Mental or emotional abuse" means any method of inflicting or causing mental injury or causing deterioration of the individual. Mental or emotional abuse includes failure to maintain reasonable care or treatment to such an extent that the individual's emotional well-being is in danger.

(f) "Secretary" means the secretary of the department of social and rehabilitation services.

(g) "Staff" means employees of the facility who spend a majority of their work time in the supervision of residents.

**2. 30-42-7. Licensing procedures.** The secretary is promulgating a new regulation concerning licensing procedures. The text of the regulation is set forth below:

**30-42-7. Licensing procedures.** (a) Each facility shall apply for a license on application forms provided by the department.

(b) Each application for renewal of a license shall be submitted by the licensed facility to the department at least 60 days before expiration of the license. This provision may be waived by the department upon a showing of good cause by the facility.

(c) At the discretion of the department, a provisional license may be issued to any facility that is substantially in compliance with the licensing regulations, if the facility presents evidence that any deficiency is temporary and if efforts to correct the deficiency are agreed to or are in progress. Each provisional license shall become a regular license at the end of a period of 180 days if the department agrees, in writing, that the previously noted deficiencies have been corrected. If the deficiencies have not been corrected, the provisional license shall automatically lapse at the end of the 180-day period.

(continued)

(d) Each license issued shall specify and shall be valid only for the facility and the operator named on the license. A new application shall be required for each change of operator. A facility which changes operators may continue to provide the same care which it was licensed to provide under its last prior operator for the period of time that is required for the facility to pursue all administrative avenues available under these regulations for obtaining licensure under the facility's new operator.

(e) The license shall be issued for a specified period of time not to exceed one year.

(f) The department, upon request, may waive any specific licensing standard for good cause if such waiver does not affect the health, safety or welfare of a facility's residents.

**3. 30-42-8. Capacity.** The secretary is promulgating a new regulation concerning capacity. The text of the regulation is set forth below:

30-42-8. Capacity. Each license shall specify the maximum number of residents who may be served at any one time in the facility. That maximum number shall not be less than five nor more than 40.

**4. 30-42-9. Suspension or revocation of license.** The secretary is promulgating a new regulation concerning suspension or revocation of license. The text of the regulation is set forth below:

30-42-9. Suspension or revocation of license. (a) The license of any facility shall be suspended or revoked according to the provisions of this subsection (a) whenever:

(1) The department finds that the facility has failed to comply with the provisions of K.A.R. 30-2-15 or of any licensing regulations set forth in this article and there is reason to believe that the facility will be in further non-compliance; or

(2) the department finds that the facility is in continuing non-compliance with K.A.R. 30-2-15 or if any licensing regulations set forth in this article.

(b) Procedures for the suspension or revocation of a license.

(a) Subject to the provisions of paragraph (2) of this subsection, when the department finds that a licensed facility is not in compliance with the provisions of any licensing regulations set forth in this article, the department shall informally advise the facility's operator or chief officer in person or by telephone of a finding of non-compliance. This informal communication shall be confirmed in writing within five working days of the informal advice. The written confirmation of the advice shall:

(A) Specify in detail the noted items of non-compliance;

(B) inform the facility of the action required to correct the non-compliance;

(C) inform the facility that failure to provide evidence that the non-compliance has been corrected will result in suspension or revocation of the facility's license;

(D) inform the facility of the time period within which the item of non-compliance can be corrected

without temporary or permanent loss of license. This time period shall not be less than 45 days from the date of written confirmation; and

(E) inform the facility of the name and address of the person within the department to whom evidence must be provided demonstrating that the item of non-compliance has been corrected.

(2) The department shall immediately suspend the license of any facility whose non-compliance with these regulations is of a nature so serious that such non-compliance will constitute an immediate threat to the health, safety or welfare of the facility's residents. The department shall immediately initiate an action to revoke such a license according to these regulations.

(3) Whenever a facility has failed to satisfy the department that an item of non-compliance has been corrected as provided in paragraph (1) of this subsection, or whenever the department has suspended a facility's license under paragraph (2) of this subsection, action shall be commenced to revoke the facility's license. Prior to revocation of a facility's license, the department shall send to the facility a written notification of the proposed revocation and the reasons therefor. The notice shall state whether the facility's license has been suspended pending further proceedings. If the decision is to revoke the facility's license as herein provided, the department shall issue a written order of revocation setting forth the effective date of such revocation and the basic underlying facts supporting the order.

**5. 30-42-10. Prerequisites for license.** The secretary is promulgating a new regulation concerning prerequisites for license. The text of the regulation is set forth below:

30-42-10. Prerequisites for license. (a) Any applicant for licensure shall be at least 18 years of age at the time of application.

(b) Each facility for eight or more persons shall be approved by the Kansas department of health and environment as meeting the standards for a lodging establishment under the food service and lodging act.

(c) Each facility shall meet the legal requirement of the community for zoning, fire protection, water supply and sewage disposal.

(d) Each facility shall obtain and retain on file a fire life safety code report issued within the previous 12 months by the state fire marshal, or persons designated in K.S.A. 31-137 and amendments thereto. Deficiencies noted on the report shall be the subject of an acceptable plan of correction submitted to the state fire marshal within the time-frame established by the state fire marshal. The facility shall adhere to the plan of correction as well as the date, if any, by which the correction is to be made.

(e) Each facility shall provide and maintain fire protection equipment. This equipment shall be approved as adequate by the state fire marshal.

(f) Each facility shall employ at least one staff

person certified in the administration of first-aid. All other staff shall receive training in the administration of first-aid within 30 days of employment and every two years thereafter. The date of that training shall be recorded for each staff person and retained on file.

(g) Each facility shall provide adequate care of residents and shall not exceed a maximum ratio of 20 residents to one staff person.

(h) Each facility shall allow residents the right of privacy and the right to see relatives, friends and participate in regular community activities.

(i) Corporal punishments, restraints or punitive measures shall not be used by any facility.

(j) Each facility shall develop a current, written grievance procedure for residents.

(k) Each facility shall see that arrangements are made for emergency and regular medical care for residents.

(l) Each facility shall allow the secretary and authorized representatives of the secretary access to the home, grounds, residents and to records related to residents.

(m) Facility personnel shall not accept permanent guardianship or conservatorship of residents. However, guardianship or conservatorship of blood relatives shall be permitted.

(n) Each facility shall maintain official policies and make them available for review by the department, staff, residents, and guardians and relatives of residents. The official policies of each facility shall contain statements regarding the provisions of subsection (g), (h), (i), (j) and (k) set forth above.

**6. 30-42-11. Admission and discharge policies.** The secretary is promulgating a new regulation concerning admission and discharge policies. The text of the regulation is set forth below:

**30-42-11. Admission and discharge policies.** (a) Each facility shall have on file and shall provide to the department an admissions policy. At a minimum, the admissions policy shall indicate the types of residents the facility will accept indicating:

- (1) Age range;
- (2) sex;
- (3) type of disability; and
- (4) the types of residents the facility will not accept.

(b) The facility shall make an inventory of each resident's major personal items within 24 hours of the resident's admission to the facility. Documentation of the inventory shall be retained on file.

(c) Prior to or within 24 hours of admission, the facility shall obtain and retain on file a document signed by the resident and guardian, if any, verifying that they have received in writing the phone number which they may call at any time to complain about exploitation, neglect, or abuse, including mental or emotional abuse.

(d) The facility shall be responsible for encouraging residents to seek and utilize available services when needed.

(e) The facility shall agree to refer a resident to

other appropriate residential facilities as soon as it determines that the needs of a resident can no longer be met by the facility.

(f) The resident shall not be involuntarily transferred or discharged from the facility except:

(1) For medical or behavioral reasons which render the facility an inappropriate placement;

(2) for the welfare of the resident or others; or

(3) for non-payment of the rates and charges imposed by the facility.

(g) Except in emergencies, the resident and legal guardian, if any, shall be given written notice at least seven days in advance of a transfer or discharge of the resident.

**7. 30-42-12. Disaster policies.** The secretary is promulgating a new regulation concerning disaster policies. The text of the regulation is set forth below:

**30-42-12. Disaster policies.** The facility shall, in consultation with the fire inspector or other appropriate resources, develop a written disaster plan to provide for the care and safety of residents and employees in emergencies and in occurrences of serious illness or injury. The residents and employees shall be informed of the disaster plan and the plan, including an exist diagram, shall be posted. Evacuation drills shall be conducted each quarter and the date and the length of time for evacuation shall be recorded. A telephone shall be located on the premises and readily available. Emergency numbers shall be posted by each phone.

**8. 30-42-13. Health policies.** The secretary is promulgating a new regulation concerning health policies. The text of the regulation is set forth below:

**30-42-13. Health policies.** (a) The facility may assist with the taking of medication when the medication is in a labeled bottle dispensed by a pharmacist which clearly shows a physician's orders and when the resident requires assistance because of tremor, visual impairment, or other physical or mental handicapping conditions. The facility may assist the residents with such physical activities as eating, bathing, dressing, help with brace or walker, and transferring from wheelchairs when such assistance is needed on a temporary or intermittent basis.

(b) Each facility shall provide a sanitary environment and shall follow proper techniques of asepsis and isolation for residents with infections and contagious diseases.

(c) All outdated or discontinued medication shall be discarded in the presence of the supervisor.

(d) Each employee infected with a disease in a communicable form or having communicable skin lesions shall be restricted from work until the disease is no longer communicable.

**9. 30-42-14. Financial policies.** The secretary is promulgating a new regulation concerning financial policies. The text of the regulation is set forth below:

**30-42-14. Financial policies.** The personal money of each resident shall be kept in the resident's

(continued)

individual account. The individual account shall be separate from the funds of the facility, owner, operator, employees, and other residents.

**10. 30-42-15. Adult residential sleeping quarters.** The secretary is promulgating a new regulation concerning adult residential sleeping quarters. The text of the regulation is set forth below:

**30-42-15. Adult residential sleeping quarters.** (a) Sleeping quarters shall have a minimum of 70 square feet per person of free floor space in single rooms and an average of not less than 55 square feet per person in rooms accommodating more than one person.

(b) Rooms used as sleeping quarters shall have windows that are operable without a tool.

**11. 30-42-16. Environmental standards.** The secretary is promulgating a new regulation concerning environmental standards. The text of the regulation is set forth below:

**30-42-16. Environmental standards.** (a) Each facility shall comply with the standards set forth below. The department may consider, but need not accept, written statements of compliance with environmental requirements from other authorized licensing agencies or groups.

(b) The building shall be clean, in good state of repair, and free from accumulated dirt or trash and vermin infestation.

(c) Aisles, hallways, stairways, and main routes of travel shall be maintained free of obstacles and stored materials.

(d) Furniture shall be clean and in good state of repair.

(e) Rooms shall be well-ventilated, adequately lighted, and appropriately heated or cooled.

(f) Each resident shall have a separate bed with a level, flat mattress in good condition, and sufficient and clean bedding.

(g) Bathroom fixtures shall be accessible, clean, and in good state of repair.

(h) Kitchenware and tableware shall be clean and in good condition.

(i) Meals and snacks, when provided, shall be appropriate to the nutritional needs of the residents. Menus shall be posted and shall follow the basic food group requirements.

(j) The outside area shall be free of physical hazards and be free of accumulated garbage and trash.

## I. Youth Services. (Medically neglected infants.)

**1. 30-45-10. Definitions.** The secretary is promulgating a new regulation concerning definitions. The text of the regulation is set forth below:

**30-45-10. Definitions.** (a) "Medical neglect" includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition.

(b) "Withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by failing to provide treatment, which in the treating physician's reason-

able medical judgment, is most likely to ameliorate or correct all life-threatening conditions, except when the treatment would be futile in terms of survival of the infant and the treatment itself under such circumstances would be inhumane. In all circumstances "withholding of medically indicated treatment" shall always include the failure to provide appropriate nutrition, hydration or medication.

(c) "Reasonable medical judgment" means a medical judgment made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

(d) "Infant" means an infant less than one year of age. The reference to less than one year of age shall not be construed to imply that treatment should be changed or discontinued when an infant reaches one year of age. The standards set forth in subsection (b) of this regulation should be consulted thoroughly in the evaluation of any issue of medical neglect involving an infant older than one year of age who has been continuously hospitalized since birth, whose birth was extremely premature, or who has a long-term disability.

(e) "Designated hospital liaison" means the individual designated by the hospital administrator as the person to be contacted by agency personnel upon a report of medically indicated treatment being withheld from a disabled infant. Names of liaisons shall be furnished to the agency annually by each hospital.

(f) "Hospital medical ethics review committee" means the group established by the hospital to review medical treatment and make recommendations to the appropriate medical personnel involved in the case.

**2. 30-45-11. Reports of medically neglected infants.** The secretary is promulgating a new regulation concerning reports of medically neglected infants. The text of the regulation is set forth below:

**30-45-11. Reports of medically neglected infants.**

(a) Reports of medical neglect of a disabled infant shall be made to the local social and rehabilitation services office. Receipt of the report and subsequent initiation of an investigation will follow the emergency procedures established under the Kansas code for care of children. Upon receiving notification of withholding of medically indicated treatment from a disabled infant, an agency social worker shall:

(1) Contact the designated hospital liaison at the facility where the infant is located;

(2) contact the hospital medical ethics review committee at the facility housing the infant to obtain the committee's findings or the Kansas perinatal medical council if no hospital medical ethics review committee exists; and

(3) include as a part of the investigative report, information from and reports to the designated hospital liaison and the hospital medical ethics review committee or the Kansas perinatal medical council if no hospital medical ethics review committee exists.

(b) Subsequent to the initial investigation of a report of medical neglect of a disabled infant, the agency personnel shall follow the procedures established under the Kansas code for care of children and all due process rights contained therein shall apply.

3. 30-45-12. **Responsible reporters.** The secretary is promulgating a new regulation concerning responsible reporters. The text of the regulation is set forth below:

30-45-12. **Responsible reporters.** (a) Physicians, nurses, hospital administrators, and others listed in K.S.A. 1985 Supp. 38-1522 shall be required to report cases of medical neglect of disabled infants.

(b) Reports to social and rehabilitation services of medical neglect of disabled infants can be initiated by any concerned citizen. The reporter will remain anonymous unless the reporter agrees to the use of the reporter's identity by the agency. The reporter is not liable to prosecution for reports made in good faith pursuant to K.S.A. 1985 Supp. 38-1525 and 38-1526.

4. 30-45-13. **Records.** The secretary is promulgating a new regulation concerning records. The text of the regulation is set forth below:

30-45-13. **Records.** Records of medical neglect cases involving disabled infants shall be handled according to established agency procedures.

5. 30-45-14. **Public information.** The secretary is promulgating a new regulation concerning public information. The text of the regulation is set forth below:

30-45-14. **Public information.** The medical community shall be annually informed of the need to report cases of alleged medical neglect of disabled infants pursuant to these regulations.

ROBERT C. HARDER  
Secretary of Social and  
Rehabilitation Services

Doc. No. 005238

(Published in the KANSAS REGISTER, April 23, 1987.)

### HOUSE BILL No. 2115

AN ACT authorizing the secretary of state to grant an easement to the city of Topeka, Kansas, along the Kansas river for diversion of water; prescribing certain conditions.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) The secretary of state is hereby authorized and directed to grant an easement to the city of Topeka, Kansas, on a tract of land owned by the state of Kansas along the south and north banks of the Kansas river described as follows: Commencing at the southwest corner of the northwest quarter of section 26, township 11 south, range 15 east of the 6th p.m.; thence on a line 89° 59' 28" along the south line of the southwest quarter, a distance of 1305.42 feet to the southeast corner of government survey lot 4; thence on a line 31° 25' 19", a distance of 2,475.90 feet to the point of beginning; thence on a line 254° 45' 25" a distance of 861.04 feet; thence on a line 311° 43' 22", a distance of 1,277.83 feet; thence on a line 78° 43' 22", a distance of 1,809.23 feet; thence on a line 169° 23' 29", a distance of 963.02 feet; thence on a line 259° 23' 29", a distance of 170.00 feet to the point of beginning. Less that part of the above described tract lying northerly of the northerly high bank of the Kansas river and less that part of such tract lying southerly of the southerly high bank of the Kansas river.

(b) Such easement shall be conditioned on the city of Topeka assuming full responsibility for the use of such easement and holding the state of Kansas harmless therefor. Such easement shall terminate if the land is no longer used for the purpose for which the easement was granted.

(c) The city of Topeka, Kansas, is hereby authorized to acquire the easement described in subsection (a) and to use such easement for the purpose of locating, constructing, maintaining, and operating diversion works for the appropriation of water and to assume full responsibility for such use and hold the state of Kansas harmless therefor.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 19, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE April 2, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 15, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 15th day of April, 1987.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the KANSAS REGISTER, April 23, 1987.)

SENATE BILL No. 70

AN ACT concerning Kansas venture capital companies; amending K.S.A. 17-7512 and 79-1103 and K.S.A. 1986 Supp. 74-8202, 74-8203 and 74-8307 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1986 Supp. 74-8202 is hereby amended to read as follows: 74-8202. For the purposes of this act, the following terms shall have the meanings provided herein:

- (a) "Department" means the department of commerce.
- (b) "Kansas business" means any small business owned by a Kansas resident an individual, any partnership, association or corporation domiciled in Kansas, or any corporation, even if a wholly owned subsidiary of a foreign corporation, that does business primarily in Kansas or does substantially all of its production in Kansas.
- (c) "Secretary" means the secretary of the department of commerce.

Sec. 2. K.S.A. 1986 Supp. 74-8203 is hereby amended to read as follows: 74-8203. The secretary of the department of commerce is authorized to certify investment in nonvoting preferred stock of Kansas Venture Capital, Inc. in a total not to exceed \$10,000,000 by the pooled money investment board as provided in K.S.A. 75-4205, and amendments thereto, under the following terms and conditions:

(a) Banks, savings and loan associations, individuals, corporations or other entities have invested \$10,000,000 of new private, equity capital in voting common stock in Kansas Venture Capital, Inc.

(b) The \$10,000,000 nonvoting preferred stock invested by the pooled money investment board will receive the same rate of dividend and the same rate of capital appreciation at the same time on the same terms as the \$10,000,000 voting common stock invested by banks, savings and loan associations, individuals, corporations or other entities.

(c) Every outstanding share representing the \$10,000,000 nonvoting preferred stock is assured of being fully repaid to the pooled money investment board before one share of the \$10,000,000 voting common stock is repaid to any bank, savings and loan association, individual, corporation or other entity. In the event that capital impairment compromises the ability of Kansas Venture Capital, Inc. to repay fully the \$10,000,000 nonvoting preferred stock, the pooled money investment board shall have the power to convert its shares to voting stock to protect its investment.

(d) Investments in common stock of Kansas Venture Capital, Inc. shall meet the terms and conditions of K.S.A. 1986 Supp. 74-8301 to 74-8311, inclusive, and amendments thereto, enacting the Kansas venture capital company act.

(e) The investments of \$10,000,000 of new voting common stock and the \$10,000,000 of nonvoting, senior preferred stock can be invested in Kansas Venture Capital, Inc. shall be invested in ways which do not compromise the integrity of the small business association license approved under the small business investment act on June 17, 1977.

(f) Kansas Venture Capital, Inc. may invest in one or more Kansas venture capital companies located in Kansas which meet the requirements of K.S.A. 1986 Supp. 74-8301 to 74-8311, inclusive, and amendments thereto. Such investment shall not qualify for the tax credit allowed by K.S.A. 1986 Supp. 74-8304, and amendments thereto.

(g) A total of 15 board members to oversee the operations of Kansas Venture Capital, Inc. are elected by the voting common stock shareholders in accordance with the following terms and conditions:

(1) Eight are representatives of Kansas financial institutions. The eight shall represent a reasonable balance of relative proportion of investment in the common stock of Kansas Venture Capital, Inc. by Kansas commercial banks, savings and loan associations, insurance companies, and other appropriate financial intermediaries, and shall be recognized for outstanding knowledge and leadership in their fields.

(2) Two shall be venture capitalists or investment counselors familiar with the types of investments in which Kansas Venture

Capital, Inc. will invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(3) Five shall represent the business sectors of special importance to the Kansas economy in which Kansas Venture Capital, Inc. shall be expected to invest its funds, and shall be recognized for outstanding knowledge and leadership in their fields.

(h) The board has conducted a national search and has selected a president for Kansas Venture Capital, Inc. who meets a national standard of experience, ability and initiative for similar chief executive positions for venture capital corporations investing high risk equity in firms which meet the purpose of this act.

(i) Funds invested by Kansas Venture Capital, Inc. shall be invested at 100% in Kansas businesses or in Kansas venture capital companies which invest 100% of the funds invested in such companies by Kansas Venture Capital, Inc., in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state.

Sec. 3. K.S.A. 1986 Supp. 74-8307 is hereby amended to read as follows: 74-8307. (a) To continue in certification, a Kansas venture capital company must:

(1) Invest at least 30% of its original capitalization at the end of the initial five years in such a manner as to acquire equity in the ventures in which the investments are made;

(2) have invested at least 50% in the same manner at the end of seven years; and

(3) have invested at least 75% in the same manner at the end of nine years.

(b) At the end of the fifth year, seventh year and ninth year investment levels, Invest at least 60% of the total investment of the Kansas venture capital company, except for Kansas Venture Capital, Inc., must be in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state.

(c) Funds invested by Kansas Venture Capital, Inc. shall be invested at 100% in Kansas businesses or in Kansas venture capital companies which invest 100% of the funds invested in such companies by Kansas Venture Capital, Inc., in Kansas businesses in which the funds so invested were to be used solely for the purpose of enhancing their productive capacity within the state, or to add value to goods or services produced or processed within the state.

(d) No more than 20% of the assets of a Kansas venture capital company may be invested in the equity of a single business at any one time, unless the Kansas venture capital company can reasonably demonstrate that a greater percentage in a single company at any one time is the result of losses suffered by the Kansas venture capital company in other investments.

(e) The use of invested funds by a Kansas business for oil and gas exploration and development, for real estate development or appreciation, for banking or lending operations, or service or retail are not acceptable investments to qualify for the tax credit provided in this act. Any investments by Kansas venture capital companies in any of these sectors shall not be counted as equity investments for the purpose of continuing certification under this section.

(f) Documents and other materials submitted by Kansas venture capital companies or by Kansas businesses for purposes of the continuance and certification shall not be public records if such records are determined by the secretary to be trade or business secrets under the uniform trade secrets act (K.S.A. 60-3320 to 60-3330), inclusive, and amendments thereto, and shall be maintained in a secured environment by the secretary.

Sec. 4. K.S.A. 17-7512 is hereby amended to read as follows: 17-7512. The provisions of this act relating to the filing of annual reports and the payment of franchise taxes shall not apply to banking, insurance or savings and loan corporations or associations or to credit unions or any firemen's relief association under the jurisdiction and supervision of the insurance commissioner or to Kansas Venture Capital, Inc. or to venture capital companies certified by the secretary of commerce pursuant to article

83 of chapter 74 of the Kansas Statutes Annotated and amendments thereto.

Sec. 5. K.S.A. 79-1103 is hereby amended to read as follows: 79-1103. (a) Every individual, association, group of unincorporated persons or domestic corporations, other than national banking associations, banks, trust companies, savings and loan associations and those taxed under K.S.A. 79-310a and 40-2801 and Kansas Venture Capital, Inc. and venture capital companies certified by the secretary of commerce pursuant to article 83 of chapter 74 of the Kansas Statutes Annotated and amendments thereto, who shall engage in the business of lending money, buying and selling bills of exchange, notes, bonds, stocks or other evidences of indebtedness with a view to profit, shall be, for the purpose of taxation, deemed to be engaged in banking within the meaning of this act. Each such individual, association or unincorporated group of persons shall annually during the month of January, as of January 1, furnish to the assessing officer a statement showing the average amount of capital employed in its business of banking as defined in this section, and the net earnings or income of such business for the year preceding such date. Aided by such statement, the assessing officer shall determine the average capital employed in such business as herein defined, and the true value of the proportional interest or share of each person therein shall be taxed annually at the rate of five mills on the dollar of the value thereof. In determining the average capital employed in such business for assessment and taxation upon a share basis as herein provided, the amount of money borrowed by the business as an entity and employed in the business and the amount of capital invested in real estate used in such business separately listed and taxed in this state shall be deducted therefrom. Personal property, other than motor vehicles subject to taxation under K.S.A. 79-5101 *et seq.*, and amendments thereto used in the business of banking shall not be separately listed nor shall it be taxed separately other than upon a share basis as herein provided.

(b) Shares of stock of domestic corporations engaged in the banking business, as defined in subsection (a), shall be assessed to the individual shareholders at their true value at the place where the particular domestic corporation is located. The managing officer of each domestic corporation shall furnish to the assessor on forms prescribed therefor during the month of January each year, a list of all the shareholders and the number of shares owned by each shareholder and the assessor shall fix and determine the true assessable value of such shares. To aid and assist in determining the true value of such shares the director of property valuation shall prescribe such forms for use by the assessor as deemed necessary, and the president, cashier or other managing officer of each domestic corporation shall furnish and make full disclosure of all information required therein. If any portion of the capital stock of any domestic corporation shall be invested in real estate and the domestic corporation holds title thereto in fee simple, the assessed value of the real estate shall be deducted from the gross valuation of all shares of stock and such real estate shall be assessed as other real estate. The net assessment of all shares shall be divided among the shareholders proportionately, according to the number of shares owned by each, and the domestic corporation shall pay the tax assessed upon the shares and shall have a lien thereon until the same is satisfied and such shares shall be taxed annually at the rate of five mills on the dollar of the value thereof, or as otherwise provided by law. Should the domestic corporation fail to pay taxes levied upon shares, the property of the individual shareholder shall be liable therefor.

(c) As soon as practicable after all tax levies for the current tax year are determined and reported, it shall be the duty of the county clerk to notify each domestic corporation, whose shareholders are assessed and taxed under the terms of subsection (b) hereof in writing, of the valuation, rate of levy and amount of tax assessed against each and all shares and to be paid by each domestic corporation. Such notice to the domestic corporation shall be deemed and held notice to each shareholder. If the domestic corporation or any shareholder so notified shall for any cause be aggrieved by such assessment, appeal may be taken to the board of tax appeals at any time within 30 days after the receipt of such notice, by filing with the county clerk a notice of

intention to appeal. An appeal by the domestic corporation shall be deemed an appeal for all shareholders thereof. When notice of intention to appeal is filed with the county clerk by any domestic corporation or shareholder, it shall be the duty of the county clerk to transmit to the board of tax appeals forthwith, a copy of all notices, a statement showing the valuation of the shares, the levies, the amount of the tax assessed and all papers relating to such assessment. Thereupon the board of tax appeals, as soon as practicable, shall fix a time and place for hearing such appeal and shall give notice thereof to the county clerk and appellant at least 10 days prior to such hearing. At such hearing the board of tax appeals shall receive and consider such testimony as may be offered by such corporation or shareholder, or any party in interest, and upon due consideration thereof, shall fix and by order determine and equalize the amount of assessment and the tax to be paid. Such order shall be certified forthwith to the county clerk who shall enter upon the tax rolls of the county the amount of tax so determined and the tax shall be paid as hereinbefore provided by this act. No action shall be instituted or maintained in any court by any domestic corporation or shareholder to set aside or to declare void any tax levied under the terms of this act or to recover any such tax paid under protest unless prior to bringing of the action, an appeal shall have been taken as herein provided and such appeal shall have been determined by the board of tax appeals adverse to the claim of the appellant.

Sec. 6. K.S.A. 17-7512 and 79-1103 and K.S.A. 1986 Supp. 74-8202, 74-8203 and 74-8307 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 24, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE April 2, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 11, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 13th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

(Published in the KANSAS REGISTER, April 23, 1987.)

## HOUSE BILL No. 2157

AN ACT relating to savings and loan associations; establishment and operation of branches within and without the state of Kansas by state chartered associations.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. Subject to such prohibitions, limitations and conditions as the state savings and loan commissioner may by regulation prescribe, any state chartered savings and loan association having its home office in this state may establish and operate a branch office in a state other than Kansas if the law of that state in which the branch is to be located permits the establishment and operation of such branch office by an association with its home office located in Kansas. Such regulations shall not exceed the authority granted to federally chartered savings and loan associations to operate a branch in a state other than Kansas.

Sec. 2. Subject to such prohibitions, limitations and conditions as the commissioner may by regulation prescribe, the commissioner may allow any state chartered savings and loan association having its home office in a state other than Kansas to establish and operate a branch office in the state of Kansas if the law of the state where the home office of the association is located permits the establishment and operation of such branch offices in that state by associations with home offices in Kansas. Such regulations shall not exceed the authority granted to federally chartered savings and loan associations to operate a branch in a state other than Kansas.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 17, 1987.

HOUSE concurred in SENATE amendments April 3, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended April 2, 1987.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 16, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 16th day of April, 1987.

(SEAL)

BILL GRAVES  
Secretary of State.

## Substitute for HOUSE BILL No. 2541

AN ACT concerning governmental ethics of state officers and employees and candidates for such office; amending K.S.A. 46-269 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 46-269 is hereby amended to read as follows: 46-269. Each report under K.S.A. 46-268, and amendments thereto, shall disclose the following: (a) The full name and address of each person who has paid compensation for lobbying to the lobbyist or has paid for expenses of lobbying by the lobbyist.

(b) The aggregate amount or value of all expenditures made (except for expenses of general office overhead) by the lobbyist or by the lobbyist's employer for or in direct relation to lobbying during the reporting period, if such expenditures exceed \$100. Individual expenditures of less than \$2 shall not be required to be reported under this subsection. Such expenditures shall be reported according to categories of expenditures established by rules and regulations of the Kansas public disclosure commission. With regard to expenditures for entertainment or hospitality which is primarily food and beverages, only amounts expended on a state officer or employee or on such officer or employee's spouse shall be considered to be for or in direct relation to lobbying. Notwithstanding the requirements of this subsection and subsection (c), no lobbyist shall be responsible to report any expenditure by the lobbyist's employer of which such person has no knowledge.

(c) All gifts, honoraria or payments, of value in excess of \$20 by the lobbyist to any state officer or employee.

*Whenever an individual lobbyist contributes to a single special event, such lobbyist shall report only the aggregate amount or value of the expenditure contributed by such lobbyist.*

Whenever more than one lobbyist is employed by a single employer, the reports required by this section relating to such employer shall be made by only one such lobbyist and that lobbyist shall be the lobbyist who is most directly connected with the particular expenditure or gift, honoraria or payment. No expenditure or gift, honoraria or payment required to be reported by this section shall be reported by more than one lobbyist.

Sec. 2. K.S.A. 46-269 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 6, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE April 2, 1987.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 16, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 16th day of April, 1987.

(SEAL)

BILL GRAVES  
Secretary of State.



(Published in the KANSAS REGISTER, April 23, 1987.)

## SENATE BILL No. 163

AN ACT concerning the Kansas public employees retirement system; concerning transfers of certain employer obligations; amending K.S.A. 74-4939 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 74-4939 is hereby amended to read as follows: 74-4939. (1) Except as otherwise provided in this section, the provisions of K.S.A. 74-4919 and 74-4920, and amendments to such sections, shall apply to employee and employer contributions and obligations.

(2) The employer contribution rate for participating employers who are eligible employers as specified in subsections (1), (2) and (3) of K.S.A. 74-4931 and amendments thereto shall be as certified by the board. Participating employers shall certify to the state board of education before September 15 of each year the anticipated total compensation to be paid during the next fiscal year to employees who are or are to become members. The state board of education shall transmit the information necessary to the division of the budget and the governor who shall include in the budget and budget document each year thereafter provisions for the transfer from the state general fund of sufficient sums to satisfy the participating employer's obligation under this act. The director of accounts and reports shall make a transfer therefor to the system quarterly, at the same time such employee contributions are remitted by such participating employers. Transfers required by this subsection shall be provided for annually by act of the legislature.

(3) Participating employers who are eligible employers as specified in subsection (4) of K.S.A. 74-4931 and amendments thereto shall pay to the system employer contributions at a rate of contribution as certified by the board.

(4) Upon the effective date of this act, the transfers for the employer's obligation pursuant to subsection (2) for the quarter commencing on January 1, 1987, shall be made on July 1, 1987, together with interest thereon at the rate of 6.72% per annum from the date the payment would have been made as provided in this section immediately prior to this amendment until the date paid.

Sec. 2. K.S.A. 74-4939 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 24, 1987.

SENATE concurred in HOUSE amendments April 10, 1987.

*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended April 9, 1987.

*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 14, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 14th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

## SENATE BILL No. 116

AN ACT relating to insurance; applicants for brokers' licenses; requirements; amending K.S.A. 40-3711 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-3711 is hereby amended to read as follows: 40-3711. Every applicant for a broker's license shall file with the commissioner, and upon approval of such applicant's application, maintain in force while licensed and for at least two years following termination of such license, evidence satisfactory to the commissioner of an errors and omissions policy covering the individual applicant in an amount of not less than \$100,000 total liability limit per occurrence, subject to not less than \$100,000 annual aggregate for all claims made during the policy period; or, covering the applicant under blanket liability policy or policies, which policy or policies can include other coverage on an excess basis over \$100,000 primary, insuring other insurance agents or brokers in an amount of not less than \$500,000 total liability limit per occurrence subject to not less than \$500,000 annual aggregate for all claims made during the policy period. Such policy shall be issued by an authorized insurance company or as authorized by K.S.A. 40-246b or 40-246c, and amendments thereto, shall be continuous in form and shall provide coverage acceptable to the commissioner for errors and omissions of the broker. Self-retention shall be permitted to a maximum of \$10,000 on policies covering an individual and \$50,000 on blanket liability policies covering the applicant. Self-retention in excess of these amounts shall be permitted only upon filing with the commissioner a faithful performance bond in a form prescribed by the commissioner. Such bond shall be continuous in nature issued by a surety authorized to transact business in Kansas and be in a principal sum equal to the amount of self-retention in excess of that otherwise permitted. In addition to such errors and omissions policy and faithful performance bond if applicable, The applicant shall file with the commissioner a dishonesty bond in the amount of \$5,000 executed by an authorized surety company in favor of the people of Kansas. Such bond shall be issued in a form prescribed by the commissioner and shall be continuous in nature. The surety may cancel the bond upon 30 days' written notice to the commissioner.

Sec. 2. K.S.A. 40-3711 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 4, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE April 3, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 16, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 16th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

## SENATE BILL No. 121

AN ACT relating to insurance; excess lines agents; errors and omissions policy requirements; amending K.S.A. 40-246f and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-246f is hereby amended to read as follows: 40-246f. Every applicant for an excess lines license shall file with the commissioner and upon approval of such applicant's application maintain in force while licensed and for at least two years following termination of such license, evidence satisfactory to the commissioner of an errors and omissions policy covering the individual applicant in an amount of not less than \$100,000 total liability limit per occurrence, subject to not less than \$100,000 annual aggregate for all claims made during the policy period or covering the applicant under blanket liability policy or policies, which policy or policies can include other coverage on an excess basis over \$100,000 primary, insuring other insurance agents or brokers in an amount of not less than \$500,000 total liability limit per occurrence subject to not less than \$500,000 annual aggregate for all claims made during the policy period. Such policy shall be issued by an authorized insurance company or as authorized by K.S.A. 40-246b or 40-246c, and any amendments thereto, shall be continuous in form and shall provide coverage acceptable to the commissioner for errors and omissions of the excess lines agent. Self-retention shall be permitted to a maximum of \$10,000 on policies covering an individual and \$50,000 on blanket liability policies covering the applicant. Self-retention in excess of the aforesaid amounts shall be permitted only upon filing with the commissioner a faithful performance bond in a form prescribed by the commissioner. Such bond shall be continuous in nature, issued by a surety authorized to transact business in Kansas and be in a principal sum equal to the amount of self-retention in excess of that otherwise permitted.

Sec. 2. K.S.A. 40-246f is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 4, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE April 3, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 16, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 16th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

## HOUSE BILL No. 2134

AN ACT concerning enforcement of support of certain persons; relating to the enforcement of orders for support by income withholding; amending K.S.A. 23-463, 23-472, 23-483, 23-486 and 23-488 and K.S.A. 1986 Supp. 23-452, 23-462, 23-473, 23-487 and 23-4,107 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1986 Supp. 23-452 is hereby amended to read as follows: 23-452. (a) "Court" means the district court of this state and when the context requires means the court or agency of any other state as defined in a substantially similar reciprocal law.

(b) "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, annulment, adoption or custody and includes the duty to pay arrearages of support past due and unpaid from the date of the order of support entered in the responding state as well as arrearages which have accrued on the basis of another state's support order.

(c) "Governor" includes any person performing the functions of governor or the executive authority of any state covered by this act.

(d) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(e) "Law" includes both common and statutory law.

(f) "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(h) "Prosecuting attorney" means:

(1) The county or district attorney of the county in which the action is brought if the action concerns criminal enforcement under part II of this act or if the action is not brought pursuant to part D of title IV of the federal social security act (42 USC § 651 *et seq.*), as amended, and there is no court trustee in such county;

(2) the court trustee of the judicial district in which the action is brought, if the office of court trustee has been established, and if the action concerns civil enforcement under parts III and IV of this act; or

(3) an attorney or contractor for the department of social and rehabilitation services in counties where no court trustee has been established, if the action concerns civil enforcement under parts III and IV of this act and the action is brought pursuant to part D of title IV of the federal social security act (42 USC § 651 *et seq.*), as amended.

(i) "Register" means to file in the registry of foreign support orders.

(j) "Registering court" means any court of this state in which a support order of a rendering state is registered.

(k) "Rendering state" means a state in which the court has there has been issued a support order for which registration is sought or granted in the court of another state.

(l) "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.

(m) "State" includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(n) "Support order" means any judgment, decree or order of support issued in favor of an obligee whether temporary or final,

or subject to modification, revocation or remission, regardless of the kind of action or proceeding in which it is entered.

Sec. 2. K.S.A. 1986 Supp. 23-462 is hereby amended to read as follows: 23-462. If this state is acting as an initiating state, the prosecuting attorney upon the request of the court or the secretary of social and rehabilitation services shall represent the obligee in any proceeding under this act *part*. If the prosecuting attorney neglects or refuses to represent the obligee the attorney general may order such attorney to comply with the request of the court or may undertake the representation.

Sec. 3. K.S.A. 23-463 is hereby amended to read as follows: 23-463. A petition on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian *ad litem*.

Sec. 4. K.S.A. 23-472 is hereby amended to read as follows: 23-472. In any hearing for the civil enforcement of this act the court is governed by the rules of evidence applicable in a civil court action in the district court. If the action is based on a support order *previously* issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (K.S.A. 23-476) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

Sec. 5. K.S.A. 1986 Supp. 23-473 is hereby amended to read as follows: 23-473. If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Any such support order shall be accompanied by the conditional order for withholding of income required by K.S.A. 1985 1986 Supp. 23-4,107 and amendments thereto. Support orders made pursuant to this act shall require that payments be made to the clerk of the court or the court trustee of the responding state except for good cause shown. ~~The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective and, if the action is brought pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), as amended, shall notify the proper official of this state and the initiating jurisdiction of the activity requested. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. All remedies available for enforcement of judgments rendered by courts of the responding state are available for enforcement of any order entered under this act.~~

Sec. 6. K.S.A. 23-483 is hereby amended to read as follows: 23-483. If the duty of support is based on a foreign support order issued in another state, the obligee has the additional remedies provided in the following sections.

Sec. 7. K.S.A. 23-486 is hereby amended to read as follows: 23-486. If this state is acting either as a rendering or a registering state the ~~county~~ prosecuting attorney upon the request of the court or the ~~state department~~ secretary of social welfare and rehabilitation services shall represent the obligee in proceedings under this part.

If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may order ~~him~~ the prosecuting attorney to comply with the request of the court or may undertake the representation.

Sec. 8. K.S.A. 1986 Supp. 23-487 is hereby amended to read as follows: 23-487. (a) An obligee seeking to register a foreign support order issued in another state in a court of this state shall transmit to the clerk of the court or, if the action is brought pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 et seq.), to the department of social and rehabilita-

tion services: (1) Three certified copies of the order with all modifications thereof; (2) one copy of the reciprocal enforcement of support act of the state in which the order was made; and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this act.

(b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the ~~obligee~~ prosecuting attorney. The clerk shall also ~~delete the case and notify~~ the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

Sec. 9. K.S.A. 23-488 is hereby amended to read as follows: 23-488. (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

(b) The obligor has 20 days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If ~~he~~ the obligor does not so petition the registered support order is confirmed.

(c) ~~At the any~~ hearing to enforce the registered support order the obligor may present only matters that would be available to ~~him~~ the obligor as defenses in an action to enforce a foreign money judgment. If ~~he~~ the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If ~~he~~ the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

Sec. 10. K.S.A. 1986 Supp. 23-4,107 is hereby amended to read as follows: 23-4,107. (a) Any new or modified order for support entered on or after January 1, 1986, shall include a provision for the withholding of income to enforce the order of support. Unless the order provides that income withholding will take effect immediately, withholding shall take effect only if: (1) There is an arrearage in an amount equal to or greater than the amount of support payable for one month or, if a judgment is granted pursuant to K.S.A. 39-718a and amendments thereto, a lump sum due and owing; (2) ~~at least all or part of one payment or a lump sum judgment is more than 10 days overdue;~~ and (3) (2) there is compliance with the requirements of this section.

(b) If the court has issued an order for support, with or without a conditional order requiring income withholding as provided by subsection (a), the obligee or a public office may apply for an order for withholding by filing with the court an affidavit stating: (1) That an arrearage exists in an amount equal to or greater than the amount of support payable for one month; (2) ~~that all or part of at least one payment is more than 10 days overdue;~~ (3) (2) that a notice of delinquency has been served on the obligor in accordance with subsection (f) and the date and type of service; (4) (3) that the obligor has not filed a motion to stay service of the income withholding order; and (5) (4) a specified amount which shall be withheld by the payor to satisfy the order of support and to defray any arrearage. Upon the filing of the affidavit, the court shall issue an order requiring the withholding of income without the requirement of a hearing, amendment of the support order or further notice to the obligor.

(continued)

For purposes of this subsection, an arrearage shall be computed on the basis of support payments due and unpaid on the date the notice of delinquency was served on the obligor.

(c) An order issued under this section shall be directed to any payor of the obligor and shall require the payor to withhold from any income due, or to become due, to the obligor a specified amount sufficient to satisfy the order of support and to defray any arrearage, subject to the limitations set forth in K.S.A. 1985 1986 Supp. 23-4,109 and amendments thereto. The order shall include notice of and direction to comply with the provisions of K.S.A. 1985 1986 Supp. 23-4,108 and 23-4,109, and amendments thereto.

(d) An order issued under this section shall be served on the payor and returned by the officer making service in the same manner as an order of attachment.

(e) An income withholding order issued under this section shall be binding on any existing or future payor on whom a copy of the order is served and shall require the continued withholding of income from each periodic payment of income until further order of the court. If the obligor changes employment or has a new source of income after an income withholding order is issued by the court, the new employer or income source, if known, must be served a copy of the income withholding order without the requirement of prior notice to the obligor.

(f) No sworn affidavit shall be filed with the court issuing the support order pursuant to subsection (b) unless it contains a declaration that the obligee or public office has served the obligor a written notice of delinquency because an arrearage exists in an amount equal to or greater than the amount of support payable for one month, ~~that all or part of one payment is more than 10 days overdue~~ and that the notice was served on the obligor by certified mail, return receipt requested, or in the manner for service of a summons pursuant to article 3 of chapter 60 of the Kansas Statutes Annotated at least seven days before the date the affidavit is filed. If service is by certified mail, a copy of the return receipt shall be attached to the affidavit. The notice of delinquency served on the obligor must state: (1) The terms of the support order and the total arrearage as of the date the notice of delinquency was prepared; (2) the amount of income that will be withheld; (3) that the provision for withholding applies to any current or subsequent payors; (4) the procedures available for contesting the withholding and that the only basis for contesting the withholding is a mistake of fact concerning the amount of the support order, the amount of the arrearage, the amount of income to be withheld or the proper identity of the obligor; (5) the period within which the obligor must file a motion to stay service of the income withholding order and that failure to take such action within the specified time will result in payors' being ordered to begin withholding; and (6) the action which will be taken if the obligor contests the withholding.

In addition to any other penalty provided by law, the filing of an affidavit with knowledge of falsity of the declaration of notice is punishable as a contempt. The obligor may, at any time, waive in writing the notice required by this subsection.

(g) On request of an obligor, the court shall issue a withholding order which shall be honored by a payor regardless of whether there is an arrearage.

Sec. 11. K.S.A. 23-463, 23-472, 23-483, 23-486 and 23-488 and K.S.A. 1986 Supp. 23-452, 23-462, 23-473, 23-487 and 23-4,107 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 5, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE April 2, 1987.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 16, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 16th day of April, 1987.

(SEAL) BILL GRAVES  
Secretary of State.

(Published in the KANSAS REGISTER, April 23, 1987.)

### Substitute for SENATE BILL No. 35

AN ACT concerning the state board of healing arts; relating to special permits and licenses issued by the board; establishing certain fees; concerning physicians' assistants and their responsible physicians; amending K.S.A. 65-2004, 65-2811a, 65-2852, 65-2895, 65-2896a, 65-2896e and 65-2897a and K.S.A. 1986 Supp. 65-2836 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 65-2004 is hereby amended to read as follows: 65-2004. (a) Except as provided in subsection (b) of K.S.A. 65-2003 and amendments thereto, each applicant for a license to practice podiatry shall be examined by the board of healing arts in the following subjects: Anatomy, bacteriology, chemistry, dermatology, histology, pathology, physiology, pharmacology and medicine, diagnosis, therapeutics, and clinical podiatry and surgery, limited in their scope to the treatment of the human foot. If the applicant possesses the qualifications required by K.S.A. 65-2003 and amendments thereto, completes the examination prescribed with a general average of ~~seventy-five percent (75%)~~ 75% in all subjects and not less than ~~sixty percent (60%)~~ 60% in any one subject and pays to the secretary of the board the license fee established pursuant to K.S.A. 65-2012 ~~and amendments thereto~~, such applicant shall be issued a license by the state board of healing arts to practice podiatry in this state.

(b) Each applicant before taking the examination shall pay to the secretary of the ~~state board of healing arts~~ the examination fee established pursuant to K.S.A. 65-2012 ~~and amendments thereto~~. Any applicant failing the examination shall be entitled, at the expiration of six months from the time of such failure, to a reexamination ~~without the payment of an additional fee for such examination~~.

Sec. 2. K.S.A. 65-2811a is hereby amended to read as follows: 65-2811a. (a) The secretary of the state board of healing arts may issue a special permit to practice the appropriate branch of the healing arts, under the supervision of a person licensed to practice such branch of the healing arts, to any person who has completed undergraduate training in a branch of the healing arts and who has not engaged in a full-time approved postgraduate training program.

(b) Such special permit shall be issued only to a person *who*:  
(1) ~~Who~~ Has made proper application for such special permit upon forms approved by the state board of healing arts;

(2) ~~who~~ meets all qualifications of licensure except examinations and postgraduate training, as required by the Kansas healing arts act;

(3) ~~who~~ is not yet but will be engaged in a full-time, approved postgraduate training program in Kansas;

(4) ~~who~~ has obtained the sponsorship of a person licensed to practice the branch of the healing arts in which the applicant is training, which sponsor practices in a ~~community designated as a rural community by the secretary of health and environment for the purposes of this act~~ an area of Kansas which is determined under K.S.A. 76-375 and amendments thereto to be medically underserved or critically medically underserved; and

(5) ~~who~~ has paid the prescribed fees as established by the state board of healing arts for the application for and granting of such special permit.

(c) The special permit, when issued, shall authorize the person to whom the special permit is issued to practice the branch of the healing arts in which such person is training under the supervision of the person licensed to practice that branch of the healing arts who has agreed to sponsor such special permit holder. The special permit shall not authorize the person holding the special permit to engage in the private practice of the healing arts. The holder of a special permit under this section shall not charge patients a fee for services rendered but may be compensated directly by the person under whose supervision and sponsorship the permit holder is practicing. The special permit shall expire on the day the person holding the special permit becomes engaged in a full-time, approved postgraduate training program or one year from its date of issuance, whichever occurs first.

(d) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 3. K.S.A. 1986 Supp. 65-2836 is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly or privately censured, upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original or renewal license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency.

(c) The licensee has been convicted of a felony or class A misdemeanor, whether or not related to the practice of the healing arts.

(d) The licensee has used fraudulent or false advertisements.

(e) The licensee is addicted to or has distributed intoxicating liquors or drugs for any other than lawful purposes.

(f) The licensee has willfully or repeatedly violated this act, the pharmacy act of the state of Kansas or the uniform controlled substances act, or any rules and regulations adopted pursuant thereto, or any rules and regulations of the secretary of health and environment which are relevant to the practice of the healing arts.

(g) The licensee has unlawfully invaded the field of practice of any branch of the healing arts in which the licensee is not licensed to practice.

(h) The licensee has failed to pay annual renewal fees specified in this act.

(i) The licensee has failed to take some form of postgraduate work each year or as required by the board.

(j) The licensee has engaged in the practice of the healing arts under a false or assumed name, or the impersonation of another practitioner. The provisions of this subsection relating to an assumed name shall not apply to licensees practicing under a professional corporation or other legal entity duly authorized to provide such professional services in the state of Kansas.

(k) The licensee has the inability to practice the branch of the healing arts for which the licensee is licensed with reasonable skill and safety to patients by reason of illness, alcoholism, excessive use of drugs, controlled substances, chemical or any other type of material or as a result of any mental or physical condition. In determining whether or not such inability exists, the board, upon probable cause, shall have authority to compel a licensee to submit to mental or physical examination by such persons as the board may designate. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination. ~~Failure of any licensee to submit to such examination when directed shall constitute an admission of the allegations against the licensee, unless the failure was due to circumstances beyond the control of the licensee, and the board may enter a default and final order in any case of default without just cause being shown to the board without the taking of testimony or presentation of evidence.~~ A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of the healing arts with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice the healing arts and who shall accept the privilege to practice the healing arts in this state by so practicing or by the making and filing of an annual renewal to practice the healing arts in this state shall be deemed to have consented to

submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the testimony or examination report of the person conducting such examination at any proceeding or hearing before the board on the ground that such testimony or examination report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination shall not be used in any other administrative or judicial proceeding.

(l) The licensee has had a license to practice the healing arts revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(m) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

(n) The licensee has failed to report or reveal the knowledge required to be reported or revealed under K.S.A. 65-28,122 and amendments thereto.

(o) The licensee, if licensed to practice medicine and surgery, has failed to inform a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment specified in the standardized summary supplied by the board. The standardized summary shall be given to each patient specified herein as soon as practicable and medically indicated following diagnosis, and this shall constitute compliance with the requirements of this subsection. The board shall develop and distribute to persons licensed to practice medicine and surgery a standardized summary of the alternative methods of treatment known to the board at the time of distribution of the standardized summary, including surgical, radiological or chemotherapeutic treatments or combinations of treatments and the risks associated with each of these methods. Nothing in this subsection shall be construed or operate to empower or authorize the board to restrict in any manner the right of a person licensed to practice medicine and surgery to recommend a method of treatment or to restrict in any manner a patient's right to select a method of treatment. The standardized summary shall not be construed as a recommendation by the board of any method of treatment. The preceding sentence or words having the same meaning shall be printed as a part of the standardized summary. The provisions of this subsection shall not be effective until the standardized written summary provided for in this subsection is developed and printed and made available by the board to persons licensed by the board to practice medicine and surgery.

(p) The licensee has cheated on or attempted to subvert the validity of the examination for a license.

(q) The licensee has been found to be mentally ill, disabled, not guilty by reason of insanity or incompetent to stand trial by a court of competent jurisdiction.

(r) The licensee has prescribed, sold, administered, distributed or given a controlled substance: (1) For other than medically accepted therapeutic purposes; (2) to the licensee's self; (3) to a member of the licensee's family; or (4) except as permitted by law, to a habitual user or addict.

(s) The licensee has violated a federal law or regulation relating to controlled substances.

(t) The licensee has failed to furnish the board, or its investigators or representatives, any information legally requested by the board.

(u) Sanctions or disciplinary actions have been taken against the licensee by a peer review committee, health care facility or a professional association or society for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(v) The licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law

(continued)

enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(w) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(x) The licensee has failed to report to the board surrender of the licensee's license or authorization to practice the healing arts in another state or jurisdiction or surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(y) The licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(z) The licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section.

(aa) The licensee has failed to maintain a policy of professional liability insurance as required by K.S.A. 40-3403a or by K.S.A. 40-3402 and amendments thereto.

(bb) The licensee has failed to pay the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(cc) The licensee has knowingly submitted any misleading, deceptive, untrue or fraudulent representation on a claim form, bill or statement.

(dd) *The licensee as the responsible physician for a physician's assistant has failed to adequately direct and supervise the physician's assistant in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, or rules and regulations adopted under such statutes.*

Sec. 4. K.S.A. 65-2852 is hereby amended to read as follows: 65-2852. (a) The following fees shall be established and collected by the board:

(1) For a license, issued upon the basis of an examination given by the board, in a sum of not more than \$150;

(2) for a license, issued without examination and by endorsement, in a sum of not more than \$150;

(3) for a license, issued upon a certificate from the national boards, in a sum of not more than \$150;

(4) for the annual renewal of a license, the sum of not more than ~~\$100~~ \$150;

(5) for a temporary permit, in a sum of not more than \$30;

(6) for an institutional license, in a sum of not more than \$150;

(7) for a visiting professor temporary license, in a sum of not more than \$25;

(8) for a certified statement from the board that a licensee is licensed in this state, the sum of not more than \$15;

(9) for any copy of any license issued by the board, the sum of not more than \$15;

(10) for any examination given by the board, a sum in an amount equal to the cost to the board of the examination; and

(11) for application for and issuance of a special permit under K.S.A. 65-2811a and amendments thereto.

(b) On or before May 15 of each year, the state board of healing arts shall determine the amount of funds that will be required during the next ensuing license year beginning July 1, to properly administer the law which the board is directed to administer under K.S.A. 65-2801 *et seq.*, and amendments thereto, and shall fix the fees annually for the succeeding year in such reasonable sums as may be necessary within the limitations prescribed.

Sec. 5. K.S.A. 65-2895 is hereby amended to read as follows: 65-2895. (a) There is hereby created a designation of institutional license which may be issued by the secretary to a person who is a

graduate of an accredited school of the healing arts or a school which has been in operation for not less than 15 years and the graduates of which have been licensed in another state or states which have standards similar to Kansas and who is employed by the department of social and rehabilitation services or employed by any institution within the department of corrections. If the applicant is a foreign medical graduate, the applicant shall pass an examination given by the educational commission for foreign medical graduates. ~~After July 1, 1986,~~ An applicant for an institutional license shall pass an examination in the basic and clinical sciences approved by the board. The institutional license shall confer upon the holder the right and privilege to practice that branch of the healing arts in which the holder of the institutional license is proficient and shall obligate the holder to comply with all requirements of such license. The practice privileges of institutional license holders are restricted as follows: The institutional license shall be valid only during the period in which the holder is employed by the department of social and rehabilitation services or employed by any institution within the department of corrections, and only within the institution to which the holder is assigned.

(b) An institutional license shall be valid for a period of two years after the date of issuance and may be renewed if the applicant for renewal is eligible to obtain an institutional license under this section, ~~and if the applicant for renewal has successfully completed the examination required under paragraph (3) of subsection (a) of K.S.A. 65-2873 and amendments thereto and has submitted evidence of satisfactory completion of a program of continuing education required by the board.~~ *The board shall require each applicant for renewal of an institutional license under this section to submit evidence of satisfactory completion of a program of continuing education required by the board of licensees of the branch of the healing arts in which the applicant is proficient.*

(c) ~~Any person who holds a valid fellowship license under this section on the day immediately preceding the effective date of this act shall be considered for the purposes of this section to hold an institutional license, which institutional license shall continue to be effective until the date when the fellowship license was to expire and shall expire on that date.~~

(d) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 6. K.S.A. 65-2896a is hereby amended to read as follows: 65-2896a. (a) No person's name shall be entered on the register of physicians' assistants by the state board of healing arts unless such person ~~shall have~~ has:

(1) Presented to the state board of healing arts proof of graduation from an accredited high school or the equivalent thereof; and

(2) presented to the state board of healing arts proof that the applicant has successfully completed a course of education and training approved by the state board of healing arts for the education and training of physicians' assistants, which course of education and training shall be substantially in conformity with educational and training programs for physicians' assistants approved by the state board of regents, or presented to the state board of healing arts proof that the applicant has acquired experience while serving in the armed forces of the United States which experience meets minimum requirements established by the state board of healing arts; ~~and~~

(3) passed an examination approved by the state board of healing arts covering subjects incident to the education and training of physicians' assistants; ~~and~~

(4) *presented to the state board of healing arts the name and address of the applicant's responsible physician.*

(b) A physician's assistant shall at the time of initial registration and any renewal thereof present to the state board of healing arts the name and address of ~~his or her~~ *such person's* responsible physician. Whenever a physician's assistant shall cease to be employed by ~~his or her~~ *the* responsible physician, such responsible physician shall notify the state board of healing arts of such termination. Whenever a physician's assistant shall be employed by a responsible physician prior to the renewal of the physician's assistant's annual registration, such responsible physician shall

notify the state board of healing arts of such employment. All such notifications shall be given to the state board of healing arts as soon as practicable but not to exceed a period of ~~ten~~ (10) 10 days after employment or termination.

(c) ~~On and after July 1, 1979,~~ The state board of healing arts shall require every physician's assistant to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the state board of healing arts. The state board of healing arts by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act. In establishing such requirements the state board of healing arts shall consider any existing programs of continuing education currently being offered to physicians' assistants.

(d) A person whose name has been entered on the register of physicians' assistants prior to the effective date of this act shall not be subject to the provisions of subsection (a) of this section, unless such person's name has been removed from the register of physicians' assistants pursuant to the provisions of K.S.A. 65-2896b and amendments thereto.

Sec. 7. K.S.A. 65-2896e is hereby amended to read as follows: 65-2896e. (a) A person whose name has been entered on the register of physicians' assistants may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician's assistant *and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician's assistant under the responsible physician's direction and supervision. A physician's assistant may not prescribe drugs but may transmit a prescription order for drugs pursuant to a written protocol as authorized by the responsible physician.* Before a physician's assistant shall perform under the direction and supervision of a physician, such physician's assistant shall be identified to the patient and others involved in providing the patient services as a physician's assistant to the responsible physician. A physician's assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887 and amendments thereto.

(b) *The board shall adopt rules and regulations governing the transmitting of prescription orders for drugs by physicians' assistants and the responsibilities of the responsible physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the transmitting of prescription orders for drugs by physicians' assistants, the board shall take into consideration the amount of training and capabilities of physicians' assistants, the different practice settings in which physicians' assistants and responsible physicians practice, the degree of direction and supervision to be provided by a responsible physician and the needs of the geographic area of the state in which the physician's assistant and the responsible physician practice. In all cases in which a physician's assistant is authorized to transmit prescription orders for drugs by a responsible physician, a written protocol between the responsible physician and the physician's assistant containing the essential terms of such authorization shall be in effect. In no case shall the scope of the authority of the physician's assistant to transmit prescription orders for drugs exceed the normal and customary practice of the responsible physician in the prescribing of drugs.*

Sec. 8. K.S.A. 65-2897a is hereby amended to read as follows: 65-2897a. The following words and phrases when used in this act shall for the purpose of this act have the meanings respectively ascribed to them in this section:

(a) "Direction and supervision" means the guidance, direction and coordination of activities of a physician's assistant by his or her such person's responsible physician, whether written or verbal, whether immediate or by prior arrangement, and in accordance with standards established by the board by rules and regulations, which standards shall be designed to ensure adequate direction and supervision by the responsible physician

of the physician's assistant. The term "direction and supervision" shall not be construed to mean that the immediate or physical presence of the responsible physician is required during the performance of the physician's assistant.

(b) "Physician" means any person licensed by the state board of healing arts to practice medicine and surgery.

(c) "Physician's assistant" means a skilled person who is registered in accordance with the provisions of K.S.A. 65-2896a and amendments thereto and who is qualified by academic training to provide patient services under the direction and supervision of a physician who is responsible for the performance of that assistant.

(d) "Responsible physician" means a physician who has accepted continuous and ultimate responsibility for the actions of the physician's assistant while performing under the direction and supervision of the responsible physician.

Sec. 9. K.S.A. 65-2004, 65-2811a, 65-2852, 65-2895, 65-2896a, 65-2896e and 65-2897a and K.S.A. 1986 Supp. 65-2836 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 11, 1987.

SENATE concurred in HOUSE amendments April 6, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended April 3, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 17, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL)  
BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

### HOUSE BILL No. 2038

AN ACT relating to population in the state of Kansas; providing for the enumeration of the residents of the state; amending K.S.A. 1986 Supp. 11-201 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. An enumeration of the residents of the state of Kansas shall be taken as of January 1, 1988. Such enumeration shall be conducted by the secretary of state in accordance with the provisions of this act and rules and regulations adopted by the secretary for such purposes. Such enumeration shall be made upon forms prescribed by the secretary but shall include only such information as may be required to enumerate the residents of this state for the purposes of reapportioning state senatorial and representative districts. The secretary of state shall certify the census to the legislature by county, ward and precinct not later than November 1, 1988.

New Sec. 2. Such enumeration shall include all persons who have established a permanent residence in the state on the date of the enumeration. Such enumeration may include the name, address and age of each such individual but shall enumerate residents by the county, township, city, ward and precinct in which they reside. For the purpose of determining residence:

(a) The residence of persons under 18 years of age shall be that of the parent or parents, guardian or conservator having legal custody of such person;

(b) the residence of persons 18 years of age and older who are students attending any school, college, university or other educational institution shall for the period of such attendance be presumed to be their place of residence prior to attendance at such school or educational institution, unless such residence has been abandoned and a new legal residence established at the place such person is living at the time of such enumeration;

(c) the residence of persons not citizens of the United States shall, for the purposes of this act, be in the country in which such persons hold citizenship;

(d) the residence of persons serving in the military forces of the United States and their dependents shall be presumed to be their place of residence at the time of induction into military service unless such residence has been abandoned and a new legal residence established at the place such person is living within the state at the time of such enumeration;

(e) the residence of persons living in areas over which the state of Kansas has ceded jurisdiction to the United States shall be presumed to be their place of residence at the time of moving to the area ceded to the United States, unless such residence has been abandoned and a new legal residence established at the place such person is living within the state at the time of such enumeration;

(f) the residence of persons living in state hospitals and state benevolent and correctional institutions shall be the place such persons resided before entering the hospital or institution unless such residence has been abandoned and new legal residence established at the time of such enumeration; and

(g) the residence of persons living in rest or nursing care homes shall be at the residence of their spouse, if married, or at their place of residence at the time of entering the home unless such residence has been abandoned and legal residence established at the home at the time of enumeration.

New Sec. 3. In the conduct of such enumeration the secretary may contract with the board of county commissioners of the several counties of the state for the services of county personnel, equipment and facilities, may employ officers and employees of political and taxing subdivisions of the state during hours for which such officers and employees are not employed and compensated by such political or taxing subdivision and may employ such additional personnel as may be necessary for such purposes.

New Sec. 4. The secretary shall provide each person employed in the conduct of such enumeration copies of the forms designed for such purpose together with detailed instructions concerning procedures for conducting the enumeration and the duties to be performed by such person.

New Sec. 5. (a) Any person employed in the enumeration of residents of the state pursuant to this act who shall knowingly fail to perform the duties of enumerating such residents in accordance with the provisions of the act or rules and regulations of the secretary adopted pursuant thereto or who shall knowingly submit any false report or enumeration of residents shall be guilty of a class A misdemeanor. In addition to the criminal penalties prescribed therefor, upon conviction of violating the provisions of this act or rules and regulations of the secretary pursuant thereto a public officer or employee shall forfeit such office or employment.

(b) Any person failing or refusing to provide information necessary for enumeration pursuant to this act to any person employed in the conduct of such enumeration or failing or refusing to return or file any questionnaire or form utilized in the conduct of any such enumeration or willfully gives any answer or information which is false on any questionnaire or form utilized in the conduct of any such enumeration shall upon conviction thereof be fined not more than \$100.

(c) When any request for information or answers necessary for enumeration pursuant to this act, made by the secretary or other authorized officer or employee conducting the enumeration, is made by registered or certified mail or telegram, the return receipt therefor or other written receipt thereof shall be prima facie evidence of an official request in any prosecution under this section.

Sec. 6. K.S.A. 1986 Supp. 11-201 is hereby amended to read as follows: 11-201. (a) Except as otherwise provided in subsection subsections (b) and (c), the most recent population figures available from the United States bureau of the census as certified to the secretary of state by the division of the budget on July 1 of each year shall be used for all purposes in the application of the statutes of this state. Whenever the use of the population figures or the census of the state board of agriculture is referred to or designated by a statute, such reference or designation shall be deemed to mean the population figures certified to the secretary of state pursuant to this section. The city and county population figures certified to the secretary of state pursuant to this section shall be distributed by the division of the budget to the cities and counties of the state and to such other governmental entities as the division deems appropriate and shall be made available by the division upon request of any other person.

The population figures certified to the secretary of state pursuant to this section shall be disposed of in accordance with K.S.A. 75-3501 *et seq.*

(b) On July 1 of each year, the division of the budget shall distribute to the treasurer of each county a table showing the total population of the county, the total population of the county residing outside the boundaries of any incorporated city and the population of each incorporated city within the county, using the most recent information which is available from the United States bureau of the census and which provides actual or estimated population figures for both cities and counties as of the same date. The county treasurer shall use the table as the basis for apportioning revenue from any countywide retailers' sales tax pursuant to K.S.A. 12-192 and amendments thereto.

(c) *Population figures established by the enumeration authorized under sections 1 to 5 of this act shall be used only as a basis for the reapportionment of any state legislative districts, reapportionment of which is authorized pursuant to section 1 of article 10 of the constitution of the state of Kansas, in the year 1989.*

Sec. 7. K.S.A. 1986 Supp. 11-201 is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 27, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.



Passed the SENATE April 3, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 15, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 15th day of April, 1987.

(SEAL) BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

SENATE BILL No. 333

AN ACT concerning public utilities; relating to retail electric suppliers; concerning the acquisition of service rights or electric system facilities by cities.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) When the service rights of a retail electric supplier are terminated by a city during the period in which a valid franchise is in effect and the service rights are assumed by the terminating city, the governing body of the city shall acquire from the terminated supplier the parts of the local electric distribution system necessary to serve all customers within the previously franchised area and the terminated supplier shall sell the system to the governing body of such city for which it shall be fairly compensated. Such compensation shall be an amount mutually agreed upon by the affected parties or an amount determined by the following formula:

(1) The depreciated replacement cost for the electric utility facilities in the territory in which the service rights have been terminated. As used in this paragraph, "depreciated replacement cost" means the original installed cost of the facilities, adjusted to present value by utilizing a nationally recognized index of utility construction costs, less accumulated depreciation based on the book depreciation rates of the selling utility, as filed with and approved by the state corporation commission, which are in effect at the time of acquisition;

(2) the depreciated replacement costs of the remaining proportion of any take or pay power contracts or participation power agreements;

(3) the depreciated replacement cost for the electric utility facilities outside the affected territory used in providing service to the formerly franchised area. Such facilities shall include all generation facilities and all transmission facilities throughout the terminated utility's integrated system, the value of which shall be determined by the depreciated replacement cost formula in paragraph (1) multiplied by the percentage of the terminated utility's total retail kilowatt-hour sales to customers in the affected area during the 12 months next preceding the effective date of the sale;

(4) all reasonable and prudent costs of detaching the electric system facilities to be sold, including the reasonable costs of studies and inventories made to determine the facility's value and all reasonable and prudent costs of reintegrating the remaining electric system facilities of the retail electric supplier whose service rights are terminated;

(5) an amount equal to the net revenues received during the 12 months next preceding the date of termination of the service rights from the customers within the affected area of the retail electric supplier whose service rights are terminated. As used in this paragraph, "net revenues" means the total revenues received by the terminated utility for electric service within the

affected area less franchise and sales taxes collected; the cost of fuel or purchased power recovered in the revenues; and labor, maintenance, administration and insurance. This number shall be multiplied by the number of years remaining in any franchise contract; and

(6) an amount equal to the state and federal tax liability created by the taxable income pursuant to the provisions of this paragraph and paragraphs (1), (2), (3), (4) and (5) by the retail electric supplier whose service rights are terminated, calculated without regard to any tax deductions or benefits not related to the sale of assets covered herein.

(b) If the parties are unable to agree upon the amount of compensation to be paid pursuant to this act after 60 days following the date of termination of service rights, either party may apply to the district court having jurisdiction where any portion of the facilities is located for determination of compensation. Such determination shall be made by the court sitting without a jury.

Sec. 2. In addition to the fair cash value of any plant and appurtenance thereto determined pursuant to K.S.A. 12-811, a retail electric supplier whose service rights have expired by reason of failure of the renewal of a valid franchise shall be entitled to compensation for all reasonable and prudent costs of detaching the electric system facilities to be sold and all reasonable and prudent costs of reintegrating the remaining electric system facilities of such retail electric supplier less the value of all electric system facilities replaced by new facilities required for the reintegration of the remaining electric system facilities.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 11, 1987.

SENATE concurred in HOUSE amendments April 6, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE as amended April 3, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

APPROVED April 17, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS

Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL) BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

### Substitute for SENATE BILL No. 10

AN ACT concerning electric public utilities; relating to the annexation of service territories; providing for compensation therefor; amending K.S.A. 1986 Supp. 66-1,172, 66-1,174 and 66-1,176 and repealing the existing sections.

#### Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1986 Supp. 66-1,172 is hereby amended to read as follows: 66-1,172. (a) Subject to the provisions of this act, the corporation commission shall cause the state to be divided into electric service territories. Within each such territory, only one retail electric supplier shall provide retail electric service, and any such territory established for a retail electric supplier pursuant to this section shall be certified to such retail electric supplier by the commission and such area shall be provided retail electric service exclusively by such supplier. Each retail electric supplier shall continue to have the right to serve all customers being served by it on the effective date of this act, except that such suppliers, by agreement approved by the commission, may otherwise provide for electric service to such customers.

(1) In all existing dual certified service territories the boundaries of the certified territory of each retail electric supplier shall be set at a line or lines substantially equidistant between such supplier's existing distribution lines and the nearest existing distribution line or lines of any other retail electric supplier in every direction, and the commission shall certify to each retail electric supplier such area which, in its entirety, is located substantially in closer proximity to its existing distribution lines than to the nearest existing distribution lines of other retail electric suppliers except that where a retail electric supplier has, on the effective date of this act, an existing distribution line located in dual certified service territory adjacent to the boundary of another retail electric supplier's single certified service territory, the boundary between the certified territories of the two retail electric suppliers shall be set at a line substantially equidistant between the existing single certified service territory boundary of the one retail electric supplier and the nearest existing distribution line of the other retail electric supplier.

(2) The single certified service territories of all retail electric suppliers certificated on the effective date of this act shall remain unchanged subject to the provisions of subsections (a)(3), (a)(4) and (a)(5).

(3) When a municipal retail electric supplier, on the effective date of this act, is the only retail supplier serving electricity within the boundaries of a single service territory certified on the effective date of this act, it shall be granted a single certified territory, the boundaries of which shall be established  $\frac{1}{4}$  mile in every direction from its existing distribution lines, but no such territory shall extend beyond any boundaries of such original single certified service territory.

(4) When a retail electric supplier, other than a municipal supplier, on the effective date of this act, is providing electric service within a single service territory then certified to it and a municipal retail electric supplier also is providing electric service in the same single certified service territory, the municipal retail electric supplier shall be granted a single certified service territory, the boundaries of which shall be established substantially equidistant between existing distribution lines of the two retail electric suppliers, but the municipal electric supplier's single certified service territory so designated shall not extend more than  $\frac{1}{4}$  mile in any direction from its distribution lines or beyond any of the original single certified service territory boundary.

(5) All single certified service territories or parts thereof existing on the effective date of this act, not assigned to a municipal retail electric supplier under provisions of this act as described in subsection (a)(3) or (a)(4) shall be retained as a single certified service territory by the originally certified retail electric supplier.

(b) The commission shall cause to be prepared, no later than June 30, 1979, maps of uniform scale to show, accurately and clearly, the boundaries of the electric service territory of each retail electric supplier, as established under subsection (a) of this

section. If the commission has authorized or required electric service territories to be established pursuant to agreements of retail electric suppliers, and any retail electric supplier fails to reach agreement with any other retail electric supplier concerning the boundaries of their respective electric service territories, the commission shall have the power to fix the boundaries, for the purpose of determining the electric service territory of any retail electric supplier. Such power shall include the right to hold public hearings and in any such hearing, the commission shall consider all relevant facts including the following conditions, as they existed on the effective date of this act:

(1) The proximity of existing distribution lines of the retail electric suppliers involved;

(2) which supplier was first furnishing retail electric service, and the age of existing facilities in the area; and

(3) the prevention of duplicate electric lines and facilities furnishing retail electric service within such territory.

(c) Notwithstanding any other provision of this act or the act of which this act is amendatory, from and after the effective date of this act and prior to July 1, 1987, each retail electric supplier shall continue to have the right to serve all customers being served by it within its certified territory as the same existed on the effective date of this act and no changes in the certified territory of any retail electric supplier shall be made during such period without the agreement of the suppliers involved and upon approval by the commission.

The provision of this subsection shall apply to any certified territory of a retail electric supplier annexed into a city when the annexation ordinance required of K.S.A. 12-523 for any such territory has not taken effect by publication in the official city newspaper on or before the effective date of this act.

Sec. 2. K.S.A. 1986 Supp. 66-1,174 is hereby amended to read as follows: 66-1,174. (a) Notwithstanding the provisions of subsection (b) of this section, from and after the effective date of this act and prior to July 1, 1987, each retail electric supplier shall continue to have the right to serve all customers being served by it within its certified territory as the same existed on the effective date of this act, subject to any regulations of the commission applicable thereto, regardless of whether such territory has been annexed by and included within the corporate limits of a city and no changes in such certified territory shall be made during such period without the agreement of the suppliers involved and upon approval by the commission.

(b) A municipally owned or operated retail electric supplier shall be subject to commission jurisdiction as a public utility, as defined in K.S.A. 66-104, and amendments thereto, with respect to all operations within its certified territory extending more than three miles beyond its corporate limits. A municipal retail electric supplier shall be subject to regulation by the commission in matters relating to the right to serve in the territory within three miles of the corporate city boundary, except that the commission shall have no jurisdiction concerning such retail electric supplier within its corporate limits.

Sec. 3. K.S.A. 1986 Supp. 66-1,176 is hereby amended to read as follows: 66-1,176. (a) Except as otherwise provided in subsection (b), All rights of a retail electric supplier to provide electric service in an area annexed by a city shall terminate 180 days from the date of annexation, unless such electric supplier is then holding a valid franchise for service in the area granted by the annexing city. Such period of 180 days shall be extended to 210 days from the date of annexation if a franchise is granted to the retail electric supplier pursuant to referendum conducted according to applicable franchise laws of the state of Kansas within such period of 210 days. In the event service rights are terminated pursuant to this section, the commission shall certify such annexed area as a single certified territory to the supplier holding a franchise for or then providing retail electric service in the city immediately prior to the annexation.

(b) From and after the effective date of this act and prior to July 1, 1987, each retail electric supplier shall continue to have the right to serve all customers being served by it within its certified territory as the same existed on the effective date of this act, subject to regulations of the commission applicable thereto, even though such territory has been annexed by and included

within the corporate limits of a city and no changes in such certified territory shall be made during such period without the agreement of the suppliers involved and upon approval by the commission.

(b) In the event the supplier holding a franchise or then providing retail electric service does not effect the assumption of electric service to the annexed area at the termination of the applicable 180-day or 210-day period as provided in subsection (a), then the originally certified supplier shall have the right to continue service to the annexed area and charge its ordinary rates therefor until such supplier does assume service to the annexed area. Such service shall be free of any franchise fee or other compensation to the city or the electric supplier holding the franchise. If the supplier holding a franchise has not assumed service to the annexed area within 180 days following the applicable 180-day or 210-day period provided in subsection (a), the city may require the originally certified supplier to obtain a franchise in order to continue service to the annexed area. Unless otherwise mutually agreed upon by the affected suppliers, no assumption of electric service shall occur within 15 days following notice to the originally certified supplier of the intended changeover time.

(c) Whenever the service rights of a retail electric supplier are terminated pursuant to subsection (a), fair and reasonable compensation shall be paid to such retail electric supplier by the supplier subsequently authorized to provide electric service. Such compensation shall be an amount mutually agreed upon by the affected suppliers or the sum of the following:

(1) The depreciated replacement cost for the electric utility facilities in the territory in which the service rights have been terminated pursuant to subsection (a). As used in this paragraph, "depreciated replacement cost" shall mean the original installed cost of the facilities, adjusted to present value by utilizing a nationally recognized index of utility construction costs, less accumulated depreciation based on the book depreciation rates of the selling utility as filed with and approved by the state corporation commission, which are in effect at the time of acquisition;

(2) all reasonable and prudent costs of detaching the electric system facilities to be sold and all reasonable and prudent costs of reintegrating the remaining electric system facilities of the retail electric supplier whose service rights are terminated pursuant to subsection (a);

(3) an amount equal to the gross revenues attributable to the customers in the terminated territory during the 12 months next preceding the date of termination of the service rights pursuant to subsection (a); and

(4) an amount equal to the state and federal tax liability created by the taxable income pursuant to the provisions of this paragraph and paragraphs (1), (2) and (3) by the retail electric supplier whose service rights are terminated pursuant to subsection (a), calculated without regard to any tax deductions or benefits not related to the sale of assets covered herein.

(d) In the event that the parties are unable to agree upon an amount of compensation to be paid pursuant to subsection (c), after 60 days following the date of termination of service rights either party may apply to the district court having jurisdiction where any portion of the facilities are located, for determination of compensation. Such determination shall be made by the court sitting without a jury.

Sec. 4. K.S.A. 1986 Supp. 66-1,172, 66-1,174 and 66-1,176 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 24, 1987.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

Passed the HOUSE April 1, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

APPROVED April 11, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 13th day of April, 1987.

(SEAL) BILL GRAVES  
Secretary of State.

(Published in the KANSAS REGISTER, April 23, 1987.)

### HOUSE BILL No. 2407

AN ACT relating to credit unions; concerning certain powers and duties of the administrator; concerning appeals from such administrator's decisions; amending K.S.A. 17-2241, 17-2242 and 17-2249 and K.S.A. 1986 Supp. 17-2206, 17-2226 and 17-2230 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1986 Supp. 17-2206 is hereby amended to read as follows: 17-2206. (a) Credit unions shall be subject to the exclusive supervision of the administrator and shall make a report of condition to the administrator at least semiannually, on blank forms to be supplied by the administrator, notice of which reports shall be sent out by the administrator. Returns shall be verified under oath of the president or chairperson of the board, whichever has been elected by the board of directors pursuant to K.S.A. 17-2209, and any amendments thereto, and treasurer, and additional reports may be required by the administrator. Copies of a current balance sheet shall be furnished without charge by the administrator to any person upon request. Any credit union which neglects to make the above reports shall forfeit to the treasurer of the state up to \$50 for each day of such neglect at the discretion of the administrator.

(b) Each credit union shall be examined at least annually once every 18 months by the administrator or the administrator's duly authorized deputy or agent. In lieu of any particular annual examination, the administrator may accept an examination report made by or under the authority of the national credit union administration or its successor or successors, by any such other appropriate federal agency or by an independent auditor or certified public accountant licensed to do business in the state of Kansas if such audit and report meet with the standards which the administrator may by regulation promulgate. The administrator may order other examinations, and the administrator's agents shall at all times be given free access to all books, papers, securities and other sources of information in respect to the credit union. For that purpose the administrator's agents shall have the power to subpoena and examine personally witnesses on oath and documents pertaining to the business of the credit union. If a credit union neglects to make the required reports or to pay the charges herein required, including charges for delay in filing reports, for 15 days, the administrator shall notify the credit union of the administrator's intention to revoke the certificate of approval. If the neglect or failure continues for another 15 days, the administrator may revoke the certificate of approval and shall cause one of the administrator's agents to take possession of the business of such credit union and retain possession until such time as the administrator may permit such credit union to resume business or its affairs are finally liquidated.

(c) If it appears to the administrator that a credit union has violated or is violating any of the provisions of law, the administrator, by an order made over the administrator's official signature,

(continued)

ture, after a hearing or an opportunity for a hearing has been given the credit union, may direct such credit union to discontinue its illegal methods and practices. The administrator may issue cease and desist orders made over the administrator's official signature, having determined that a credit union is engaged, has engaged, or is about to engage, in an unsafe or unsound practice, or is violating, has violated, or is about to violate, a material provision of any law, rules and regulations or any condition imposed in writing by the administrator or any written agreement made with the administrator. A credit union may appeal such order pursuant to K.S.A. 17-2241, and amendments thereto.

(d) If a credit union is insolvent, or has, within a reasonable time, has failed to comply with any order mailed to the last address filed by the credit union with the administrator, the administrator shall immediately, or within a reasonable time thereafter, take possession of or appoint an agent to take possession of the business and property of the credit union and retain possession until such time as the administrator may permit it to resume business or its affairs are finally liquidated.

(e) Each credit union shall pay to the administrator a fee for examination, established in accordance with this subsection. Prior to June 1, of each year, the administrator, with the approval of the credit union council, shall establish such annual fees as the administrator determines to be sufficient to meet the budget requirements of the department of credit unions for the fiscal year beginning July 1. Such fees shall be due and payable 30 days after receipt of billing from the department of credit unions.

(f) For a central credit union located in the state of Kansas and under the supervision of the administrator, in which all credit unions in the state of Kansas are eligible for membership, the administrator may accept an audit report by a certified public accountant in lieu of the credit union departmental examination of such credit union. If the administrator accepts a certified public accountant audit in lieu of the administrator's examination of such a central credit union, the administrator may assess such central credit union a fee established in accordance with subsection (e).

Sec. 2. K.S.A. 1986 Supp. 17-2226 is hereby amended to read as follows: 17-2226. (a) Credit unions may purchase, lease, hold or rent real estate and improvements thereon for their current or future use and occupancy. Without the written approval of the administrator, such expenditure shall not exceed 5% of the first \$1,000,000 of the total shareholdings plus 3% of the total shareholdings in excess of \$1,000,000, plus such additional sums as have been set aside for such purpose.

(b) A credit union may purchase, rent, hold, contract for, acquire or lease any material, equipment or service which may be necessary or incidental to its operation. The aggregate of all such purchases, rentals, holdings, contracts, acquisitions or leases when required by generally accepted accounting principles to be entered as an asset or a liability shall not exceed 3% of the credit union's shares, reserves and undivided earnings without the written approval of the administrator.

(c) A credit union may rent or lease a portion of its building, fixed assets or property, and may acquire, lease, hold, assign, pledge, sell or otherwise dispose of property or other assets, either in whole or in part, necessary or incidental to its operations and purposes.

Sec. 3. K.S.A. 1986 Supp. 17-2230 is hereby amended to read as follows: 17-2230. (a) *Voluntary*. At a meeting especially called to consider the matter, a majority of the entire membership may vote to dissolve the credit union, provided a copy of the notice was mailed to the administrator at least 10 days prior thereto. Any member not present at such meeting may, within the next 20 days, vote in favor of dissolution by signing a statement in form approved by the administrator and such vote shall have the same force and effect as if cast at such meeting. The credit union shall thereupon immediately cease to do business except for the purposes of liquidation, and the executive officer of the board and secretary of the board shall, within five days following such meeting, notify the administrator of intention to liquidate and shall include a list of the names of the directors and officers of the credit union together with their addresses. Any credit union

which has voted to enter into voluntary dissolution may by action of its board of directors make a written application to the administrator for the appointment of a receiver and the administrator shall then exercise such powers of appointment, control and supervision of a receiver as is provided where a credit union is insolvent.

(b) *Involuntary*. If it shall appear that any credit union is bankrupt or insolvent, or that it has violated any of the provisions of this act, the administrator may, after holding a hearing or giving adequate opportunity for a hearing, order such credit union to correct such condition and shall grant it a reasonable time under the circumstances of the case within which to comply, and failure to do so shall afford grounds for revocation of the corporate charter. A credit union may appeal such order pursuant to K.S.A. 17-2241, and amendments thereto. When the administrator finds that a credit union is insolvent, the administrator shall appoint a receiver therefor, and require the receiver to give such bond as the administrator deems proper. The administrator also shall fix reasonable compensation for the receiver but the same shall be subject to approval of the district court of the county wherein such credit union is located upon application of any party in interest. The administrator may appoint as receiver any person, the Kansas credit union league, or the insurer or guarantee corporation required under K.S.A. 17-2246, and amendments thereto, for the credit union involved. Such receiver shall follow the liquidation procedure set out herein. Any receiver appointed shall make a complete report to the administrator covering the acts and proceedings as such receiver. The administrator may remove for cause any receiver and appoint a successor. The receiver, under the direction of the administrator, shall take charge of any insolvent credit union and all of its assets and property and liquidate the affairs and business for the benefit of its creditors and shareholders as provided in this section. The receiver may sell or compound all bad and doubtful debts and sell all the property of any such credit union upon such terms as the administrator shall approve. The administrator shall have the general supervision of all the acts of the receiver. All claims of creditors and shareholders must be filed with the receiver within one year after the date of the receiver's appointment, and if any shareholder claim or creditor claim is not so filed then it shall be barred from participation in the estate and assets of any such credit union. The receiver of any insolvent credit union may borrow money and pledge the assets of such insolvent credit union but only upon prior written approval of the administrator. At least once each year the administrator shall examine every credit union in the hands of the receiver and copies of such examination reports shall be available to any interested shareholder or creditor by written request made to the administrator. Every receiver shall submit the records and affairs of such credit union to an examination by the administrator or the administrator's assistant and examiners whenever the receiver is requested to do so. The receiver of any credit union shall make reports to the administrator in the same manner as required of other credit unions.

(c) *Liquidating procedure*. The credit union shall continue in existence for the purpose of discharging its debts, collecting and distributing its assets, and doing all acts required in order to wind up its business and may sue and be sued for the purpose of enforcing such debts and obligations until its affairs are fully adjusted.

The board of directors, or the receiver shall use the assets of the credit union to pay in the following order: (1) Expenses incidental to liquidation including any surety bond that may be required; (2) remaining liabilities other than shareholdings; and (3) the assets then remaining, if any, shall be distributed to the savings held by each member as of the date dissolution was voted.

As soon as the board or the receiver determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, they shall execute a certificate of dissolution on a form prescribed by the administrator and file same with the register of deeds of the county wherein the credit union had its registered office, who shall, after recording and indexing same, forward it to the administrator, whereupon such credit union shall be dissolved.

The administrator shall furnish a copy of the certificate of dissolution to the secretary of state.

Sec. 4. K.S.A. 17-2241 is hereby amended to read as follows: 17-2241. An appeal may be taken to the council from any finding, ruling, order, decision or the final action of the administrator by any credit union ~~which~~ or person who feels aggrieved thereby. *In order for any finding, ruling, order, decision or final action of the administrator to be binding on a credit union or person, such finding, ruling, order, decision or final action must be accompanied by a notice of the affected credit union's or person's right to appeal such action to the council.* Notice of such appeal shall be filed with the ~~chairman~~ chairperson of the council within ~~thirty (30)~~ 30 days after such findings, ruling, order, decision or other action, and a copy served upon the administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. ~~The council shall fix a date, time and place for hearing said appeal.~~ Upon receipt of a timely appeal, the council shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedures act and shall notify the credit union, person or ~~its~~ their attorney of record thereof at least ~~thirty (30)~~ 30 days prior to the date of said such hearing.

Sec. 5. K.S.A. 17-2242 is hereby amended to read as follows: 17-2242. (a) If it appears to the administrator that the board of directors, supervisory or credit committees, of any credit union has been dishonest, reckless or incompetent in the performance of their duties, the administrator, with the concurrence of the credit union council: (1) May recommend the removal of such persons; and (2) may submit any such findings, reports or recommendations to any regularly or specially called meeting of the board of directors, credit and supervisory committees or, if ~~he~~ the administrator has done this ~~he may, (3),~~ after due notice given at least ~~ten (10)~~ 10 days in advance, may submit ~~his~~ the administrator's findings and recommendations and reports to a general meeting of the shareholders. Due notice shall be construed as being such notice as is provided in the bylaws of the credit union for calling such meetings. ~~He~~ The administrator may give such additional notice to the members as ~~he~~ the administrator deems advisable. The credit union council, the administrator and employees shall not be personally liable for such reports, recommendations and findings made in good faith. At any such meeting of the shareholders it shall be in order to call for a vote to remove such officers, board members, committee members, or employees. Such action by the shareholders to remove or not remove such persons from their positions shall be absolute and need not be based on any finding, concurrence or nonagreement with the administrator that such persons are or have been dishonest, reckless or incompetent in the performance of their duties. At any such meeting of the shareholders the board of directors, supervisory or credit committees may concur or not concur with a recommendation of removal whether or not they agree with the findings of the administrator.

(b) *As an alternative to and notwithstanding subsection (a), the administrator may suspend from office and prohibit from further participation in any manner in the conduct of the affairs of a credit union any director, officer, committee member or employee who has committed any violation of a law, rules and regulations or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission or practice which constitutes a breach of that person's fiduciary duty as such director, officer, committee member or employee, when the administrator has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members. The credit union may appeal the order pursuant to K.S.A. 17-2241, and amendments thereto.*

(c) *The administrator shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths and examine any person under oath in connection with any subject relating to a duty imposed upon or authority vested in the administrator.*

Sec. 6. K.S.A. 17-2249 is hereby amended to read as follows: 17-2249. (a) If any credit union shall fail to obtain and maintain

insurance upon its shares as required under the provisions of K.S.A. 17-2246, and amendments thereto, the administrator shall notify the credit union that a continuation of such failure will result in the revocation of its certificate of approval. If after receipt of such notice the credit union fails or refuses to obtain such insurance, the administrator shall, ~~after a hearing or an opportunity for a hearing has been given said credit union,~~ grant an extension of time in the manner authorized by K.S.A. 17-2246, and amendments thereto, or revoke the certificate of approval and shall cause one of ~~said~~ the administrator's agents to take possession of the business of such credit union and retain possession thereof until such time as such insurance is obtained or the affairs of the credit union are finally liquidated. *A credit union may appeal such action pursuant to K.S.A. 17-2241, and amendments thereto.*

(b) If any credit union shall fail to give notice that it does not maintain insurance upon its shares in the manner required under the provisions of K.S.A. 17-2247, and amendments thereto, the credit union administrator shall notify such institution that a continuation of such failure will result in the revocation of its certificate of approval. If after receipt of such notice the credit union fails or refuses to comply, the administrator shall, ~~after a hearing or an opportunity for a hearing has been given to such credit union,~~ grant an extension of time in the manner authorized by K.S.A. 17-2247, and amendments thereto, or revoke its certificate of approval. ~~Thereupon~~ Proceedings shall be commenced for the dissolution of such institution in the manner provided by law. *A credit union may appeal such action pursuant to K.S.A. 17-2241, and amendments thereto.*

Sec. 7. K.S.A. 17-2241, 17-2242 and 17-2249 and K.S.A. 1986 Supp. 17-2206, 17-2226 and 17-2230 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 11, 1987.

HOUSE concurred in SENATE amendments April 7, 1987.  
JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended April 3, 1987.  
ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 17, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL)

BILL GRAVES  
Secretary of State.

(Published in the KANSAS REGISTER, April 23, 1987.)

### HOUSE BILL No. 2403

AN ACT amending the Kansas automobile injury reparations act, concerning driver training motor vehicles provided to and used by school districts and accredited nonpublic schools under agreements with motor vehicle dealers; amending K.S.A. 40-3104 and 40-3118 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-3104 is hereby amended to read as follows: 40-3104. (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of this act for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in subsection (f); (2) *is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school;* or (3) is expressly exempted from the provisions of this act.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of this act.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer.

(e) No person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court or in the office of the arresting officer, within 20 days of the date of arrest, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer and the policy number, a certificate of self-insurance signed by the commissioner of insurance or the completion of a form prescribed by the secretary of revenue signed by the insurer or an agent of the insurer certifying that at the time of arrest the motor vehicle was covered by motor vehicle liability insurance.

When the evidence of financial security provided by the owner is an insurance policy, an identification card or certificate of insurance or a certificate of self-insurance, the information will be recorded by the office of the arresting officer or the court on the form prescribed by the secretary of revenue as authorized by this subsection and forwarded immediately to the department of revenue. When evidence of insurance is provided by the owner on the form prescribed by this subsection such form will also be forwarded immediately to the department.

Upon receipt of such form, the department will mail the form to the named insurance company for verification that such insurance was in force on the date stated. It shall be the duty of insurance companies to notify the department within 30 calendar days of the receipt of such forms of any insurance that was not in force on the date stated.

(f) Any person in whose name more than 25 motor vehicles are registered in Kansas may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner of insurance. The certificate of self-insurance issued by the commissioner shall cover such owned vehicles and those vehicles, registered in Kansas, leased to such person if the lease agreement requires that motor vehicle liability insurance on the vehicles be provided by the lessee. Upon application of any such person, the commissioner of insurance may issue a certificate of self-insurance, if the commissioner is satisfied that such person is possessed and will continue to be possessed of ability to pay any judgment obtained against such person arising out of the

ownership, operation, maintenance or use of any motor vehicle described in this subsection.

Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner of insurance may cancel a certificate of self-insurance upon reasonable grounds. Failure to pay any judgment against a self-insurer, arising out of the ownership, operation, maintenance or use of a motor vehicle registered in such self-insurer's name, within 30 days after such judgment shall have become final, shall constitute reasonable grounds for the cancellation of a certificate of self-insurance.

(g) Any person violating any provision of this section shall be guilty of a class B misdemeanor, except that any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a class A misdemeanor.

(h) In addition to any other penalties provided by this act for failure to have or maintain financial security in effect, the director, upon receipt of a report required by K.S.A. 8-1607 or 8-1611, and amendments thereto, or a denial of such insurance by the insurance company listed on the form prescribed by the secretary of revenue pursuant to subsection (e) of this section and K.S.A. 8-1604, and amendments thereto, shall, upon notice and hearing as provided by K.S.A. 40-3118, and amendments thereto, suspend:

(1) The license of each driver in any manner involved in the accident;

(2) the license of the owner of each motor vehicle involved in such accident, unless the vehicle was stolen at the time of the accident, proof of which must be established by the owner of the motor vehicle. Theft by a member of the vehicle owner's immediate family under the age of 18 years shall not constitute a stolen vehicle for the purposes of this section;

(3) the registrations of all vehicles owned by the owner of each motor vehicle involved in such accident;

(4) if the driver is a nonresident, the privilege of operating a motor vehicle within this state; or

(5) if such owner is a nonresident, the privilege of such owner to operate or permit the operation within this state of any motor vehicle owned by such owner.

(i) The suspension requirements in subsection (h) shall not apply:

(1) To the driver or owner if the owner had in effect at the time of the accident an automobile liability policy as required by K.S.A. 40-3107, and amendments thereto, with respect to the vehicle involved in the accident;

(2) to the driver, if not the owner of the vehicle involved in the accident, if there was in effect at the time of the accident an automobile liability policy with respect to such driver's driving of vehicles not owned by such driver;

(3) to any person qualified as a self-insurer under subsection (f) of this section;

(4) to the driver or owner of any vehicle involved in the accident which was exempt from the provisions of this act pursuant to K.S.A. 40-3105, and amendments thereto;

(5) to the owner of a vehicle described in subsection (a)(2).

(j) For the purposes of provisions (1) and (2) of subsection (i) of this section, the director may require verification by an owner's or driver's insurance company or agent thereof that there was in effect at the time of the accident an automobile liability policy as required in this act.

Any suspension effected hereunder shall remain in effect until satisfactory proof of financial security has been filed with the director as required by subsection (d) of K.S.A. 40-3118, and amendments thereto, and such person has been released from liability, has entered into an agreement for the payment of damages, has been finally adjudicated not to be liable in respect to such accident and evidence of any such fact has been filed with the director and has paid the reinstatement fee herein prescribed. Such reinstatement fee shall be \$25 except that if the registration of a motor vehicle of any owner is suspended within one year following a prior suspension of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be \$75.

(k) The provisions of this section shall not apply to motor

carriers of property or passengers regulated by the corporation commission of the state of Kansas.

(1) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.

Sec. 2. K.S.A. 40-3118 is hereby amended to read as follows: 40-3118. (a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term "financial security" means such policy or self-insurance. The director shall require that the owner certify that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. When an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner's insurance company produce records to prove the fact that such insurance was in effect at the time the vehicle was registered and has been maintained continuously from that date. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from nonpayment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail or United States post office certificate of mailing, to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver's license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner's insurance company shall verify the accuracy of any owner's certification upon request, as provided in subsection (a).

(d) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person's insurance company to maintain on file with the division evidence of such insurance for a period of three years from the date such person's driving privileges are otherwise eligible to be reinstated after such person has been convicted in this or another state of any of the following violations:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto, or as prohibited by any ordinance of any city in this state or any law of another state which is in substantial conformity with that statute;
- (2) violating K.S.A. 8-1567 and amendments thereto, or violating an ordinance of any city in this state or any law of another

state, which ordinance or law declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been canceled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto, or as prohibited by any ordinance of any city in this state or any law of another state which is in substantial conformity with that statute;

(4) any crime punishable as a felony, if a motor vehicle was used in the perpetration of the crime;

(5) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602 through 8-1604, and amendments thereto, or required by any ordinance of any city in this state or a law of another state which is in substantial conformity with those statutes; and

(6) violating the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage or an ordinance of any city in this state which is in substantial conformity with such statute.

The director shall also require any driver whose driving privileges have been suspended pursuant to this section or K.S.A. 40-3104 and amendments thereto to maintain such evidence of insurance as required above.

The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

For the purposes of this act, the term "conviction" includes pleading guilty or *nolo contendere*, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. Also entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of the offense described in paragraph (2) of this subsection shall constitute a conviction for the purpose of this act.

The requirements of this subsection shall apply whether or not such person owns a motor vehicle.

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless: (1) Within the thirty-day period, such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director; or (2) within the thirty-day period such owner shall request a hearing with the director. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255 and amendments thereto. If, within the thirty-day period or at the hearing, such owner is unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall suspend the registration of such motor vehicle and the driving privileges of the owner of the vehicle, unless the failure is due to a cause beyond the reasonable control of the owner upon proof deemed satisfactory by the director.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended for failure of the owner to maintain continuous financial security, such suspension shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$25 except that if the registration of a motor vehicle of any owner is suspended within one year fol-

(continued)

lowing a prior suspension of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$75. The division of vehicles shall, at least monthly, deposit such fees with the state treasurer, who shall credit such moneys to the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been suspended for failure to have continuous financial security, be reregistered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection (f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

(h) Evidence that an owner of a motor vehicle, registered or required to be registered in this state, has operated or permitted such motor vehicle to be operated in this state without having in force and effect the financial security required by this act for such vehicle, together with proof of records of the division of vehicles indicating that the owner did not have such financial security, shall be prima facie evidence that the owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this act.

(i) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle as required by this act, shall be guilty of a class B misdemeanor. Any person, firm or corporation giving false information to the director concerning another's financial security for the operation of a motor vehicle registered or required to be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a class B misdemeanor.

(j) The director shall administer and enforce the provisions of this act relating to the registration of motor vehicles, and the secretary of revenue shall adopt such rules and regulations as may be necessary for its administration.

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent with the notice of denial of coverage. If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

Sec. 3. K.S.A. 40-3104 and 40-3118 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 11, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE April 1, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 15, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do

hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 15th day of April, 1987.

(SEAL) BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

### HOUSE BILL No. 2484

AN ACT relating to insurance; concerning rights to continue coverage under group hospital, medical and surgical contracts and to obtain conversion policies; providing for exceptions thereto; amending K.S.A. 40-19c06 and 40-2209 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 40-19c06 is hereby amended to read as follows: 40-19c06. (1) No subscription agreement, except as provided in subsection (4) of this section, between a corporation organized under the nonprofit medical and hospital service corporation act and a subscriber, shall entitle more than one person to benefits, except that a "family subscription agreement" may be issued, at an established subscription charge, to a husband and wife, or husband, wife, and their dependent child or children and any other person dependent upon the subscriber. Only the subscriber must be named in the subscription agreement.

(2) Every subscription agreement entered into by any such corporation with any subscriber shall be in writing and a certificate stating the terms and conditions shall be furnished to the subscriber to be kept by the subscriber. No such certificate form shall be made, issued or delivered in this state unless it contains the following provisions: (a) A statement of the nature of the benefits to be furnished and the period during which they will be furnished, and if there are any benefits to be excepted, a detailed statement of such exceptions printed as hereinafter specified; (b) a statement of the terms and conditions, if any, upon which the subscription agreement may be canceled or otherwise terminated at the option of either party; (c) a statement that the subscription agreement includes the endorsements and attached papers, if any, and contains the entire contract; (d) a statement that no statement by the subscriber in the application for a subscription agreement shall avoid the subscription agreement or be used in any legal proceeding, unless such application or an exact copy is included in or attached to such subscription agreement, and that no agent or representative of such corporation, other than an officer or officers designated therein, is authorized to change the subscription agreement or waive any of its provisions; (e) a statement that if the subscriber defaults in making any payments under the subscription agreement, the subsequent acceptance of a payment by the corporation or by one of its duly authorized agents shall reinstate the subscription agreement but with respect to sickness and injury, only to cover such sickness as may be first manifested more than 10 days after the date of such acceptance; (f) a statement of the period of grace which will be allowed the subscriber for making any payment due under the subscription agreement. Such period shall not be less than 10 days; and (g) if applicable, a statement of the kind of hospital in which the subscriber may receive benefits and the types of benefits to which the subscriber may be entitled to in such kinds of hospitals. The subscriber shall be entitled to benefits in any nonparticipating hospital in Kansas which is licensed by the secretary of health and environment and in which the average length of stay of patient is similar to the average length of stay in participating hospitals.

(3) In every such subscription agreement made, issued or delivered in this state: (a) All printed portions shall be plainly printed; (b) the exceptions of the subscription agreement shall appear with the same prominence as the benefits to which they apply; (c) if the subscription agreement contains any provisions purporting to make any portion of the articles of incorporation or bylaws of the corporation a part of the subscription agreement, such portion shall be set forth in full; and (d) there shall be a



brief description of the subscription agreement on the first page and on its filing back.

(4) Any such corporations may issue a group or blanket subscription agreement, provided the group of persons insured conforms to the requirements of law applicable to other companies writing group or blanket sickness and accident insurance policies and provided such subscription agreement and the individual certificates issued to members of the group shall comply in substance with this section. Any such subscription agreement may provide for the adjustment of the premiums based upon the experience at the end of the first year or of any subsequent year of insurance, and such readjustment may be made retroactive in the form of a rate credit or a cash refund.

(5) (a) Any group subscription agreement issued pursuant to subsection (4) of this section shall provide that an employee or member or such employee's or member's covered dependents whose insurance under the group subscription agreement has been terminated for any reason, including discontinuance of the group in its entirety or with respect to an insured class, and who has been continuously insured under the group subscription agreement or under any group policy or subscription agreement providing similar benefits which it replaces for at least three months immediately prior to termination, shall be entitled to have such coverage nonetheless continued under the group policy for a period of six months and at the end of such six-month period of continuation, such employee or member or such employee's or member's covered dependents shall be entitled to obtain a converted subscription agreement providing coverage equal to 80% of that afforded under the group subscription agreement for basic hospital, surgical and medical benefits. Any person eligible for a converted subscription agreement shall also be entitled to obtain major medical expense coverage which will provide hospital, medical and surgical expense benefits to an aggregate maximum of not less than \$50,000. The major medical expense coverage required may be subject to a copayment by the covered person of not more than 20% of covered charges and a deductible stated on a per person, per family, per illness, per benefit period, or per year basis or a combination of such bases of not more than \$500 per person subject to a maximum annual deductible of \$750 per family. The requirement imposed by this subsection shall not apply to a group subscription agreement which provides benefits for specific diseases or for accidental injuries only or any group subscription agreement issued to an employer subject to the continuation and conversion obligations set forth at title I, subtitle B, part 6 of the employee retirement income security act of 1974 or at title XXII of the public health service act, as each act was in effect on January 1, 1987, nor shall it apply to any employee or member or such employee's or member's covered dependents whose termination of insurance under the group subscription agreement occurred because: (1) Such person failed to pay any required contribution after receiving reasonable notice of such required contribution from the insurer in accordance with rules and regulations adopted by the commissioner of insurance; (2) any discontinued group coverage was replaced by similar group coverage within 31 days; or (3) the employee or member is or could be covered by any other insured or noninsured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination. In the event the group policy is terminated and not replaced the employee or member, at the option of the employee or member or at the option of the insurer, may be issued a conversion policy or certificate which otherwise meets these provisions in lieu of the right to continue group coverage required herein.

(b) Written application for the converted subscription agreement shall be made and the first premium paid to the insurer not later than 31 days after termination of the group coverage and shall become effective the day following the termination of insurance under the group subscription agreement. In addition, the converted subscription agreement shall be subject to the provisions contained in paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (13), (14), (15), (16), (18), (19), (20) and (21) of subsection (D) of K.S.A. 40-2209, and amendments thereto.

Sec. 2. K.S.A. 40-2209 is hereby amended to read as follows: 40-2209. (A) Group sickness and accident insurance is declared to be that form of sickness and accident insurance covering groups of persons, with or without one or more members of their families or one or more dependents, or one or more members of their families or one or more dependents, and issued upon the following basis:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who is the policyholder, insuring at least five employees of such employer, for the benefit of persons other than the employer. The term "employees" shall include the officers, managers, employees and retired employees of the employer, the partners, if the employer is a partnership, the proprietor, if the employer is an individual proprietorship, the officers, managers and employees and retired employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, employees and retired employees of individuals and firms, the business of which and of the insured employer is under common control through stock ownership contract, or otherwise. The policy may provide that the term "employees" may include the trustees or their employees, or both, if their duties are principally connected with such trusteeship. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(2) Under a policy issued to a labor union which shall have a constitution and bylaws insuring at least 25 members of such union.

(3) Under a policy issued to the trustees of a fund established by two or more employers or business associations or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be the policyholder, to insure employees of the employers or members of the union or members of the association for the benefit of persons other than the employers or the unions or the associations. The term "employees" shall include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements: (a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. (b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both.

(5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

(6) Under a policy issued to any other type of group which the commissioner of insurance may find is properly subject to the issuance of a group sickness and accident policy or contract.

(B) Each such policy shall contain in substance: (1) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or the insured's beneficiary.

(2) A provision setting forth the conditions under which an individual's coverage terminates under the policy, including the

(continued)

age, if any, to which an individual's coverage under the policy shall be limited, or, the age, if any, at which any additional limitations or restrictions are placed upon an individual's coverage under the policy.

(3) Provisions setting forth the notice of claim, proofs of loss and claim forms, physical examination and autopsy, time of payment of claims, to whom benefits are payable, payment of claims, change of beneficiary, and legal action requirements. Such provisions shall not be less favorable to the individual insured or the insured's beneficiary than those corresponding policy provisions required to be contained in individual accident and sickness policies.

(4) A provision that the insurer will furnish to the policyholder, for the delivery to each employee or member of the insured group, an individual certificate approved by the commissioner of insurance setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member, the procedure to be followed in making claim under the policy and to whom benefits are payable. Such certificate shall also contain a summary of those provisions required under paragraphs (2) and (3) of this subsection in addition to the other essential features of the insurance coverage. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(C) No group disability income policy which integrates benefits with social security benefits, shall provide that the amount of any disability benefit actually being paid to the disabled person shall be reduced by changes in the level of social security benefits resulting either from changes in the social security law or due to cost of living adjustments which become effective after the first day for which disability benefits become payable.

(D) A group policy of insurance delivered or issued for delivery or renewed which provides hospital, surgical or major medical expense insurance, or any combination of these coverages, on an expense incurred basis, shall provide that an employee or member or such employee's or member's covered dependents whose insurance under the group policy has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy or under any group policy providing similar benefits which it replaces for at least three months immediately prior to termination, shall be entitled to have such coverage nonetheless continued under the group policy for a period of six months and have issued to the employee or member or such employee's or member's covered dependents by the insurer, at the end of such six-month period of continuation, a policy of health insurance which conforms to the applicable requirements specified in this subsection. This requirement shall not apply to a group policy which provides benefits for specific diseases or for accidental injuries only or a group policy issued to an employer subject to the continuation and conversion obligations set forth at title I, subtitle B, part 6 of the employee retirement income security act of 1974 or at title XXII of the public health service act, as each act was in effect on January 1, 1987. An employee or member or such employee's or member's covered dependents shall not be entitled to have such coverage continued or a converted policy issued to the employee or member or such employee's or member's covered dependents if termination of the insurance under the group policy occurred because: (a) The employee or member or such employee's or member's covered dependents failed to pay any required contribution after receiving reasonable notice of such required contribution from the insurer in accordance with rules and regulations adopted by the commissioner of insurance; (b) any discontinued group coverage was replaced by similar group coverage within 31 days; (c) the employee or member is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded); or (d) the employee or member is or could be covered by any other insured or noninsured arrangement which provides expense incurred hospital, surgical or medical coverage and benefits for individuals in a group under which the person was not covered prior to such termination. In the event the group policy is terminated and not replaced the employee or member, at the option of the employee

or member or at the option of the insurer, may be issued a conversion policy or certificate which otherwise meets these provisions in lieu of the right to continue group coverage required herein. The continued coverage and the issuance of a converted policy shall be subject to the following conditions:

(1) Written application for the converted policy shall be made and the first premium paid to the insurer not later than 31 days after termination of coverage under the group policy.

(2) The converted policy shall be issued without evidence of insurability.

(3) The terminated employee or member shall pay to the insurer the premium for the six-month continuation of coverage and such premium shall be the same as that applicable to members or employees remaining in the group. Failure to pay such premium shall terminate coverage under the group policy at the end of the period for which the premium has been paid. The premium rate charged for converted policies issued subsequent to the period of continued coverage shall be such that can be expected to produce an anticipated loss ratio of not less than 80% based upon conversion, morbidity and reasonable assumptions for expected trends in medical care costs. In the event the group policy is terminated and is not replaced, converted policies may be issued at self-sustaining rates that are not unreasonable in relation to the coverage provided based on conversion, morbidity and reasonable assumptions for expected trends in medical care costs. The frequency of premium payment shall be the frequency customarily required by the insurer for the policy form and plan selected, provided that the insurer shall not require premium payments less frequently than quarterly.

(4) The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(5) The converted policy shall cover the employee or member and the employee's or member's dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

(6) The insurer shall not be required to issue a converted policy covering any person if such person is or could be covered by medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded). Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

(a) (i) such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program, or

(ii) such person is eligible for similar benefits (whether or not covered therefor) under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, or

(iii) similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law, and

(b) the benefits provided under the sources referred to in paragraph (i) above for such person or benefits provided or available under the sources referred to in paragraphs (ii) and (iii) above for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards. The insurer's standards must bear some reasonable relationship to actual health care costs in the area in which the insured lives at the time of conversion and must be filed with the commissioner of insurance prior to their use in denying coverage.

(7) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered as to whether:

(a) Such person is covered for similar benefits by another hospital, surgical, medical or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

(b) such person is covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(c) similar benefits are provided for or available to such

person, pursuant to or in accordance with the requirements of any state or federal law.

The converted policy may provide that the insurer may refuse to renew the policy and the coverage of any person insured for the following reasons only:

(a) Either the benefits provided under the sources referred to in paragraphs (i) and (ii) above for such person or benefits provided or available under the sources referred to in paragraph (iii) above for such person, together with the benefits provided by the converted policy, would result in over-insurance according to the insurer's standards on file with the commissioner of insurance, or the converted policyholder fails to provide the requested information;

(b) fraud or material misrepresentation in applying for any benefits under the converted policy;

(c) eligibility of the insured person for coverage under medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy; or

(d) other reasons approved by the commissioner of insurance.

(8) An insurer shall not be required to issue a converted policy which provides coverage and benefits in excess of those provided under the group policy from which conversion is made.

(9) The converted policy shall not exclude a preexisting condition not excluded by the group policy. The converted policy may provide that any hospital, surgical or medical benefits payable may be reduced by the amount of any such benefits payable under the group policy after the termination of the individual's insurance. The converted policy may also include provisions so that during the first policy year the benefits payable under the converted policy, together with the benefits payable under the group policy, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect.

(10) Subject to the provisions and conditions of this act, if the group insurance policy from which conversion is made insures the employee or member for basic hospital or surgical expense insurance, the employee or member shall be entitled to obtain a converted policy providing, at the insured's option, coverage on an expense incurred basis under any one of the plans meeting the following requirements:

#### Plan A

(a) hospital room and board daily expense benefits in a maximum dollar amount approximating the average semi-private rate charged in metropolitan areas of this state, for a maximum duration of 70 days,

(b) miscellaneous hospital expense benefits of a maximum amount of 10 times the hospital room and board daily expense benefits, and

(c) surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of \$800, or

#### Plan B

(a) hospital room and board daily expense benefits in a maximum dollar amount equal to 75% of the maximum dollar amount determined for plan A, for a maximum duration of 70 days,

(b) miscellaneous hospital expense benefits of a maximum amount of 10 times the hospital room and board daily expense benefits, and

(c) surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of \$600, or

#### Plan C

(a) hospital room and board daily expense benefits in a maximum dollar amount equal to 50% of the maximum dollar amount determined for plan A, for a maximum duration of 70 days,

(b) miscellaneous hospital benefits of a maximum amount of 10 times the hospital room and board daily expense benefits, and

(c) surgical operation expense benefits according to a surgical schedule consistent with those customarily offered by the

insurer under group or individual health insurance policies and providing a maximum benefit of \$400.

The maximum dollar amounts of plan A shall be determined by the commissioner of insurance and may be redetermined by such official from time to time as to converted policies issued as new policies subsequent to such redetermination. At the request of the insured, such redetermined amounts shall, subject to the provisions of condition (17) and submission of reasonable evidence of insurability, be made available to the holders of converted policies which have been in effect at least three years on the date the redetermined amounts become effective. At the option of the insurer, any such requested increase or decrease in coverage on outstanding policies or any renewal thereof need not be made effective until the first policy anniversary date following the insured's request. Such redetermination shall not be made more often than once in three years. The maximum dollar amounts in plans A, B and C shall be rounded to the nearest multiple of \$10.

(11) Subject to the provisions and conditions of this act, if the group insurance policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member shall be entitled to obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

(a) A maximum benefit at least equal to either, at the option of the insurer, paragraphs (i) or (ii) below:

(i) The smaller of the following amounts:

1. The maximum benefit provided under the group policy.  
2. A maximum payment of \$250,000 per covered person for all covered medical expenses incurred during the covered person's lifetime.

(ii) The smaller of the following amounts:

1. The maximum benefit provided under the group policy.  
2. A maximum payment of \$250,000 for each unrelated injury or sickness.

(b) Payment of benefits at the rate of 80% of covered medical expenses which are in excess of the deductible, until 20% of such expenses in a benefit period reaches \$1,000, after which benefits will be paid at the rate of 100% during the remainder of such benefit period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than 50%.

(c) A deductible for each benefit period which, at the option of the insurer, shall be (a) the sum of the benefits deductible and \$100, or (b) the corresponding deductible in the group policy. The term "benefits deductible," as used herein, means the value of any benefits provided on an expense incurred basis which are provided with respect to covered medical expenses by any other hospital, surgical, or medical insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or any other plan or program whether on an insured or uninsured basis, or in accordance with the requirements of any state or federal law and, if pursuant to condition (12), the converted policy provides both basic hospital or surgical coverage and major medical coverage, the value of such basic benefits.

If the maximum benefit is determined by paragraph (a)(ii) above, the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is \$100 or less, and not less than six months if the deductible exceeds \$100.

(d) The benefit period shall be each calendar year when the maximum benefit is determined by paragraph (a)(i) above or 24 months when the maximum benefit is determined by paragraph (a)(ii) above.

(e) The term "covered medical expenses," as used above, shall include at least, in the case of hospital room and board charges 80% of the average semi-private room and board rate for the hospital in which the individual is confined and twice such amount for charges in an intensive care unit. Any surgical schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and must provide at least a \$1,200 maximum benefit.

(12) The conversion privilege required by this act shall, if the

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group insurance policy insures the employee or member for basic hospital or surgical expense insurance as well as major medical expense insurance, make available the plans of benefits set forth in conditions (10) and (11). At the option of the insurer, such plans of benefits may be provided under one policy.

The insurer may also, in lieu of the plans of benefits set forth in conditions (10) and (11), provide a policy of comprehensive medical expense benefits without first dollar coverage. The policy shall conform to the requirements of condition (11). An insurer electing to provide such a policy shall make available a low deductible option, not to exceed \$100, a high deductible option between \$500 and \$1,000, and a third deductible option midway between the high and low deductible options.

(13) The insurer may, at its option, also offer alternative plans for group health conversion in addition to those required by this act.

(14) In the event coverage would be continued under the group policy on an employee following the employee's retirement prior to the time the employee is or could be covered by medicare, the employee may elect, in lieu of such continuation of group insurance, to have the same conversion rights as would apply had such person's insurance terminated at retirement by reason of termination of employment or membership.

(15) The converted policy may provide for reduction of coverage on any person upon such person's eligibility for coverage under medicare (title XVIII of the United States social security act as added by the social security amendments of 1965 or as later amended or superseded) or under any other state or federal law providing for benefits similar to those provided by the converted policy.

(16) Subject to the conditions set forth above, the continuation and conversion privileges shall also be available:

(a) To the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and such children whose coverage under the group policy terminates by reason of such death, otherwise to each surviving child whose coverage under the group policy terminates by reason of such death, or, if the group policy provides for continuation of dependents' coverage following the employee's or member's death, at the end of such continuation;

(b) to the spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, by reason of ceasing to be a qualified family member under the group policy, with respect to the spouse and such children whose coverage under the group policy terminates at the same time; or

(c) to a child solely with respect to such child upon termination of such coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided above with respect to such termination.

(17) If the benefit levels required in condition (10) exceed the benefit levels provided under the group policy, the conversion policy may offer benefits which are substantially similar to those provided under the group policy either at the time the group policy was discontinued in its entirety and not replaced or as the group policy is in effect at the time the benefits under the converted policies are determined or redetermined in lieu of those required in condition (10).

(18) The insurer may elect to provide group insurance coverage which complies with this act in lieu of the issuance of a converted individual policy.

(19) A notification of the conversion privilege shall be included in each certificate of coverage.

(20) A converted policy which is delivered outside this state must be on a form which could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

(21) The insurer shall give the employee or member and such employee's or member's covered dependents reasonable notice of the right to convert at least once during the six-month continuation period in accordance with rules and regulations adopted by the commissioner of insurance.

Sec. 3. K.S.A. 40-19c06 and 40-2209 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 11, 1987.

HOUSE concurred in SENATE amendments April 3, 1987.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended April 2, 1987.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 17, 1987.

MIKE HAYDEN  
Governor.

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL) BILL GRAVES  
Secretary of State.

(Published in the KANSAS REGISTER, April 23, 1987.)

#### HOUSE BILL No. 2152

AN ACT concerning boards of county commissioners; relating to powers and duties thereof with respect to certain public improvements; amending K.S.A. 19-216, 68-521 and 68-704, and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 19-216 is hereby amended to read as follows: 19-216. Before advertising for bids for any contract as provided in the preceding section K.S.A. 19-215, and amendments thereto, ~~said~~ the board of county commissioners shall cause plans and specifications of the proposed work or improvement to be prepared, which plans and specifications shall be displayed for the inspection of bidders, at the office of the county clerk or at some other county office designated by the board at least ~~thirty~~ 30 days before the time for awarding the contract.

Sec. 2. K.S.A. 68-521 is hereby amended to read as follows: 68-521. The board of county commissioners before awarding any contract for the construction, surfacing, repairing or maintaining of any road, under this act, when as provided in K.S.A. 68-520, and amendments thereto, when the county engineer's estimated cost of such improvement is more than ~~five hundred dollars (\$500)~~ \$5,000, shall have the estimate and the approved plans and specifications which have been adopted by order of ~~said~~ the board for such work filed in the county clerk's office or in some other county office designated by the board at least ~~twenty~~ (20) 20 days prior to the time of the letting.

The county clerk or some other county officer designated by the board shall give not less than ~~twenty~~ (20) 20 days' notice of the letting by publication in at least two (2) consecutive weekly issues of the official county paper, the first publication of such notice to be not less than ~~twenty~~ (20) 20 days prior to such letting. ~~Said~~ The notice shall specify with reasonable minuteness the character of the improvement contemplated, where it is located, the kind of material to be used, the hour, date and place of letting of such contract, when the work is to be completed, and invite sealed proposals for the same. Such other notice may be given as the board may deem proper. All bids shall be made on the proposal blanks furnished by the county, signed by the bidder, sealed and delivered, or sent by mail, by the bidder, his

or the agent or attorney (or sent by mail) thereof, to the county clerk or to some other county officer designated by the board. The board shall conduct the letting of all contracts shall be conducted in such manner as to give free, open competition, and all bidders shall be given an equal opportunity to bid upon the plans and specifications on file. Each bidder shall be required to accompany his proposal with a certified check for five percent (5%) of his bid, payable to the chairman of the board. If the bidder to whom the contract is awarded shall fail to accept and execute the contract and file bond as provided by law, his check shall be forfeited and paid to the county treasurer, the submitted bid with a bid surety in an amount equal to 5% of the bid amount in the form prescribed by the board as a guarantee that, if the contract is awarded to the bidder, the bidder will enter into the contract with the board. If a bidder fails to enter into the contract when awarded to the bidder, the bid surety shall become the property of the county as its liquidated damages and shall be paid to the county treasurer for credit to the general fund of the county, and the board may award the contract to the next lowest responsible bidder. The bids shall be opened publicly by the board or a designee thereof at the place and hour named in the advertising notice, and all bids shall be considered, and accepted or rejected.

In case the work is let at such public letting or thereafter, the contract shall be awarded to the lowest responsible bidder, or the board, if it deems the proposals too high, may reject all bids, and readvertise the work as before. ~~Provided, That~~ No such contract shall be let at an amount exceeding the county engineer's estimated cost thereof of the work. No such contract shall be considered as awarded unless the contractor shall within ~~ten~~ (10) 10 days after the letting enter into contract and shall give the bond required by K.S.A. 60-1111, and amendments thereto, and a performance bond ~~into~~ to the county in a penal sum equal to the amount of the contract price, conditioned upon the faithful performance of the contract, payable to the county upon failure to comply with the terms of his or their the contract. ~~Provided,~~ The contractor shall file with the county clerk ~~said~~ the bonds, which shall be approved by the ~~chairman~~ chairperson of the board and the county attorney by their signatures indorsed thereon.

The county attorney shall meet with and advise the board of county commissioners in all matters pertaining to letting and making of all contracts under this act. The board may make partial payments, on the written estimate of ~~their~~ its county engineer, upon any contract work as the same progresses, but not more than ~~ninety percent (90%)~~ 90% of the estimate of the materials furnished and work done, or of the contract price, shall be paid in advance of the full and satisfactory completion of ~~said~~ the contract. ~~Provided, That~~ Final payment shall not be made on any such contract until the county engineer has inspected the work and certified in writing that it has been properly done and completed in accordance with the contract, plans and specifications, and his the county engineer's certificate to that effect has been filed in the office of the county clerk or some other county officer designated by the board.

Sec. 3. K.S.A. 68-704 is hereby amended to read as follows: 68-704. The board of county commissioners may conduct the improvement of the road in conformity with the profile, plans and specifications as filed; may let contracts for the construction of any portions of the work required in making the improvements; or may let contracts for the labor only, or the labor and a portion of the material, and purchase any or all of the materials for the improvements of the highway and supply the same to the contractor or contractors. The price paid for such materials shall be approved by the secretary of transportation.

If the work is let by contract, notice shall be published in the official county newspaper once each week for two consecutive weeks ~~previous~~ prior to the letting. No bids shall be ~~received~~ accepted except in accordance with the profile, plans and specifications, and such contracts shall be let to the lowest responsible bidder, the board of county commissioners reserving the right to reject any or all bids. Each bidder must accompany the ~~bidder's~~ submitted bid with a certified check for bid surety in an amount equal to 5% of the amount of the ~~bidder's~~ bid payable to the

chairperson of the board of county commissioners as a guarantee that, if the contract is awarded to the bidder, the bidder will enter into the contract with the board. If a bidder fails to enter into the contract when awarded to the bidder, the amount deposited or so much thereof as equals 5% of the bid surety shall become the property of the county as its liquidated damages and shall be paid into the county treasurer for credit to the general fund of the county.

Each contractor shall give a good and sufficient performance bond in an amount fixed by the board of county commissioners, but not less than the contract price, and the bond required by K.S.A. 60-1111, and amendments thereto. The performance bond shall be filed and recorded in the office of the county clerk or some other county officer designated by the board of county commissioners and approved by the board of county commissioners and shall be conditioned on the contractor's faithful performance of the contract in every respect and secure the county against any and all loss or damage by reason of any default, failure or miscarriage in the performance of the contract. The board of county commissioners, at any time before entering into a contract, may withdraw any or all proposals and take charge of and conduct the improvement.

No action shall be brought to restrain the making of the improvements, or payment therefor, or levy of taxes or special assessments or issuance of bonds therefor on the ground of any illegality or irregularity in advertising, receiving bids or awarding the contract, or any proceedings prior to the award of the contract or decision by the board to make such improvements by day labor, unless such action is commenced within 30 days after the date the contract is awarded or the board makes the decision to make the improvements by day labor.

The board of county commissioners, as required, shall issue warrants of the county drawn on a special fund for the improvements, the purchase of materials, the payment of wages, and other expenses incurred in making the improvement or for payment to the contractor of not to exceed 90% of the work done and accepted under the provisions of this act. If a person or company with whom a contract is made under the provisions of this act fails to fulfill the contract, the board of county commissioners may cause the work to be completed and material furnished in full as provided in such contract and recover the full cost thereof from such person or company and the sureties on any bonds given, less any amount unpaid on the contract.

In completing the work and furnishing the material, the board may award contracts or not, as it may elect. The board of county commissioners may purchase or lease any gravel pits, stone quarries or other native road material; open and improve the roads necessary to and from any gravel pits, stone quarries, or other native road material; and pay for such gravel pits, stone quarries, native road material or roads when approved by the county engineer and the secretary of transportation, out of the county road fund of the county if the cost does not exceed \$5,000, for each of such gravel pits, stone quarries, native road materials or roads. If the board of county commissioners conducts the improvement of a road and undertakes the complete construction of the road, the board may issue and sell bonds of the county to purchase and pay for road machinery, tools and equipment that the board deems necessary to do the work or to pay for any such machinery, tools and equipment previously purchased. Before any machinery, tools and equipment are purchased, the county engineer shall prepare an estimate of the kind, quantity and cost of such machinery, tools and equipment, which estimate shall be approved by the state transportation engineer before the machinery is purchased. The bonds shall mature in not more than 20 years; shall bear interest at not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto, payable semiannually; and shall be signed and registered as provided by law.

Upon the completion of any road in any project or benefit district, the board shall cause an estimate to be made by and with the approval of the state transportation engineer and the county engineer of the current cash value of the machinery, tools and equipment purchased and shall charge to the finished road

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project the value of such machinery, tools and equipment and the interest on the bonds issued therefor. Upon the completion of any other road project upon which such machinery, tools and equipment are similarly used, the board shall have an estimate made of the current cash value and charge to such road project the depreciation in such equipment below the estimated value at the time such road project was undertaken. The board of county commissioners may retain any part of the machinery, tools and equipment for general road work. If the machinery, tools and equipment are retained, the board shall estimate with the approval of the state transportation engineer and the county engineer the current cash value of the retained machinery, tools and equipment and shall charge to such road work the depreciation on the portion of the machinery, tools and equipment retained. The retained machinery, tools and equipment shall be the property of the county, and the bonds issued therefor shall in proportion be redeemed by a special levy made for such purpose. When the county commissioners shall have no further use for such machinery, tools and equipment, the board shall sell the machinery, tools and equipment at the best price obtainable and use the funds secured from such sale in retiring the bonds issued for the purchase of the machinery, tools and equipment.

Sec. 4. K.S.A. 19-216, 68-521 and 68-704 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 10, 1987.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE April 6, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 17, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

(Published in the KANSAS REGISTER, April 23, 1987.)

HOUSE BILL No. 2400

AN ACT concerning certain weapon-related crimes; providing for disposition of certain stolen weapons seized in connection therewith; amending K.S.A. 21-4206 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 21-4206 is hereby amended to read as follows: 21-4206. (1) Upon conviction of a violation of sections 21-4201, 21-4202 or 21-4204 of this article, and amendments thereto, any weapon seized in connection therewith shall remain in the custody of the trial court.

(2) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be destroyed, preserved as county property, *forfeited to the law enforcement agency seizing the weapon* or sold and the proceeds of such sale shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and any amendments thereto. *All weapons forfeited to any law enforcement agency shall be traded for materials for use by such law enforcement agency or sold and the proceeds thereof used for law enforcement purposes.*

Sec. 2. K.S.A. 21-4206 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 3, 1987.

HOUSE concurred in SENATE amendments April 6, 1987.  
JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE as amended April 3, 1987.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 17, 1987.

MIKE HAYDEN  
*Governor.*

STATE OF KANSAS  
Office of Secretary of State

I, BILL GRAVES, Secretary of State of the State of Kansas, do hereby certify that the above and foregoing is a correct copy of the original enrolled bill now on file in my office.

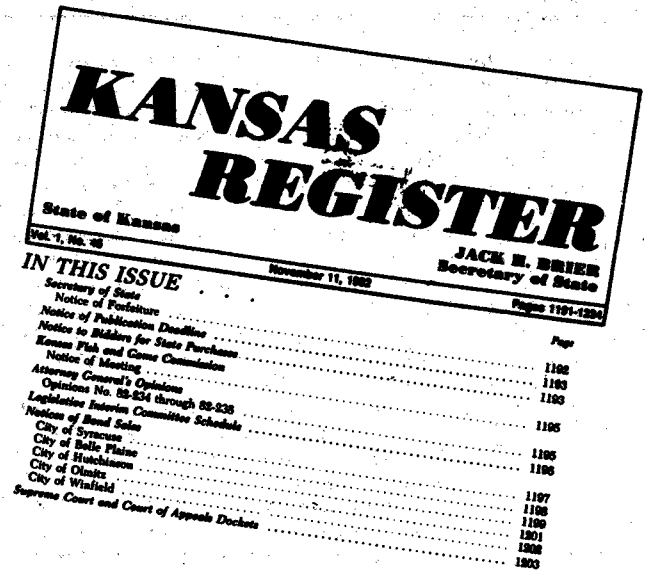
IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, this 17th day of April, 1987.

(SEAL)

BILL GRAVES  
*Secretary of State.*

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