

KANSAS REGISTER

State of Kansas

BILL GRAVES
Secretary of State

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Pages 123-170

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State of Kansas
OFFICE OF THE GOVERNOR

PROCLAMATION

TO THE PEOPLE OF KANSAS, GREETINGS:

WHEREAS, pursuant to K.S.A. 14-101 it has been ascertained and certified by the proper authorities of the City of Hesston to the undersigned as Governor of the State of Kansas that the City of Hesston, Harvey County, Kansas, a city of the third class, has attained a population exceeding 2,000 inhabitants; and

WHEREAS, the governing body of the City of Hesston adopted Resolution No. 688, determining that it would be in the best interests of the city to operate as a city of the second class.

NOW, THEREFORE, I MIKE HAYDEN, GOVERNOR OF THE STATE OF KANSAS, by virtue of the authority vested in me by the laws of this State, do hereby declare the City of Hesston, Harvey County, Kansas, to be a city of the second class, effective the date set forth below, and henceforth said city shall be governed by all laws of this State relating to cities of the second class.

Done at the Capitol in Topeka Under the Great Seal of the State this 21st day of January, A.D. 1988.

MIKE HAYDEN
Governor

Attest: BILL GRAVES
Secretary of State

Doc. No. 006188

State of Kansas
KANSAS WATER AUTHORITY

NOTICE OF MEETING CANCELLATION

The February 24 meeting of the Kansas Water Authority has been cancelled. The next meeting will be held March 23 in Topeka.

JOHN L. BALDWIN
Chairman

Doc. No. 006204

State of Kansas
ABSTRACTERS' BOARD OF EXAMINERS

NOTICE OF EXAMINATION

An examination will be held for persons desiring to secure registration and become subject to license to engage in the business of making, compiling or completing and selling abstracts of title to real estate in the state of Kansas. The examination will begin at 8 a.m. Saturday, March 19, at the Marcus Center for Continuing Education, Wichita State University, 4201 E. 21st, Wichita.

Applications for examination should be filed with the executive secretary of the Abstracters' Board of Examiners, P.O. Box 218, Jetmore 67854, before March 12. All applications must include a \$25 application fee.

JOANNE CLARKE
Executive Secretary

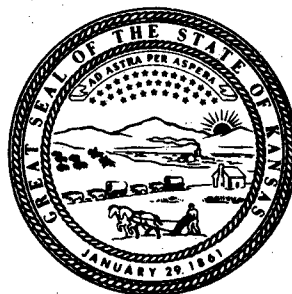
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Phone: (913) 296-3489

State of Kansas
SOCIAL AND REHABILITATION SERVICES
KANSAS COMMISSION FOR THE DEAF
AND HEARING IMPAIRED

NOTICE OF MEETING

The Kansas Commission for the Deaf and Hearing Impaired will meet at 10 a.m. Friday, February 19, in the cafeteria at the Docking State Office Building, Topeka. The public is invited to attend. Sign language and voice interpreting will be provided.

For additional information contact the Kansas Commission for the Deaf and Hearing Impaired, 2700 W. 6th, Biddle Building, 1st Floor, Topeka, (913) 296-2874 (voice or TDD).

WINSTON BARTON
 Secretary of Social and
 Rehabilitation Services

Doc. No. 006203

State of Kansas
STATE BOARD OF INDIGENTS'
DEFENSE SERVICES

NOTICE OF HEARINGS
AND BOARD MEETINGS

The State Board of Indigents' Defense Services will conduct two public hearings to hear comments from interested persons regarding the board's proposal to change the system of delivery of indigents' defense services for the state of Kansas. These changes have been brought about by the recent opinion in *State ex rel. Stephan v. Smith*.

The first hearing will be held at 10 a.m. Thursday, February 25, at the Salina Holiday, Lobby Board Room, 1616 W. Crawford, Salina.

A second hearing will be held at 10 a.m. Friday, February 26, at the Overland Park I Room, Doubletree Hotel, 10100 College Blvd., Overland Park.

The board will conduct a special meeting following the hearing on Friday. The board's regular meeting will be held at 9 a.m. Friday, March 4, in Room 503-N, Landon State Office Building, 900 S.W. Jackson, Topeka.

All interested parties may submit written comments at the hearing to the Director, State Board of Indigents' Defense Services, 900 S.W. Jackson, Room 506, Topeka 66612. All interested parties will be given a reasonable opportunity at the hearings to present their views in regard to the regional public defender concept. In the interest of time, the board reserves the right to limit oral testimony.

RONALD E. MILES
 Director

Doc. No. 006197

State of Kansas
COMMISSION ON WILDLIFE AND PARKS

NOTICE OF MEETING

The Kansas Commission on Wildlife and Parks will meet Wednesday, February 17 and Thursday, February 18 in Topeka. Wednesday's meeting will begin at noon in the Regency Ballroom, Ramada Inn Downtown, 420 S.E. 6th. The afternoon session will include various activities and tours, with the commission business meeting beginning at 7:30 p.m. The review of the deer meetings, department reports, and update on the hunter safety program will be made at the business meeting.

The commission will reconvene at 8 a.m. Thursday in Room 123-South, State Capitol, to hear presentations on reorganization and the deer program. The commission will conclude any unfinished business at the Ramada meeting room at 9:30 a.m.

GERALD W. TOMANEK
 Commission Chairman

Doc. No. 006196

State of Kansas
DEPARTMENT OF ADMINISTRATION
DIVISION OF ARCHITECTURAL SERVICES

NOTICE TO CONSULTING ENGINEERING FIRMS

The Kansas Department of Administration is inviting all consulting engineering firms who are interested in providing services for capital improvement projects to prequalify themselves with the Division of Architectural Services, a division of the Department of Administration.

In order to prequalify, the firm must have an engineer registered with the State Board of Technical Professions in any discipline of engineering to which the firm is seeking work; i.e., a structural engineer must seal the structural drawings with his Kansas engineering seal.

In addition to the above, the statutes require that firms annually submit a "Statement of Qualifications." This form and any additional information is available by contacting Jack Nelson, Division of Architectural Service, 625 Polk, Topeka 66603, (913) 233-9367, prior to February 23.

Firms having submitted a statement in 1987 will automatically be sent the form for 1988.

EDWARD A. DE VILBISS, AIA
 Director, Division of
 Architectural Services

Doc. No. 006194

State of Kansas

LEGISLATURE
LEGISLATIVE BILLS INTRODUCED

The following numbers and titles of bills and resolutions have been recently introduced in the 1988 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.

Bills introduced January 28-February 3:

House Bills

HB 2714, by Representatives Roy and Whiteman: An act concerning the Kansas parole board; relating to voting requirements; amending K.S.A. 22-3709 and repealing the existing section.

HB 2715, by Committee on Public Health and Welfare: An act concerning the uniform vital statistics act; eliminating the position of local registrar of vital statistics; amending K.S.A. 65-2406, 65-2409, 65-2410, 65-2411, 65-2412, 65-2414 and 65-2428a and K.S.A. 1987 Supp. 65-2422 and repealing the existing sections; and also repealing K.S.A. 65-2407, 65-2430, 65-2431 and 65-2432.

HB 2716, by Committee on Public Health and Welfare: An act concerning child passenger safety; amending K.S.A. 1987 Supp. 8-1344, 8-1345, 8-1347 and 8-2503 and repealing the existing sections.

HB 2717, by Committee on Public Health and Welfare: An act relating to smoking in public places; concerning designated smoking areas; amending K.S.A. 1987 Supp. 21-4010 and 21-4011 and repealing the existing sections.

HB 2718, by Representatives Hensley, Acheson, Barr, Bunten, Laird, Mainey, Roy, Sebelius, Smith and Wagon: An act concerning airport authorities; relating to the powers and duties thereof; amending K.S.A. 1987 Supp. 27-331 and repealing the existing section.

HB 2719, by Committee on Appropriations: An act making and concerning appropriations for the fiscal years ending June 30, 1989, June 30, 1990, and June 30, 1991, to initiate and complete certain capital improvement projects for the university of Kansas and Kansas soldiers' home; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing disbursements and acts incidental to the foregoing.

HB 2720, by Committee on Appropriations: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the state library, department of revenue — school district income tax fund, Kansas state school for the visually handicapped, Kansas state school for the deaf, department of education, council on vocational education, and Kansas public broadcasting commission; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

HB 2721, by Committee on Appropriations: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the Kansas public employees retirement system, department of revenue, Kansas lottery and Kansas racing commission; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

HB 2722, by Committee on Insurance: An act relating to insurance; authorizing the commissioner of insurance to require regulated companies and organizations to undergo certain audits and file reports thereof; amending K.S.A. 40-225 and repealing the existing section.

HB 2723, by Committee on Insurance: An act relating to insurance; concerning fees for examination of companies; amending K.S.A. 40-223 and repealing the existing section.

HB 2724, by Committee on Taxation: An act relating to property taxation; exempting certain grains received by a dealer; amending K.S.A. 79-3901, 79-3902, 79-3904, 79-3905 and 79-3907 and repealing the existing sections; also repealing K.S.A. 79-3903.

HB 2725, by Representatives Harper, Acheson, Amos, Aylward, Beauchamp, Bideau, Bowden, Branson, Bryant, Buehler, C. Campbell, K. Campbell, Douville, Dyck, Eckert, Empson, Flottman, Freeman, Fuller, Gatlin, Gross, Grotewiel, Guldner, Hassler, Hoy, Jenkins, Johnson, Kennard, King, Lacey, Littlejohn, Love, Mead, R.D. Miller, Mollenkamp, Moomaw, Neufeld, O'Neal, Ott, Peterson, Pottorff, Ramirez, Rezac, Roenbaugh, Rosenau, Sader, Sallee, Sand, Shallenburger, Shore, Solbach, Sughrie, Wagon, Weimer, Wells, Whiteman, Wilbert and Williams: An act concerning Kansas history; requiring the provision of a course of instruction therein by certain accredited schools; imposing a requirement for the study thereof by persons preparing to teach; amending K.S.A. 72-1103, 72-1372 and 72-1388, and repealing the existing sections.

HB 2726, by Representatives Schauf, Baker and Spaniol: An act relating to publication of notices of municipal bond sales; amending K.S.A. 1987 Supp. 10-106 and repealing the existing section.

HB 2727, by Committee on Education: An act concerning community colleges; increasing the amount of credit hour state aid entitlement thereof; amending K.S.A. 71-602 and repealing the existing section.

HB 2728, by Committee on Education: An act concerning community colleges; relating to out-district tuition and out-district state aid; increasing the amount thereof; amending K.S.A. 1987 Supp. 71-301 and 71-607, and repealing the existing section.

HB 2729, by Committee on Energy and Natural Resources: An act concerning fish and game; relating to licenses and permits; amending K.S.A. 32-179 and K.S.A. 1987 Supp. 32-164b and repealing the existing sections.

HB 2730, by Committee on Judiciary: An act concerning civil procedure; relating to damages for pain and suffering in personal injury actions; amending K.S.A. 1987 Supp. 60-19a01 and 60-3407 and repealing the existing sections.

HB 2731, by Committee on Judiciary: An act concerning civil procedure; relating to exemplary damages in civil actions; amending K.S.A. 1987 Supp. 60-3402 and 60-3701 and repealing the existing sections.

HB 2732, by Representative Mollenkamp: An act concerning Trego county; authorizing certain levies and exempting such levies from the tax lid; amending K.S.A. 1987 Supp. 79-5011 and 79-5028 and repealing the existing sections.

HB 2733, by Committee on Appropriations: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the state board of agriculture, Kansas animal health department, Kansas state grain inspection department, state fair board, Kansas wheat commission, state conservation commission and Kansas water office; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

HB 2734, by Representatives Reardon and Turquist: An act concerning driver's license fees; affecting amounts thereof credited to the state safety fund, the motorcycle safety fund, and the state highway fund; amending K.S.A. 8-272 and K.S.A. 1987 Supp. 8-267, and repealing the existing sections.

HB 2735, by Representative Lowther: An act relating to income taxation; concerning credits for contributions made to postsecondary educational institutions; amending K.S.A. 79-32, 120 and K.S.A. 1987 Supp. 79-32, 138 and repealing the existing sections.

HB 2736, by Committee on Commercial and Financial Institutions: An act relating to credit unions; concerning powers of central credit unions; amending K.S.A. 17-2214 and repealing the existing section.

HB 2737, by Committee on Commercial and Financial Institutions: An act relating to trust companies; concerning capital requirements; amending K.S.A. 17-2021 and repealing the existing section.

HB 2738, by Committee on Commercial and Financial Institutions: An act relating to banks and banking; concerning certain powers thereof; amending K.S.A. 1987 Supp. 9-1101, 9-1102 and 9-1112 and repealing the existing sections.

HB 2739, by Committee on Elections: An act concerning elections; relating to precinct boundaries; amending K.S.A. 1987 Supp. 25-26a04 and repealing the existing section.

HB 2740, by Committee on Taxation: An act relating to penalties for failing to make certain tax returns; concerning the date upon which such penalties may be imposed; amending K.S.A. 79-3615, 79-3706 and 79-41a03a and repealing the existing sections.

HB 2741, by Committee on Taxation: An act relating to sales tax; concerning the duty of vendors to collect tax under certain circumstances; amending K.S.A. 79-3604 and repealing the existing section.

HB 2742, by Committee on Taxation: An act relating to the transient guest tax; providing for the effective date of such levies; amending K.S.A. 12-1693 and 12-1697 and repealing the existing sections.

HB 2743, by Committee on Taxation: An act concerning the apportionment of county-wide local sales tax; amending K.S.A. 12-182 and K.S.A. 1987 Supp. 12-192 and repealing the existing sections.

HB 2744, by Committee on Taxation: An act relating to taxation; concerning certain powers of the secretary of revenue; authorizing establishment of pay plans; amending K.S.A. 79-3228, 79-3233a and 79-3235 and repealing the existing sections.

HB 2745, by Committee on Transportation: An act relating to train speeds; amending K.S.A. 12-1633, 12-1634, 14-434 and 15-438 and repealing the existing sections.

HB 2746, by Committee on Federal and State Affairs: An act concerning alcoholic liquor; relating to qualifications for certain licenses; amending K.S.A. 1987 Supp. 41-311 and repealing the existing section.

HB 2747, by Committee on Agriculture and Small Business: An act concerning animals; relating to licensure or registration of certain persons dealing with animals; amending K.S.A. 47-1701 through 47-1707, 47-1709, 47-1712, 47-1714, 47-1715 and 47-1716 and repealing the existing sections.

HB 2748, by Committee on Agriculture and Small Business: An act concerning the division of markets of the state board of agriculture; relating to the powers and duties thereof; authorizing certain fees; establishing the trademark fund and the market development fund; amending K.S.A. 74-530 and repealing the existing section.

HB 2749, by Committee on Agriculture and Small Business: An act concerning the plant pest act; definition of plant pests; amending K.S.A. 2-2113 and repealing the existing section.

HB 2750, by Committee on Judiciary: An act concerning secured transactions; relating to consumer goods; concerning automatic perfection thereof; assignment of accounts; amending K.S.A. 84-9-307 and K.S.A. 1987 Supp. 84-9-302 and repealing the existing sections.

HB 2751, by Committee on Judiciary: An act concerning state agencies; relating to certain supplies and equipment; restricting the size thereof.

HB 2752, by Representative Lowther: An act concerning corporations; relating to indemnification; amending K.S.A. 1987 Supp. 17-6305 and repealing the existing section.

HB 2753, by Representative Lowther: An act concerning crimes and punishments; creating a defense to selling alcoholic liquor or cereal malt beverages to minors; amending K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a and repealing the existing sections.

HB 2754, by Representative Lowther: An act concerning bonds; relating to the cancellation thereof.

HB 2755, by Committee on Elections: An act concerning corrupt political advertising; amending K.S.A. 25-2407 and repealing the existing section.

HB 2756, by Representative Bideau: An act concerning judicial apportionment of district magistrate judges; relating to elections thereof; amending K.S.A. 1987 Supp. 20-336 and 20-2008 and repealing the existing sections.

HB 2757, by Representatives Wisdom, Dillon, Johnson, Peterson, Ramirez, Reardon, Rosenau and Sutter: An act concerning the Kansas police and firemen's retirement system; relating to death of retiree; spouse's benefit; amending K.S.A. 74-4958 and repealing the existing section.

HB 2758, by Committee on Public Health and Welfare: An act relating to adult care homes; concerning the license fee; amending K.S.A. 39-930 and repealing the existing section.

HB 2759, by Committee on Public Health and Welfare: An act relating to the secretary of health and environment; amending K.S.A. 65-1,108 and K.S.A. 1987 Supp. 65-1,107 and repealing the existing sections.

HB 2760, by Representatives O'Neal and Wunsch: An act concerning certain alcohol-related offenses; authorizing certain restriction of driving privileges; amending K.S.A. 1987 Supp. 8-292, 12-4416 and 22-2909 and repealing the existing sections.

HB 2761, by Representative O'Neal: An act concerning purchase or consumption of liquor or cereal malt beverage by a minor; amending K.S.A. 1987 Supp. 41-727 and repealing the existing section; also repealing K.S.A. 1987 Supp. 41-721.

HB 2762, by Representatives Buehler, Bowden, Crumbaker, Eckert and Walker: An act concerning civil procedure; limiting the civil liability of athletic officials during the officiating of amateur athletic events.

HB 2763, by Committee on Appropriations: An act concerning the department of social and rehabilitation services; authorizing certain fees for home care services; providing for the disposition thereof.

HB 2764, by Committee on Labor and Industry: An act concerning the employment security law; relating to certain contributions, payment in lieu of contributions and other amounts payable thereunder and the collection thereof; amending K.S.A. 75-3728b and K.S.A. 1987 Supp. 44-710 and repealing the existing sections.

HB 2765, by Representative Wagon: An act concerning the code for care of children; relating to the investigation of abuse reports in certain facilities by agents of the attorney general; the secretary of social and rehabilitation services adopting incidents of abuse that need to be reviewed or investigated; amending K.S.A. 38-1523 and repealing the existing section.

HB 2766, by Representatives Roenbaugh, Buehler, C. Campbell, Crumbaker, Eckert, Guldner, Harper, Heinemann, Holmes, Mead, R.D. Miller, Neufeld, Rezac, Shore, Smith and Teagarden: An act concerning livestock; relating to renewal of registration of livestock brands and identification brands for disease control purposes; amending K.S.A. 47-417 and 47-418 and repealing the existing sections.

HB 2767, by Representatives Johnson, Dillon, Justice, Love, Peterson, Ramirez, Reardon, Sutter and Wisdom: An act relating to counties; concerning fees charged for the recording or filing of certain documents with registers of deeds; amending K.S.A. 28-115 and repealing the existing section.

HB 2768, by Representatives Johnson, Dillon, Justice, Love, Peterson, Ramirez, Reardon, Sutter and Wisdom: An act concerning Wyandotte county; relating to a levy for an arts program.

HB 2769, by Committee on Transportation: An act relating to drivers' licenses; concerning duplicate or substitute licenses; amending K.S.A. 1987 Supp. 8-246 and repealing the existing section.

HB 2770, by Committee on Transportation: An act relating to nonhighway certificate of title; increasing the fee thereof; amending K.S.A. 1987 Supp. 8-198 and repealing the existing section.

HB 2771, by Committee on Transportation: An act concerning taxation of motor-vehicle fuels; exempting certain transactions from tax; amending K.S.A. 1987 Supp. 79-3408 and repealing the existing section.

HB 2772, by Committee on Federal and State Affairs: An act amending the Kansas pari-mutuel racing act; amending K.S.A. 1987 Supp. 74-8806, 74-8813, 74-8815, 74-8816 and 74-8826 and repealing the existing section.

HB 2773, by Committee on Federal and State Affairs: An act amending the Kansas pari-mutuel racing act; concerning payment for expenses of investigating certain applicants

for licensure thereunder; amending K.S.A. 1987 Supp. 74-8813 and 74-8815 and repealing the existing sections.

HB 2774, by Committee on Federal and State Affairs: An act concerning the Kansas racing commission; relating to the use of certain information in determining qualifications for licensure under the Kansas parimutuel racing act; amending K.S.A. 75-4319 and K.S.A. 1987 Supp. 12-4516, 21-4619 and 74-8804 and repealing the existing sections; also repealing K.S.A. 1987 Supp. 21-4619a.

HB 2775, by Committee on Federal and State Affairs: An act concerning the Kansas racing commission; relating to reimbursement of expenses of members; amending K.S.A. 75-3216 and K.S.A. 1987 Supp. 74-8803 and repealing the existing sections.

HB 2776, by Committee on Federal and State Affairs: An act amending the Kansas administrative procedure act; relating to the application thereof; amending K.S.A. 1987 Supp. 77-503 and repealing the existing section.

HB 2777, by Representative Cribbs: An act requiring an autopsy in suspected instances of sudden infant death syndrome; providing for payment therefor; amending K.S.A. 19-1031 and 19-1033 and repealing the existing sections.

HB 2778, by Committee on Elections: An act concerning elections; relating to federal services absentee ballots; amending K.S.A. 25-1214, 25-1216 and 25-1220 and repealing the existing sections.

HB 2779, by Representative Lowther: An act concerning juvenile offenders; relating to the mandatory suspension of driver's license when convicted of transportation of an open container; amending K.S.A. 1987 Supp. 38-1663 and repealing the existing section.

Senate Bills

SB 536, by Committee on Financial Institutions and Insurance: An act relating to insurance; requiring that health maintenance organization contracts provide certain conversion of coverage provisions; amending K.S.A. 40-3209 and repealing the existing section.

SB 537, by Committee on Financial Institutions and Insurance: An act relating to health maintenance organizations; concerning applications for certificates of authority, appeals of orders of the commissioner of insurance, contract provisions and deposit requirements; amending K.S.A. 40-3203, 40-3207, 40-3209 and 40-3227 and repealing the existing sections.

SB 538, by Committee on Financial Institutions and Insurance: An act relating to insurance; concerning conversion coverage under certain accident and sickness subscription agreements; amending K.S.A. 1987 Supp. 40-19c06 and repealing the existing section.

SB 539, by Committee on Financial Institutions and Insurance: An act relating to insurance; concerning eligibility for coverage under group sickness and accident insurance; amending K.S.A. 1987 Supp. 40-2209 and repealing the existing section.

SB 540, by Committee on Elections: An act concerning state governmental ethics; relating to registration of lobbyists; amending K.S.A. 46-265, 46-270 and 46-276 and repealing the existing sections.

SB 541, by Senators Burke, Johnston, Bond, Winter, Langworthy, Ehrlich, Anderson, Hoferer, Vidricksen, Warren, Salisbury, Gannon, Reilly, Martin, Werts, Yost, Feleciano, Thiessen, Parrish, Morris, Strick, Mulich and Daniels: An act relating to motor vehicles; concerning the issuance of license plates for alumni organizations.

SB 542, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the adjutant general, state fire marshal, Kansas parole board, department of corrections and corrections ombudsman board; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

SB 543, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the department of transportation and Kansas highway patrol; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

SB 544, by Committee on Federal and State Affairs: An act concerning cereal malt beverages; relating to sales thereof; amending K.S.A. 1987 Supp. 41-2701 and 41-2704 and repealing the existing sections.

SB 545, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the youth center at Topeka, youth center at Beloit, youth center at Atchison, Kansas neurological institute, Larned state hospital, Osawatimie state hospital, Parsons state hospital and training center, Rainbow mental health facility, Norton state hospital, Topeka state hospital and Winfield state hospital and training center; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

SB 546, by Committee on Judiciary: An act concerning federal liens; relating to places of filing; duties of filing officer; establishing fees; repealing K.S.A. 79-2607, 79-2608, 79-2609, 79-2610, 79-2611 and 79-2612.

SB 547, by Committee on Judiciary: An act concerning children; providing for criminal remedy for false reporting of allegation of child abuse and neglect; amending K.S.A. 1987 Supp. 38-1522 and repealing the existing section.

SB 548, by Committee on Judiciary: An act concerning the Kansas securities act; relating to commissioner's authority to censure and fine; amending K.S.A. 1987 Supp. 17-1266a and repealing the existing section.

SB 549, by Committee on Judiciary: An act concerning the Kansas securities act; relating to authority of commissioner; reciprocal enforcement of subpoenas from securities administrators of other states; amending K.S.A. 1987 Supp. 17-1265 and repealing the existing section.

SB 550, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal year ending June 30, 1989, for the department of administration, state finance council, Kansas department of wildlife and parks, state corporation commission and state historical society; authorizing certain transfers and fees, imposing certain restrictions and limitations, and directing or authorizing certain disbursements and acts incidental to the foregoing.

SB 551, by Committee on Ways and Means: An act making and concerning appropriations for the fiscal years ending June 30, 1988, June 30, 1989, and June 30, 1990, to initiate and complete certain capital improvement projects for the Kansas correctional institution at Lansing, Kansas state penitentiary, state industrial reformatory, department of social and rehabilitation services, Kansas neurological institute, Parsons state hospital and training center, Winfield state hospital and training center, Topeka state hospital, Larned state hospital, Osawatimie state hospital and adjutant general; authorizing certain transfers, imposing certain restrictions and limitations and directing or authorizing disbursements and acts incidental to the foregoing; amending section 4 of chapter 18 of the 1987 Session Laws of Kansas and repealing the existing section.

SB 552, by Committee on Financial Institutions and Insurance: An act amending and supplementing the uniform consumer credit code; amending K.S.A. 16a-1-102, 16a-2-502, 16a-4-202 and 16a-5-203 and K.S.A. 1987 Supp. 16a-1-301, 16a-2-201, 16a-2-202, 16a-2-301, 16a-2-401 and 16a-2-510 and repealing the existing sections; also repealing K.S.A. 16a-6-103.

SB 553, by Committee on Assessment and Taxation: An act supplementing the Kansas withholding and declaration of estimated tax act; concerning registration thereunder.

SB 554, by Committee on Assessment and Taxation: An act relating to income tax; concerning due dates for returns, penalties, statute of limitations for assessments and refunds, modified Kansas source income, surtax exemption and the Kansas taxable income of a corporation; amending K.S.A. 79-3221, 79-3222, 79-3225, 79-3228, 79-3230, 79-3231 and 79-3232, 113 and K.S.A. 1987 Supp. 79-32,109 and 79-32,138 and repealing the existing sections; also repealing K.S.A. 1987 Supp. 79-32,109b.

SB 555, by Senator F. Kerr: An act relating to highways; providing for the financing thereof; amending K.S.A. 8-143b, 8-143c, 8-143d, 8-195, 79-3408c, 79-3424, 79-3475, 79-3475a, 79-3487, 79-3491a, 79-3492, 79-34104, 79-34118, 79-34118, as amended by section 35 of this act, 79-34,118, as amended by section 36 of this act, 79-34,126, 79-34,142,

79-34,142, as amended by section 42 of this act, 79-34,142, as amended by section 43 of this act, 79-34,143, 79-34,143, as amended by section 45 of this act, 79-34,143, as amended by section 46 of this act, 79-3620, 79-3704 and 79-3710 and K.S.A. 1987 Supp. 8-143, 8-143c, 8-172, 8-2409, 9-1402, 79-3408, 79-3492b, 79-3492b, as amended by section 31 of this act, 79-3492b, as amended by section 32 of this act, 79-34,141, as amended by section 39 of this act, 79-34,141, as amended by section 40 of this act, 79-3602 and 79-3606 and repealing the existing sections; also repealing K.S.A. 79-34,144, 79-34,145 and 79-34,146 and K.S.A. 1987 Supp. 9-1402a.

SB 556, by Senators Morris, Yost and Winter: An act establishing the citizens' utility ratepayer board.

SB 557, by Senators Bond, Bogina, Burke and Langworthy: An act concerning children; relating to the Kansas code for care of children; providing for multidisciplinary teams in investigation and recommendation of services for child in need of care; amending K.S.A. 38-1507 and 38-1524 and K.S.A. 1987 Supp. 38-1502 and repealing the existing sections.

SB 558, by Senator Montgomery: An act concerning vehicle dealers; relating to auctioneers; amending K.S.A. 1987 Supp. 8-2401 and repealing the existing section.

SB 559, by Committee on Federal and State Affairs: An act concerning alcoholic liquor; amending K.S.A. 1987 Supp. 41-501, 41-2601, 41-2642, 41-2643, 41-2645, 79-41a01, 79-41a02, 79-41a03, 79-41a04 and 79-41a08 and repealing the existing sections.

SB 560, by Committee on Federal and State Affairs: An act concerning alcoholic beverages; relating to the alcoholic content of beer and cereal malt beverage; amending K.S.A. 41-208, 41-211, 41-708 and 41-2732 and K.S.A. 1987 Supp. 41-102, 41-103, 41-104, 41-307, 41-308, 41-308b, 41-310, 41-317, 41-501, 41-601, 41-602, 41-701, 41-717, 41-2701 through 41-2705 and 41-2708 and repealing the existing sections.

SB 561, by Senators Steineger, Francisco, Doyen, Allen, Anderson, Arasmith, Daniels, Ehrlich, Feleciano, Gaines, Gannon, Cordon, Hayden, Karr, Martin, Montgomery, Mulich, Norvell, Parrish, Reilly, Strick, Warren: An act concerning the state health care benefits program; relating to the provision of benefits thereunder and the administration and self-funding thereof; prescribing the composition of the Kansas state employees health care commission; amending K.S.A. 75-6501, 75-6502, 75-6503 and 75-6504 and repealing the existing sections.

SB 562, by Committee on Governmental Organization: An act concerning the Kansas civil service act; amending K.S.A. 75-2926, 75-2938 and 75-2948 and K.S.A. 1987 Supp. 75-2949 and 75-2949e and repealing the existing sections.

SB 563, by Committee on Federal and State Affairs: An act concerning animals; relating to licensure or registration of certain persons dealing with animals; amending K.S.A. 47-1701, 47-1702, 47-1703, 47-1704, 47-1706, 47-1707, 47-1709, 47-1712 and 47-1715 and repealing the existing sections; also repealing K.S.A. 47-1705, 47-1714 and 47-1716.

SB 564, by Committee on Labor, Industry and Small Business: An act concerning the employment security law; relating to the definition of employment; amending K.S.A. 1987 Supp. 44-703 and repealing the existing section.

SB 565, by Committee on Judiciary: An act concerning probate procedure; relating to trusts; creating the charitable trusts administration act.

SB 566, by Committee on Judiciary: An act concerning children; relating to support and determination of parentage; amending K.S.A. 23-460, 23-461, 38-1516 and 75-5268 and K.S.A. 1987 Supp. 23-4,128, 23-4,129, 23-4,131, 23-4,135, 23-4,136 and 60-2403 and repealing the existing sections; also repealing K.S.A. 39-718a.

House Resolutions

HCR 5042, by Representatives Sprague, Aylward, Barr, Beauchamp, Bideau, Brady, Brown, Bryant, Cribbs, Dyck, Eckert, Fry, Gossens, Graeber, Gross, Harder, Harper, Hoy, King, Littlejohn, D. Miller, Moomaw, Neufeld, O'Neal, Ott, Ramirez, Sawyer, Schauf, Spaniol, Teagarden, Turquist, Walker, Wells and Wunsch: A concurrent resolution recognizing July 18, 1988, as Farmers Alliance Mutual Insurance Company, McPherson, Kansas, Centennial Celebration Day in Kansas.

HR 6015, by Representative R. D. Miller: A resolution congratulating and commending Amy Lynn Dawson on her selection as the 1988 Kansas Cherry Blossom Princess.

HR 6016, by Representative Fry: A resolution congratulating Mildred Holt on her 105th birthday.

HR 6017, by Representatives Snowbarger and Brown: A resolution congratulating the Olathe North High School Band, Drill Team, and Flag Corps, and all persons connected therewith, on being selected to perform at the XV Winter Olympic Games Youth Music Showcase.

HR 6018, by Representative Lacey: A resolution congratulating and commending Labette County Cooperative Extension Service 4-H Livestock Judging Team on winning the overall National 4-H Livestock Judging Contest.

HR 6019, by Representative Barr: A resolution congratulating and commending the Silver Lake Junior High School football team and its coach, Ed Witt, and assistant coach, Jess Adams, on their outstanding 1987 season.

HR 6020, by Representative Barr: A resolution congratulating and commending the Washburn Rural Future Farmers of America Horse Judging Team on its fourth-place finish in a national horse judging contest.

HR 6021, by Representative Barr: A resolution congratulating and commending the Washburn Rural High School debate team on winning the Class 5-A State Debate Championship.

Senate Resolutions

SR 1806, by Senator Gordon: A resolution in memory of Harry E. Miller.

SR 1807, by Senator Karr: A resolution congratulating and commending the Hillsboro High School volleyball team and Coach Becky Carlson on winning the 1987 Class 3A State Volleyball Championship in Kansas.

SR 1808, by Senator Martin: A resolution honoring Baxter Springs Little League Baseball and the 1987 Little League All Stars.

SR 1809, by the entire Senate: A resolution congratulating and commending Nestor R. Weigand, Jr. on his election as President of the NATIONAL ASSOCIATION OF REALTORS.

SR 1810, by Senator Johnston: A resolution congratulating and commending Labette County Cooperative Extension 4-H Livestock Judging Team on winning the overall National 4-H Livestock Judging Contest.

Doc. No. 006198

State of Kansas
SOCIAL AND REHABILITATION SERVICES

**NOTICE OF MEETING AND HEARING
ON PROPOSED ADMINISTRATIVE REGULATIONS**

The Department of Social and Rehabilitation Services will meet at 9 a.m. Tuesday, March 1, in the SRS Staff Development Training Center, 2700 W. 6th, Topeka.

The scheduled agenda includes:

- Reports from SRS commissioners.
- Announce FY 1990 budget discussions are under way for all SRS programs and service areas.
- Solicit public input on FY 1990 budget.
- Public hearing concerning proposed temporary administrative regulations to become effective May 1, 1988. The summary and fiscal or financial impact are set forth below. The fiscal impact statements have been figured on a 12-month basis. The phrase "Federal Mandate" following an item indicates that the change is required by federal policy. Optional changes in regulations related to federal programs are subject to approval by the U.S. Department of Health and Human Services.
- Other items as necessary.

ARTICLE 4

Public Assistance Program

30-4-106. General rules for consideration of resources, including real property, personal property, and income. This regulation is being amended to exclude the income of an alien who is a sibling of an ADC child and who is excluded from the assistance plan due to the provisions of P.L. 99-603, the Immigration Reform and Control Act of 1986 (Federal Mandate).

Fiscal impact: Estimated increased expenditure of \$600.

ARTICLE 6

**Medical Assistance Program—
Clients' Eligibility for Participation**

30-6-56. Transfer of property. This regulation is being amended for SSI to require the agency to initially waive or subsequently suspend an established period of ineligibility resulting from a transfer of property without adequate consideration when it is determined that such action is necessary to avoid undue hardship (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$13,968.

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

Modify the income provisions in which income is considered for a six month period following the month in which the care situation begins when a husband and wife are both applicants or recipients and when one or both enter a care situation to include spouses who reside in the same care situation. Previously, the six month income provision was limited to spouses who shared the same room in a care situation (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$72,000.

For SSI, provide that real property shall be considered unavailable for so long as it cannot be sold because the property is jointly owned and its sale would cause undue hardship due to the loss of housing for the other owner or owners, or the owners' reasonable efforts to sell the property have been unsuccessful (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$6,987.

30-6-109. Personal property. This regulation is being amended for SSI to change the exemption of a retroactive social security benefit from six months to nine months following the month of receipt (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$5,240.

30-6-112. Income exempt from consideration as income and as a cash asset. This regulation is being amended for SSI to exclude payments occasioned by the death of another person to the extent that payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial. Such payments include, but are not limited to, proceeds from a life insurance or burial insurance policy, gifts, and inheritances (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$10,480.

30-6-113. Income exempt as applicable income. This regulation is being amended for SSI to extend the time limit for making application for medical assistance under the disabled widow or widower provisions to July 1, 1988 (Federal Mandate).

Fiscal Impact: Estimated increased expenditure of \$582.

A copy of the proposed regulations and the complete fiscal impact statements may be obtained prior to March 1 by contacting Mary Slaybaugh, Legal Division, 6th Floor, Docking State Office Building, Topeka 66612, (913) 296-3969. Written comments may be submitted prior to such date to Winston Barton, Secretary of Social and Rehabilitation Services, at the same address.

Interested persons will be given reasonable opportunity at the hearing to present their views and arguments on the adoption of the proposed regulations. Presentations should be in writing whenever possible. Depending on the number of persons wanting to speak, the department may require that each participant limit his or her oral presentation to three minutes.

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, Osawatomie, Parsons, Pittsburg, Pratt, Salina, Topeka (area office and Docking State Office Building), Wichita and Winfield.

WINSTON BARTON
Secretary of Social and
Rehabilitation Services

Doc. No. 006202

**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.S.T. on the date indicated, and then will be publicly opened. Interested bidders may call (913) 296-2377 for additional information.

Monday, February 22, 1988

#25942

University of Kansas Medical Center—
LABORATORY SERVICES

#27528

University of Kansas—READY-MIXED CONCRETE
AND CEMENT MATERIALS

#27545

University of Kansas Medical Center and other state
agencies—SUTURES AND SURGICAL SPECIALTY
ITEMS (CLASS 12)

#27774

University of Kansas—TRANSPORTATION SERVICE

#72730

Pittsburg State University—MICROCOMPUTER, OP
SYSTEM AND MONITOR

Tuesday, February 23, 1988

#27538

Kansas Correctional Industries—RENDERING
MATERIALS—SERVICE

#27677

Kansas State Penitentiary—MISCELLANEOUS
GROCERIES

#72748

University of Kansas Medical Center—LAB
CENTRIFUGE

#72749

University of Kansas Medical Center—LAB
MICROSCOPE

#72750

University of Kansas Medical Center—PRINTED
FOLDERS

Wednesday, February 24, 1988

#72742

Department of Revenue—CONVERSION OF
APPLICATIONS USING ADABAS

#72760

University of Kansas Medical Center—CHINA

#72761

Parsons State Hospital and Training Center—
PLATFORM BEDS

#72762

Department of Social and Rehabilitation Services—
SOFTWARE

Thursday, February 25, 1988

#A-5450-1

Pittsburg State University—PHASE II
REMODELING (Revised—1st Rebid), Technology
Education Building

#A-5864 and #A-5757

Kansas Department of Wildlife and Parks—ROCKY
FORD FISHING AREA IMPROVEMENTS

#27524

University of Kansas—APRIL (1988) MEAT
PRODUCTS

#27772

The Kansas Lottery—EXTERNAL AUDITING AND
ACCOUNTING SERVICES

#72776

Kansas State University—SURVEYING
ACCESSORIES

#72777

Kansas School for the Deaf—SPORTS VAN

#72783

Kansas State University—FILLERS AND CABINETS

Friday, February 26, 1988

#72793

University of Kansas—ROLL PAPER

#72794

Kansas Technical Institute—MILLING MACHINE

#72801

Kansas State University—FLOOR TILE

Monday, February 29, 1988

#72784

Fort Hays State University—IBM 3380 AE4 DASD

NICHOLAS B. ROACH
Director of Purchases

Doc. No. 006200

(Published in the *Kansas Register*, February 11, 1988.)

**NOTICE OF BOND SALE
\$290,000**

**City of Holton, Kansas
General Obligation Bonds
Series A, 1988**

(Internal Improvement Bonds)

Sealed Bids

Sealed bids for the purchase of \$290,000 principal amount of general obligation bonds, Series A, 1988 (internal improvement bonds), of the city hereinafter described will be received by the undersigned, city clerk of the city of Holton, Kansas, on behalf of the governing body of the city at City Hall, 430 Penn Ave., Holton, until 7 p.m. central time on Monday, February 15, 1988. 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 March 1, 1988, and will become due serially on September 1 in the years as follows:

Date of Maturity	Amount
September 1, 1989	\$20,000
September 1, 1990	20,000
September 1, 1991	25,000
September 1, 1992	25,000
September 1, 1993	30,000

(continued)

September 1, 1994	30,000
September 1, 1995	30,000
September 1, 1996	35,000
September 1, 1997	35,000
September 1, 1998	40,000

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 March 1, 1989.

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 Kansas State Treasurer, 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 the 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 bondowners.

Redemption of Bonds Prior to Maturity

The bonds shall become due without option of prior payment.

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 the index of treasury bonds published by the weekly *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 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 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.

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 internal improvements to the city. The bonds will be general obligations of the city payable as to both principal and interest 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.

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 intends 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 March 15, 1988, 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 10 a.m. central time on March 5, 1988. 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.

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 \$5,800 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 the bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if the 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.

Bid Forms

All bids must be made on forms which may be procured from the city clerk or the financial adviser. 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 or 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 7 p.m. central time on February 15, 1988.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the city for the year 1987 is \$9,579,918. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds, is \$1,549,000.

Additional Information

Additional information regarding the bonds may be obtained from the city clerk or from the city's financial adviser, The First Securities Company of Kansas, Inc., Wichita, KS 67201, Attention: Larry McKown, (316) 262-4411.

Dated February 5, 1988.

CITY OF HOLTON, KANSAS

Pat McClintock

City Clerk

City Hall

430 Penn Ave.

Holton, KS 66436

(913) 364-2721

Doc. No. 006185

(Published in the *Kansas Register*, February 11, 1988.)

NOTICE OF BOND SALE
\$5,710,000
Unified School District 305
Saline County, Kansas
General Obligation Bonds
Series 1988

Unified School District 305, Saline County, Kansas (Salina) will receive sealed bids at the office of the district, City-County Building, Salina, until 11 a.m. C.S.T. on Wednesday, February 17, 1988, for \$5,710,000 par value general obligation bonds, Series 1988 of the district, at which time and place such bids will be publicly opened. No oral or auction bids will be considered.

The Series 1988 bonds will be dated as of February 1, 1988, and shall mature on December 1 in each of the years and in the amounts set forth below. Such bonds shall be fully registered certificated bonds, each in the denomination of \$5,000 or integral multiples thereof, not exceeding the principal amount of bonds maturing in each year. The bonds will mature serially in accordance with the following schedule:

Principal Amount	Maturity Date
\$275,000	December 1, 1991
340,000	December 1, 1992
365,000	December 1, 1993
390,000	December 1, 1994
420,000	December 1, 1995*
450,000	December 1, 1996*
480,000	December 1, 1997*
515,000	December 1, 1998*
555,000	December 1, 1999*
595,000	December 1, 2000*
640,000	December 1, 2001*
685,000	December 1, 2002*

* OPTIONAL REDEMPTION: Bonds due December 1, 1995, and thereafter, are callable for redemption on December 1, 1994, or any interest payment date thereafter, at par and accrued interest to date of redemption.

Notice of any call for redemption will be mailed to the registered owners of such bonds to be redeemed at the address shown on the registration books maintained by the bond registrar not less than 30 days prior to the date fixed for such redemption and payment. Interest on the bonds so called for redemption and payment will cease to accrue after the redemption date, provided notice has been given and funds are then available to pay the full redemption price thereof.

Interest will be payable semiannually, commencing December 1, 1989, and each June 1 and December 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 office of the Kansas State Treasurer, Topeka, 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 district.

Types of Bids and Interest Rates

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 rate allowed by Kansas law, said maximum rate being 2 percent above the index of treasury bonds published weekly by *Credit Markets*, New York, New York, on the Monday next preceding the day on which the bonds are sold. No bid of less than par and accrued interest will be considered. Bids involving the use of extra or supplemental interest rates will not be considered. Bids for less than the entire issue of bonds will not be considered.

Bids shall be submitted on the official bid form furnished by the district, and shall be addressed to the district at City-County Building, Salina, KS 67401, Attention: Elizabeth A. DeVore, 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 district 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 305. In the event a bidder whose bid is accepted shall default in the terms and conditions of this notice, said deposit shall be retained by the district as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

Basis for Award

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 district 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 district. 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. 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. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the district shall determine which bid, if any, shall be accepted, and its determination shall be final. Any bid received after 11 a.m. on the date of the sale will be returned to the bidder unopened. It is anticipated that the bonds will be awarded to the successful bidder at a special meeting of the Board of Education at noon on the date of the bid opening.

Delivery

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 Gilmore & Bell, bond counsel, of Wichita, Kansas, whose opinion will be paid for by the district. The number, type and denomination of bonds, and names of the initial registered

owners to be initially printed on the bonds and their social security or taxpayer identification numbers shall be submitted in writing by the successful bidder to the bond registrar not later than seven business days preceding delivery of the bonds. 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 Federal Reserve funds, immediately subject to use by the district. Delivery of the bonds will be made to the successful bidder on or about March 23, 1988, at any bank in the state of Kansas or Kansas City, Missouri, at the expense of the district. Delivery elsewhere will be made at the expense of the purchaser.

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

Security and Purpose

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. The bonds are being issued pursuant to K.S.A. 72-6761 for the purpose of providing permanent financing for various capital improvements to existing educational facilities throughout the district.

Opinion of Bond Counsel

The bonds will be sold subject to the legal opinion of Gilmore & Bell, Wichita, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the district, printed on the bonds and delivered to the successful bidder as and when the bonds are delivered.

In the opinion of bond counsel, assuming continued compliance by the district with the terms of the bond resolution, under existing law, the interest on the bonds (a) is excludable from gross income for federal income tax purposes and (b) is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that with respect to corporations (as defined for federal income tax purposes), such interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years ending after December 31, 1989) for the purpose of computing the alternative minimum tax imposed on such corporations. The opinion set forth in clause (a) above is subject to the condition that the district comply with all requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied subsequent to the issuance of the bonds in order that interest thereon be excluded from gross income for federal income tax purposes. Failure to comply with certain of such requirements could cause the interest

on the bonds to be so included in federal gross income retroactive to the date of issuance of the bonds. The district has covenanted to comply with all such requirements.

The bonds are exempt from intangible personal property taxes levied by Kansas cities, counties or townships.

Qualified Tax-Exempt Obligations

The bonds are "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the code, and, in the case of certain financial institutions (within the meaning of Section 265(b)(5) of the code), a deduction is allowed for 80 percent of that portion of such financial institution's interest expense allocable to interest on the bonds.

Related Federal Tax Matters

Prospective purchasers of the bonds should be aware that (i) Section 265 of the code denies a deduction for interest on indebtedness incurred or continued to purchase or carry the bonds, except with respect to certain financial institutions (within the meaning of Section 265(b)(5) of the code); (ii) with respect to insurance companies subject to the tax imposed by Section 831 of the code, for taxable years beginning after December 31, 1986, Section 832(b)(5)(B)(i) reduces the deduction for loss reserves by 15 percent of the sum of certain items, including interest on the bonds; (iii) for taxable years beginning after December 31, 1986 and before January 1, 1992, interest on the bonds earned by some corporations could be subject to the environmental tax imposed by Section 59A of the code; (iv) for taxable years beginning after December 31, 1986, interest on the bonds earned by certain foreign corporations doing business in the United States could be subject to a branch profits tax imposed by Section 884 of the code; (v) passive investment income, including interest on the bonds, may be subject to federal income taxation under Section 1375 of the code for Subchapter S corporations that have Subchapter C earnings and profits at the close of the taxable year if greater than 25 percent of the gross receipts of such Subchapter S corporation is passive investment income; and (vi) Section 86 of the code requires recipients of certain Social Security and certain railroad retirement benefits to take into account in determining gross income, receipts or accruals of interest on the bonds. These categories of bondowners should consult their own tax advisers as to the applicability of these consequences.

Financial Information

Assessed valuation figures for Unified School District 305 for the year 1987 are as follows:

Equalized assessed valuation of taxable, tangible property	\$128,676,373
Tangible valuation of motor vehicles	28,695,849
Equalized assessed tangible valuation for computation of bonded debt	\$157,372,222

The total general obligation bonded indebtedness of Unified School District 305, including this issue of bonds, is \$6,575,000. The district presently has \$4,975,000 in temporary notes outstanding which will be retired from the proceeds of this issue.

Further Information

Further information may be obtained from the clerk,

(continued)

or Ranson & Company, Inc., financial adviser to the district, at Suite 610, 120 S. Market, Wichita, KS 67202, Attn: Susan M. Henry or Jeffrey K. Ray, (316) 262-2651.

Dated February 3, 1988.

Elizabeth A. DeVore, Clerk
City-County Building
Salina, KS 67401
(913) 825-0281

Doc. No. 006191

State of Kansas

ATTORNEY GENERAL

Opinion No. 88-8

Labor and Industries—Kansas Acts Against Discrimination—Waiver of Jurisdiction Over Certain Claims; Equal Protection. Roger W. Lovett, Chief Legal Counsel, Commission on Civil Rights, January 27, 1988.

Assuming the Kansas Commission on Civil Rights (KCCR) otherwise has the authority to waive jurisdiction over employment and housing discrimination complaints filed by its employees, it is our opinion that the KCCR would not be precluded by the Equal Protection Clause from doing so. Cited herein: K.S.A. 44-1001 *et seq.*; 44-1111 *et seq.*; 42 U.S.C.S. §§ 2000e-5, 3610; 24 C.F.R. §§ 105.18, 105.20 (1977); U.S. Const., Amend. XIV. JLM

Opinion No. 88-9

Cities of the First Class—Mayor-Council-City Manager Form of Government—Position of Council Member Not Incompatible with that of Chief Attorney of S.R.S. Robert J. Watson, Overland Park City Attorney, Overland Park, January 28, 1988.

Neither Kansas statutes nor the common law doctrine of incompatibility of offices precludes one person from holding the position of council member (in a city of the first class having the mayor-council-city manager form of government) simultaneously with that of chief attorney of the Kansas Department of Social and Rehabilitation Services. Cited herein: K.S.A. 1987 Supp. 8-1008. TRH

Opinion No. 88-10

State Boards, Commissions and Authorities—Crime Victims Reparations Board—Reparations and Funding Limitations. Don Stumbaugh, Director, Crime Victims Reparations Board, Topeka, January 28, 1988.

The Crime Victims Reparations Board does not have authority to pay reparations to claimants if it does not have funds. However, even if the board has no money, the board still has the duty to process claims and make awards. For reasons stated in this opinion, the board does not have authority to prorate claims. Cited herein: K.S.A. 1987 Supp. 74-7301; K.S.A. 74-7302; 74-7305; 74-7313; Kan. Const., Art. 2, § 24. RLN

Opinion No. 88-11

Counties and County Officers—County Commissioners—Powers of Board of Commissioners. Steven L. Boyce, Coffey County Attorney, Burlington, February 2, 1988.

Kansas recognizes employment at will principles which allow either party to terminate employment, absent a contract that otherwise provides. However, the doctrine of employment at will is not absolute. For instance, Kansas law restricts employment termination in cases involving discrimination, civil service, veterans, or retaliation. Public employees may have additional protections pursuant to employee manuals, established policies or adoption of the Kansas public employer-employee relations act. Absent the applicability of the aforementioned exceptions, or denial of a constitutionally protected right, the Coffey County board of commissioners, in the interest of protecting county property, has the authority to terminate employment of an at will employee who has been convicted of felony theft. Cited herein: Preamble; K.S.A. 19-101 *Fourth and Fifth*; 19-212; 19-801 *et seq.*; 44-1001 *et seq.*; 68-504; 73-201 *et seq.*; 75-2925 *et seq.*; 75-4929f(b); U.S. Const., Amend. XIV § 1; U.S. Const. TMN

Opinion No. 88-12

Constitution of the State of Kansas—Bill of Rights—Religious Liberty; Prohibition Against Limiting Students' Free Exercise of Religion. Representative Fred W. Rosenau, 39th District, Kansas City, February 2, 1988.

Section 7 of the Kansas Bill of Rights and the First Amendment to the United States Constitution guarantee free exercise of religion. Students do not shed these rights when they enter school grounds. Absent a compelling state interest, a student may not be prohibited from reading a Bible or other religious text during free reading periods or unstructured recesses. Cited herein: Kan. Const. Bill of Rights, § 7; U.S. Const., Amend. I. MWS

Opinion No. 88-13

Consumer Credit Code—Insurance; Consumer Credit Insurance—Amount of Insurance. Judith K. Stringer, Consumer Credit Commissioner, Topeka, February 2, 1988.

If consumer credit insurance is provided in connection with an open end credit account (including revolving charge accounts offered by retailers and lines of credit under bank cards and the like), the amounts payable as insurance benefits may be reasonably commensurate with the amount of debt as it exists from time to time. The credit limit is not a consideration in such instances. If consumer credit insurance is provided in connection with a commitment to grant credit in the future (a credit commitment), the amounts payable as insurance benefits may be considered in light of the amount of the commitment as well as the outstanding (or initial in the case of debts or commitments for a primarily agricultural purpose) debt. Cited herein: K.S.A. 16a-1-301; 16a-4-107; 16a-4-202; 16a-4-203. JLM

ROBERT T. STEPHAN
Secretary of State

Doc. No. 006201

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

COURT OF APPEALS DOCKET

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

Kansas Court of Appeals
 Courtroom 11-1, 11th Floor, Sedgwick County Courthouse
 525 N. Main, Wichita, Kansas

Before Abbott, C.J.; Rees and Rulon, JJ.

Tuesday, February 16, 1988

10:30 a.m.

Case No.	Case Name	Attorneys	County
(60,520) (60,521)	In the Interest of A.S., M.S., and A.L.S., minor children under 18 years of age.	Randy Barker Sheila Maksimowicz, Gdn. A/L William R. Griffith Jon Womack	Sedgwick
60,659	Jackie Wright, Administratrix of the Estate of Bob J. Edwards, Deceased, Appellee, v. Ruth E. Edwards, aka Ruth E. Entriken, Appellant.	Timothy J. King Bruce A. Swenson	Sedgwick
59,834	Jolene M. Heine, Appellee, v. Koch Fiberglass, and AETNA Casualty & Surety, Appellants.	Steven C. Day Bradley Prochaska John L. Carmichael	Sedgwick
1:30 p.m.			
60,215	L. Gene Smith, Appellee, v. Shane Messenger, Appellant.	Daniel Swagerty Robert A. Levy	Finney
60,428	Dallas D. Lloyd, Appellant, v. National Beef Packing Company, Appellee.	Robert A. Levy Gene Sharp	Seward
60,570	Janet Harrison/Holland, Appellee, v. Board of Education, U.S.D. No. 262, Sedgwick County, Kansas, Appellant.	David M. Schauner Dennis E. Shay	Sedgwick
60,336	Douglas E. Berry, v. Wayne D. Clement and Budget Rent-A- Car of Kansas, Inc., v. Andrew S. Gromena, Appellant, v. Ditch Witch of Southeast Texas, Inc., Wayne D. Clement and Budget Rent-A- Car of Kansas, Inc., Appellees.	Randall K. Rathbun Craig Shultz Jay Fowler	Sedgwick
60,680	Betty J. Stewart, Appellant, v. Wesley Medical Center, Commercial Union Insurance Co., and Workers' Compensation Fund, Appellees.	James B. Zongker Frederick L. Haag Rex G. Beasley Marvin R. Appling	Sedgwick

(continued)

60,769	William L. Duttarer, Appellant, v. Del's TV and Appliance, and U.S.F.&G., Appellees.	Jim Lawing Don D. Gribble II	Sedgwick
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Wednesday, February 17, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
60,451	Donald Patterson, Appellant, v. State of Kansas, Appellee.	Kim D. Steele Geary N. Gorup, Assistant D.A. Attorney General	Sedgwick
60,697	State of Kansas, Appellant, v. Donald A. Swart, Appellee.	Geary N. Gorup, Assistant D.A. Attorney General Benjamin C. Wood	Sedgwick
59,452	State of Kansas, Appellee, v. Todd Francis Cowner, Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Clarence D. Holeman Benjamin C. Wood	Sedgwick
60,160	State of Kansas, Appellee, v. William H. Graham, Appellant,	Geary N. Gorup, Assistant D.A. Attorney General Clarence E. Holeman Jack Focht	Sedgwick
60,118	State of Kansas, Appellee, v. Pamela F. Buckley, Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Benjamin C. Wood	Sedgwick

Kansas Court of Appeals
Courtroom, Green Hall, University of Kansas
Lawrence, Kansas
Before Six, P.J.; Briscoe and Brazil, JJ.

Tuesday, February 16, 1988

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,414	William D. Thomson, Appellant, v. State of Kansas, Appellee.	Benjamin C. Wood Steven R. Zinn Ty Kaufman Attorney General	McPherson
60,761	The Wellsville Bank, Appellee, v. Steve Sutterby and Ann Sutterby, Appellants.	John Richeson Elizabeth A. Carson Leo L. Logan	Douglas
60,602	Joyce Vogeler, Appellant, v. Garry D. Owen, M.D., Appellee.	Mark A. Johnson Eugene B. Ralston Kevin L. Diehl	Douglas

60,781	Kansas Gas and Electric Company, a corporation, Appellee,	Ralph Foster J. Michael Peters John P. DeCoursey F. Philip Kirwan	Sedgwick
	v.		
	The Kansas Power & Light Co., a corporation, Appellant, Central Corporation, a corporation, Utilicorp United, Inc., a corporation.	John K. Rosenberg Jeffrey S. Southard Richard C. Byrd James G. Flaherty Kevin Gallagher William H. Sanders, Sr. Floyd R. Finch, Jr. David R. Erickson Randall B. Palmer Kent E. Whittaker	

Kansas Court of Appeals
Court of Appeals Courtroom, 2nd Floor, Judicial Center
301 W. 10th, Topeka, Kansas
Before Six, P.J.; Briscoe and Brazil, JJ.

Wednesday, February 17, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
60,720	State of Kansas, Appellee,	Gene Olander, District Attorney Attorney General C. William Ossmann, Assistant D.A.	Shawnee
	v.		
	Gaylen Stumbaugh, Appellant.	Benjamin C. Wood	
60,734	State of Kansas, Appellee,	Eric Rosen, Assistant D.A. Attorney General	Shawnee
	v.		
	Carl W. Kersten, Appellant.	William K. Rork	
60,850	State of Kansas, Appellee,	Kenneth Smith, Assistant D.A. Attorney General	Shawnee
	v.		
	Darrell W. Brown, Appellant.	John C. Humpage	

1:30 p.m.

60,924 S.C.	Michael D. Moffenbier, Appellant,	Glenn I. Kerbs	Geary
	v.		
	Pepsi-Cola of Salina and Great American Insurance Company, Appellees.	Terry J. Malone	
60,746	In the interest of D.A.C., D.W.C., J.E.C., and J.M.C.	Amy McGowan and Nancy Parrish, Gdn. A.L. Frank J. Yeoman, Jr.	Shawnee
60,818	In the Matter of the Appeal of Newton Country Club Co., from an order of the Director of taxation dated April 23, 1985, from assessments of additional sales and liquor excise taxes.	Robert D. Myers David C. Cumingham Thomas E. Hatten	Original

(continued)

Kansas Court of Appeals
Courtroom, Green Hall, University of Kansas
Lawrence, Kansas

Before Larson, P.J.; Davis and Elliott, JJ.

Tuesday, February 16, 1988

9:00 a.m.

Case No.	Case Name	Attorneys	County
60,940	In the matter of the Estate of Odd Williams, aka Edgar B. Williams, and aka Edgar Burton Williams, Deceased.	George L. Catt Charles D. Stough Jonell Ashcraft Williams	Douglas
	v.		
60,559	Kenneth L. Wertzberger, Appellee, v. Gerald M. Oleszek, Appellant.	Thomas V. Murray John W. Nitcher	Douglas
60,907	State of Kansas, Appellee, v. Kenneth Gentry, Appellant.	Wendell J. Barker, County Attorney Attorney General William K. Rork	Franklin
(60,184) (60,452)	The City of Hesston, <i>et al.</i> , Appellees, v. A. Scott Anderson, <i>et al.</i> , Appellants.	Thomas E. Ruzicka Ronald G. Hinkle Thomas D. Billam Paul Hasty, Jr.	Harvey

Kansas Court of Appeals
Courtroom 9-2, 9th Floor, Sedgwick County Courthouse
525 Main, Wichita, Kansas

Before Elliott, P.J.; Davis and Larson, JJ.

Wednesday, February 17, 1988

9:00 p.m.

Case No.	Case Name	Attorneys	County
60,738	State of Kansas, Appellee, v. Hugh "Bo" Miller, Jr., Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Kiehl Rathbun	Sedgwick
60,109	State of Kansas, Appellee, v. Jack G. Clark, Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Clarence D. Holeman Keith E. Martin	Sedgwick
60,442	Harlin H. Powell, Executor of the Estate of Ansel W. Wright, deceased; Allen Lloyd Wright, Ruth Elma Stout, Kathryn Roseann Porter, and Martha Grace Barber, Appellants, v. Joseph Edward Prosser, Sr., Appellee.	J. Michael Morris Jeff Kennedy Charles E. Cotton	Sedgwick

60,429	Don Edwards and Donna M. Edwards, Appellees, v. William C. Pinkston, dba Pinkston House Moving, Appellant, v. William L. McNeil.	Stephen B. Plummer Richard H. Rumsey Clifford L. Bertholf	Sedgwick
61,110 S.C.	In the Matter of Linda L. Rudder, Deceased, Larry E. Young, David L. Rudder, on behalf of Clifford Robert Rudder, David Edward Rudder, and Joshua Thomas Rudder, as their natural guardian, Appellants, v. Peoples Natural Gas Co., and American International Adjustment Company, Appellees.	Dennis J. Molamphy Theodore C. Geisert Curtis Watkins Jeffrey King Michael T. Harris	Kingman 022,000
1:00 p.m.			
60,822	State of Kansas, Appellee, v. Jonas L. Van Royen, Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Martha Coffman Benjamin C. Wood	Sedgwick 021,000
60,508	Floyd Currier, Appellee, v. City Council of Maize, Kansas, <i>et al.</i> , Appellants.	Clay Cox Charles E. Millsap Calvin D. Rider Dennis E. Shay	Sedgwick 021,000
61,096	State of Kansas, Appellee, v. Jim Lawing, Appellant.	Geary N. Gorup, Assistant D.A. Attorney General Jim Lawing	Sedgwick
60,335 S.C.	In the Matter of the Marriage of Walter Neas and Elaine Neas.	Daryl D. Ahlquist	Labette
60,170	The City of Wichita, Appellee, v. Robert C. Hughes, Appellant.	Kevin F. Mitchelson Ed Randles, Assistant County Attorney Elizabeth Harlenske James S. Phillips, Jr.	Sedgwick 021,000

LEWIS C. CARTER
Clerk of the Appellate Courts

Doc. No. 006184.

State of Kansas

**KANSAS PUBLIC DISCLOSURE
COMMISSION**

Advisory Opinion No. 88-1

Written January 21, 1988 to Orville J. Cole, Attorney, Cole & Doering, Garnett.

This opinion is in response to your letter of December 30, 1987, in which you request an opinion from the Kansas Public Disclosure Commission concerning K.S.A. 75-4301 *et seq.*

We understand you request this opinion in your capacity as the attorney for a unified school district. You advise us that the district negotiates with a private contractor each year for bus transportation services. Two of the board members' spouses are employed by the contractor.

You ask whether the board members whose spouses are employed by the contractor should abstain and remove themselves from the meeting room when this contract is negotiated.

Pursuant to K.S.A. 75-4301, the board members hold a substantial interest in the private contractor due to their spouses' employment with the contractor. (We assume that the spouses receive more than \$1,000 in compensation in a calendar year.) Thus, under K.S.A. 75-4304, the board member must abstain from any action in regard to the contract and it is advisable for them to leave the room when the issue is discussed. Please note, however, that if the contract is let after competitive bidding pursuant to K.S.A. 75-4301(a)(1), these prohibitions do not apply.

Advisory Opinion No. 88-2

Written January 21, 1988 to Thomas C. Owens, Law Department, Overland Park.

This opinion is in response to your letter of December 23, 1987, in which you request an opinion from the Kansas Public Disclosure Commission.

We note at the outset that the commission's jurisdiction on your question is limited to the applicability of K.S.A. 46-215 *et seq.* and K.S.A. 75-4301 *et seq.* You advise us that you have also requested an opinion from the Attorney General on this matter which we believe is appropriate on issues outside our jurisdiction.

You state that you are a duly elected member of the City Council of Overland Park, a city of the first class that has the Mayor-Council-City Manager form of government, and have recently accepted the position of general counsel for the Kansas Department of Social and Rehabilitation Services. As general counsel, you will directly supervise approximately 23 attorneys across the state and have responsibility for giving legal advice to all commissions that fall under the Department of SRS. As a city council member, among other things, you review and vote on the city budget, city ordinances, city zoning actions, and city expenditures. To the best of your knowledge, the only involvement the city has with the Department of Social and Rehabilitation Services is its certification of your Alcohol Driving Safety Action Program and your collection of a fee therefor which does not require any council action. You ask whether you may hold these two offices at the same time.

We have reviewed K.S.A. 75-4301 *et seq.* and K.S.A. 46-215 *et seq.* in their entirety and find no prohibitions therein from holding both positions at the same time. We would note, however, that if in the future, contractual or other relationships between the two entities do arise, you may be in a conflict of interest situation depending on the factual circumstances and should request an additional opinion before taking any official action thereon.

Advisory Opinion No. 88-3

Written January 21, 1988 to Ronald K. Nitcher, Controller and Auditor, Kansas Insurance Department, Topeka.

This opinion is in response to your letter of December 18, 1987, in which you request an opinion from the Kansas Public Disclosure Commission.

We note at the outset that the commission's jurisdiction is limited to the application of K.S.A. 46-215 *et seq.* Thus, whether some other common law, statutory system or rule or regulation applies to your question is not covered by this opinion.

We understand you request this opinion in your capacity as controller and auditor for the Kansas Insurance Department.

You advise us that recently Commissioner Bell was notified that the Society of Financial Examiners Educational Foundation was planning to donate a videotape playback system to the Kansas Insurance Department for use in presenting educational and training material to your employees. The videotape playback system, which is valued at approximately \$675, consists of one color TV monitor, one VHS/VCR and one equipment cart. This equipment was delivered to your department on December 16, 1987.

The Society of Financial Examiners is a professional organization of examiners and regulatory personnel who supervise the safety and soundness of financial institutions including banks, insurance companies, credit unions and savings and loan associations. The society sponsors two nationally recognized designations, Accredited Financial Examiner (AFE) and Certified Financial Examiner (CFE). All insurance company examiners employed by your department are required to attain one of these two designations.

The Society of Financial Examiners Educational Foundation is comprised of select members of the Society of Financial Examiners. Its primary purpose is to encourage training and provide continuing education to financial examiners and other individuals involved in regulating certain financial institutions.

The Kansas Insurance Department does not inspect, license or regulate either of these two organizations, nor is it under contract with either of the organizations to purchase educational and training materials. You have been advised by the Educational Foundation that it will offer training tapes to you in the future. Some of the tapes will be available at no cost. Others may be purchased; however, you are under no obligation to do so.

Should the commission conclude that it is proper for the department to accept this gift, you will add this equipment to your inventory records.

Based on this factual situation, you ask whether the Insurance Department may accept this gift.

K.S.A. 46-237(c) states, "No person licensed, inspected or regulated by a state agency shall offer, pay, give or

make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$100 or more in any calendar year to that agency."

As we understand the factual situation, since the entities are not licensed, regulated or inspected by the state agency, the acceptance of the gift by the agency is permissible.

LOWELL ABELDT
Chairman

Doc. No. 006183

State of Kansas

SECRETARY OF STATE

EXECUTIVE APPOINTMENTS

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

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

The following appointments were filed January 5 through February 5:

District Magistrate Judge, 17th Judicial District

Mildred Megaffin, Route 1, Box 157, Osborne 67473. Effective January 27, 1988. Term expires when a successor is elected and qualifies according to law. Succeeds Shirley Henderson, resigned.

Office of the Governor

David M. Mills, Route 5, Arkansas City 67005. Legislative Liaison for the Governor. Effective January 13, 1988. Serves at the pleasure of the Governor.

State Grain Advisory Commission

I. D. "Mike" Hammond, Box 97, Long Island 67647. Effective January 14, 1988. Term expires December 31, 1990. Succeeds Don Epps.

Morris Krug, Route 1, Box 18, Russell 67665. Effective January 14, 1988. Term expires December 31, 1990. Succeeds Grover Rothe.

Duane Rouser, Bison 67520. Effective January 14, 1988. Term expires June 30, 1989. Succeeds Stan Simpson.

Kansas Public Disclosure Commission

Ralph Bussman, Route 1, Mound Valley 67354. Effective January 29, 1989. Reappointment. Appointed by the Senate Minority Leader.

BILL GRAVES
Secretary of State

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

NOTICE CONCERNING KANSAS WATER POLLUTION CONTROL PERMIT

In accordance with state regulations 28-16-57 through 63 and 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for water pollution abatement facilities for the feedlots described below.

The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards and regulations, of the state of Kansas and the EPA. The permit requires control of any existing or potential discharges to achieve the goal of "no discharge" whenever possible. The permit upon issuance will constitute a state water pollution control and national pollutant discharge elimination system permit.

Name and Address of Applicant	Legal Description	Receiving Water
O. K. Corral	N $\frac{1}{2}$ Section 35, Town-	Little Arkansas
Lowell Sawyer	ship 19S, Range 4W,	River Basin
Route 2, P.O. Box 58	McPherson County,	
McPherson, KS 67460	Kansas	
Kansas Permit No. A-LAMP-C001	Federal Permit No. KS-0080438	

The feedlot has capacity for approximately 3,000 cattle and a contributing drainage area of approximately 29 acres.

Runoff Control Facilities: Feedlot runoff is impounded for subsequent disposal upon agricultural land. Storage capabilities are provided in excess of 12.1 acre-feet.

Compliance Schedule: None, existing adequate.

Written comments on the proposed NPDES permit may be submitted to Bethel Spotts, Clerk, Permit Program, Kansas Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to March 11 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate number (KS-AG-88-3) and name of applicant as listed when preparing comments.

If no objections are received, the Secretary of Health and Environment will issue the final determination within 60 days of this notice. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61.

The application, proposed permit, special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Kansas Department of Health and Environment offices, Building 740, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday.

The documents are available upon request at the copying cost assessed by the department. Additional copies of this public notice may also be obtained at the Division of Environment.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006199

State of Kansas

DEPARTMENT OF HEALTH
AND ENVIRONMENTNOTICE OF INTENT TO DENY HAZARDOUS
WASTE DELISTING PETITIONS

The Kansas Department of Health and Environment intends to deny approval of two hazardous waste delisting petitions currently held by Farmland Industries, Inc.

On April 22, 1982, Farmland Industries filed delisting petitions to exclude from regulation listed hazardous wastes generated at its Coffeyville and Phillipsburg facilities. The petitioned wastes consisted of API separator sludges which may contain hazardous concentrations of chromium and lead. These wastes are identified by the EPA Waste Code K051.

The petitions were filed according to the procedures outlined in the 40 Code of Federal Regulations, Sections 260.20 and 260.22, as adopted by K.A.R. 28-31-3. Analytical data to support the petitions were also submitted. KDHE reviewed the petitions and the data and found that the wastes did not exhibit any of the hazardous waste characteristics for which they were listed. These were EP toxicity for lead and chromium.

Approval of the Coffeyville petition was granted on February 15, 1982, and approval of the Phillipsburg petition was granted on September 17, 1982. The approvals allowed Farmland to manage the wastes as non-hazardous waste, but required annual testing for chromium and lead to ensure that the waste remained non-hazardous. Farmland elected to manage the wastes in an on-site surface impoundment at the Coffeyville facility and in an on-site land farm at the Phillipsburg facility.

On November 8, 1984, the Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act became law. Section 3001(f) of HSWA modified the requirements for filing delisting petitions. The modifications included more stringent standards, consideration of factors in addition to those for which the waste was originally listed, and required public notice and comment before making delisting decisions final.

On March 14, 1985, KDHE notified Farmland of the modified delisting requirements and requested additional process information and waste testing. The additional testing required analyses for 12 heavy metals, including chromium and lead, and testing for 55 organic compounds. Four separate samples of the waste were tested from both facilities. The additional process information and analytical results were submitted to KDHE on October 14, 1986.

The procedures used to evaluate the test results were those developed by the U.S. Environmental Protection Agency for the federal delisting program in the February 26, 1985, November 27, 1985, and October 13, 1986, *Federal Registers*. The EPA procedure utilizes a ground-water model to predict a reasonable worst case contaminant concentration in a water well directly down gradient from the waste disposal site. The predicted concentrations are compared to established drinking water standards and cancer risk standards. If any of the predicted concentrations exceed the established standards, the delisting petition is denied and the waste must be managed as hazardous waste.

If the standards are not exceeded, monitoring wells must be installed at the disposal site and actual ground-water data collected for at least one year before the petition may be approved.

Application of the EPA models to the Farmland Industries' test results predicted that the established standards would be exceeded for cadmium, chromium, lead and benzene at both the Coffeyville and Phillipsburg facilities. Therefore, KDHE has made the tentative decision to deny both of Farmland's previously granted petitions and require that the wastes be managed as hazardous waste.

The administrative record on this action is available for public review and comment through March 11 from 8 a.m. to 4:30 p.m. Monday through Friday at the KDHE central office, Building 730, Forbes Field, Topeka; at the KDHE district offices, 2301 E. 13th, Hays; at 1500 W. 7th Henshall, Chanute; and at the U.S. EPA Region VII office, 726 Minnesota Ave., Kansas City, Kansas.

Comments or requests for additional information should be directed to John Paul Goetz, Chief, Hazardous Waste Section, Bureau of Waste Management, at the KDHE central office in Topeka, (913) 296-1607. Comments must be submitted by March 11.

If comments or requests are received which indicate public interest in this action, a public hearing may be held.

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006195

State of Kansas

OFFICE OF THE SECURITIES
COMMISSIONERTEMPORARY ADMINISTRATIVE
REGULATIONSArticle 7.—POLICY RELATING TO
REGISTRATION

81-7-1. Statements of policy relating to registration of securities. Applications for registration shall meet the following requirements unless good cause is shown for an exception:

(a) Financial statements.

(1) Historical financial statements as required in a registration application, prospectus, or as required under K.A.R. 81-7-1(e)(3)(C) and (j)(2) shall be in conformity with generally accepted accounting principles applied on a consistent basis. These statements shall have been examined and reported on by an independent certified public accountant in accordance with generally accepted auditing standards.

(2) Prospective financial statements may be used in connection with a registered offering only if all of the following conditions exist:

(A) The prospective financial statements shall be financial forecasts in conformity with guidelines established by the American institute of certified public accountants and shall be the subject of a report pre-

pared by an independent certified public accountant in accordance with standards for an examination of a forecast established by the American institute of certified public accountants; and

(B) Each forecast shall be included within or accompanied by a complete prospectus.

(3) Pro forma financial presentations based on historical financial statements, adjusted to demonstrate the effects of proposed transactions, shall not be considered prospective financial statements subject to the conditions of K.A.R. 81-7-1(a)(2).

(b) Commissions and expenses.

(1) Commissions and expenses to be paid in connection with the sale of securities proposed to be registered shall not exceed 15% of the aggregate offering price.

(2) Such expenses may include the following:

(A) Salaries;

(B) advertising and printing;

(C) attorneys fees and legal expenses in connection with registration;

(D) fees of accountants, engineers, appraisers and other technical experts;

(E) costs of authorizing, preparing and printing the securities and documents relating thereto, including revenue stamps and taxes; and

(F) all other expenses incurred directly or indirectly in connection with the sale and promotion of the offering except as hereinafter provided.

(3) Commissions in this regulation shall include the difference between the consideration paid for the shares and the proposed net offering price when securities have been acquired by an underwriter in connection with the sale of securities. Commissions shall also include any other thing of value accruing to such dealer or underwriter. Options, warrants and other acquisition or conversion rights permitted under K.A.R. 81-7-1(d) shall not be commissions under this regulation.

(4) The limitations provided in K.A.R. 81-7-1(b)(1) may be waived by the commissioner for good cause shown in applications for registration of securities in which the maximum aggregate offering price is not greater than \$3,000,000.

(c) Cheap stock.

(1) Definition. Cheap stock means shares of a corporation issued, or shares to be issued, to underwriters, officers, directors, or control persons for less than the public offering price or for consideration other than cash. Cheap stock shall not include any shares issued more than two years before the date of filing an application for registration. Also, cheap stock shall not include shares issued or to be issued for consideration other than cash if it can be conclusively established that the value of the consideration is greater than or equal to the public offering price.

(2) Escrow requirements. Cheap stock shall be placed in escrow unless exempt under K.A.R. 81-7-1(c)(4).

(A) The escrow agent shall be any bank or trust company or other depository approved by the commissioner.

(B) in the event of dissolution or liquidation, escrowed shares shall not be entitled to participate in the distribution of corporate assets until holders of shares not escrowed have been paid an amount equal to the purchase price per share in the public offering.

(C) holders of escrowed shares shall not sell or contract to sell escrowed shares during the term of escrow. However, such shares may be transferred by will or pursuant to the laws of descent and distribution, or upon death of the holder may be pledged as security to pay expenses of the estate. In all cases, such shares shall remain in escrow and be subject to the terms of the escrow.

(D) Each application for approval of the escrow arrangement shall be made to the commissioner. The application shall contain the following:

(i) A list of all owners of the cheap stock and the respective amount held;

(ii) a copy of the resolution of the board of directors or the letter of authorization appointing the escrow agent, and the written consent of the agent to act as such;

(iii) a waiver of rights as required by K.A.R. 81-7-1(c)(2)(B) of this regulation;

(iv) copies of the escrow agreements, instruments, and instructions; and

(v) any other information required by the commissioner.

(3) The escrow shall remain in effect until an application for release of escrowed shares is filed with and approved in writing by the commissioner, and any one of the following conditions are met:

(A) Two years have elapsed since the termination of the registered offering;

(B) if the shares registered have been quoted at a bid price of at least 125% of the original offering price for 45 consecutive trading days at any time after one year since the termination of the registered offering;

(C) the issuer has earned net income, exclusive of extra-ordinary items and gains on disposal of property and equipment or discontinued operations, of at least 6% of total capital contribution by all shareholders as reported in financial statements for one fiscal year ending after the termination of the registered offering; or

(D) a tender offer has been made by an unaffiliated person to all shareholders on an equal basis.

(4) Exemption from escrow requirements. The escrow requirements imposed by this regulation shall be waived if:

(A) The cheap stock will dilute the value of securities to be registered by 50% or less based on the registered offering price;

(B) the cheap stock is held by a Kansas venture capital company certified by the secretary of the department of commerce pursuant to K.S.A. 74-8301 and amendments thereto; or

(C) the cheap stock is held by an institutional or professional investor who has provided venture capital funds to the issuer, provided good cause has been demonstrated and the escrow requirement has been waived by the commissioner.

(continued)

(d) Options and warrants. Options, warrants and other acquisition or conversion rights granted to or reserved for underwriters, officers, directors, and control persons shall meet the following requirements:

(1) The total number of underlying shares subject to such options shall not exceed 25% of the shares that would be outstanding if all shares being offered are sold;

(2) such rights shall not be exercisable during the effective period of the public offering nor for a period of one year from date issued. The exercise price thereafter shall not be less than 120% of the public offering price.

(3) Options or warrants issued to all shareholders pro rata, or in connection with qualified stock options to employees which meet the requirements of the U.S. internal revenue code, or other employees' options pursuant to a stock purchase or profit sharing plan shall not be subject to the restrictions provided in this regulation, if they are justified and reasonable.

(e) Impoundment of proceeds.

(1) As a condition to registration, all proceeds from sales of securities shall be impounded in escrow until a sufficient amount has been impounded to accomplish the purposes of the offering when:

(A) the registration is sought by a new company, financing an initial or proposed enterprise;

(B) the registration is sought by a company in poor financial condition, intending to raise additional working capital to continue its operations; or

(C) the commissioner determines that impoundment is in the public interest.

(2) Any funds impounded shall be deposited in a separate trust account with a depository approved by the commissioner.

(3) Each application to the commissioner naming such depository shall contain the following:

(A) A copy of the resolution of the board of directors designating the depository;

(B) written consent of depository to act as such; and

(C) copies of any escrow agreements, instruments and instructions.

(4) The following provisions shall govern the impoundment of funds:

(A) If the applicant fails to obtain the minimum proposed offering amount, all proceeds shall be returned to investors;

(B) the applicant shall satisfy the commissioner that it has arranged a sales organization or program with a reasonable expectation that the amount raised will be sufficient to accomplish the purposes of the offering;

(C) no certificates evidencing securities sold, other than subscription agreements, shall be issued until after release of funds from impoundment;

(D) all checks, drafts and money orders shall be made payable to the depository, and all moneys received from the sale of securities shall be promptly deposited in trust. If an instrument is inadvertently made payable to another payee, the payee shall not cash or deposit it in its own account, but shall endorse and deliver it to the depository. The depository shall collect the face amount and disburse to the registrant the amount to which the registrant is entitled;

(E) if a broker-dealer is acting as underwriter or selling agent for the issuer, payments may be made directly to the dealer, who shall promptly, after collection, transmit to the depository the net proceeds required to be impounded;

(F) Each application shall state that upon request of the commissioner the issuer will file reports containing a list of names and addresses of subscribers, the number of shares or units subscribed for, amounts paid, and the accumulative total of funds derived from the offering subject to impoundment;

(G) the escrow agreements shall contain an acknowledgment that no funds are to be released from impoundment without written consent of the commissioner; and

(H) if any payments are to be made to the investor in the event of failure to obtain the minimum prescribed proceeds from the offering, the payments shall be made directly to the investor by the escrow holder, and not through the issuer.

(5) If the terms of the escrow conditions have not been met, the applicant shall advise the commissioner upon expiration of the time limit provided and request an order directing the depository to return the funds to the subscribers.

(6) A request for a modification of the escrow arrangements or for partial release of the funds shall be granted only upon good cause shown, and by application containing the following information:

(A) A certified statement from the depository setting forth the total amount of subscriptions and the character of each deposit; and

(B) a written waiver and consent executed by each purchaser or subscriber whose funds are sought to be released, or a written acknowledgment signed by such persons that an offer for return of investment has been made and rejected. The offer, or solicitation for waiver and consent shall state:

(i) That the company has failed to meet the impoundment conditions required to provide the necessary financing proposed;

(ii) the asserted reason for requesting a partial release of funds or modification of the escrow arrangements; and

(iii) a statement that the subscriber realizes that by acknowledgment the subscriber waives all rights by contract or otherwise, which accrue to him by virtue of the impoundment conditions.

(7) Each application for release of funds impounded shall be in writing and shall contain the following:

(A) A statement that all required subscriptions for the sale of securities have been taken and the proceeds therefrom impounded in accordance with the terms and conditions of the escrow arrangements;

(B) a certified statement from the depository verifying the amount of funds held in escrow and the character of each deposit;

(C) a statement that there has been no change in the circumstances requiring the impoundment, or the adequacy of the amount required to accomplish the objectives of the issuer; and

(D) any additional information as the commissioner requires.

(f) Promoters equity investment. When an issuer is in a promotional, exploratory or development state, the ratio of equity investment by promoters or insiders shall be determined as reasonable and equitable in light of the facts and circumstances presented in each particular case, but shall be considered objectionable when the fair value of the investment is less than 5% of the aggregate offering price of the securities to be registered, unless deemed otherwise by the commissioner.

The fair value of equity investment means the total of all sums conveyed to the issuer in the form of contributed cash or other contributions with an established or determinable value.

(g) Real estate investment trusts. Each application to register securities issued or to be issued by a real estate investment trust shall comply with the NASAA Statement of Policy, Real Estate Investment Trusts, adopted October 2, 1985, effective January 1, 1986, which is hereby adopted by reference.

(h) "Package" or combination offering. Securities registered for distribution in this state shall not be sold or offered for sale in conjunction with other securities of any issuer unless each type or class of security is clearly and separately identified and an offering price specified as to each unit.

(i) Voting rights. Securities of an issuer having more than one class of common stock shall provide equal voting rights upon all matters, including the election of members to the board of directors.

(j) Offering price. If an issuer which has been actually engaged in business or operation, the amount for which a security is being offered to the public should bear some reasonable relationship to:

(1) Market value, if any; or

(2) the price-earnings ratio, as reflected by its financial statements covering an average of the preceding three-year period, or such a shorter duration of experience or operation as may be applied.

(3) In the absence of an established or determinable market value or price-earnings ratio, the book value of the issuer may be taken into consideration in justifying or substantiating the reasonableness of the offering price.

(k) Periodic payment plans. All periodic payment plans shall be registered with the SEC prior to being registered with the securities commissioner. (Authorized by K.S.A. 1986 Supp. 17-1270(f); implementing K.S.A. 1986 Supp. 17-1260; K.S.A. 17-1259, as amended by L. 1987, ch. 84, § 1; effective Jan. 1, 1966; amended, E-70-15, Feb. 4, 1970; amended Jan. 1, 1971; amended Jan. 1, 1972; amended, T-88-65, Dec. 30, 1987.)

M. DOUGLAS MAYS
Securities Commissioner

Doc. No. 006133

State of Kansas

SOCIAL AND REHABILITATION SERVICES

TEMPORARY ADMINISTRATIVE REGULATIONS

Article 4.—PUBLIC ASSISTANCE PROGRAM

30-4-58. Potential employment. (a) Each applicant or recipient shall obtain or maintain employment opportunities. Any applicant or recipient shall be ineligible if that individual:

(1) Without good cause, refused a bona fide referral for, or offer of, employment;

(2) without good cause, terminated employment; or

(3) was terminated from employment for good cause. This provision shall include the month immediately preceding the month of application.

(b) Good cause. For certified WIN participants, the department of human resources shall determine whether refusal or termination was without good cause. In all other situations, the applicant or recipient shall be determined to have good cause for refusal or termination of employment if the individual has presented verification that one of the criteria listed below has been met:

(1) There was no bona fide referral for, or offer of, employment;

(2) the person was not physically able to perform the work;

(3) the person was incapable of performing the work;

(4) the work was so dangerous or hazardous according to OSHA standards as to make the refusal or termination a reasonable one;

(5) the payment offered was less than the applicable minimum wage; or

(6) work expenses related to the job were in excess of gross income.

(c) Exemptions. Persons who are exempted from the job search requirement and the WIN registration requirement shall be exempt from this regulation.

(d) Penalty. For certified WIN participants, the penalty for refusal or termination shall be determined by the department of human resources. If the applicant or recipient is the principal wage earner in an ADC unemployed parent case or a GA adult, the individual, and all persons in the mandatory filing unit, shall be ineligible for assistance. In all other situations, the penalty of ineligibility shall apply only to the individual.

(e) Penalty period. A first-time penalty shall result in ineligibility for three months and a subsequent penalty shall result in ineligibility for six months. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by K.S.A. 39-708c; implementing K.S.A. 39-708c, 39-709, 39-719b; effective May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-89-5, Jan. 21, 1988.)

(continued)

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

30-6-58. Potential employment. (a) Each applicant or recipient shall obtain and maintain employment opportunities. Any nonexempt applicant or recipient shall be ineligible for medical assistance if that individual:

(1) Without good cause, refused a bona fide referral for, or offer of, employment;

(2) without good cause, terminated employment; or

(3) was terminated from employment for good cause. This provision shall include the month immediately preceding the month of application, or if applicable, the month immediately preceding any month in which prior eligibility is being established.

(b) Good cause. The applicant or recipient shall be determined to have good cause for refusal or termination of employment if one of the criteria listed below has been met:

(1) There was no bona fide referral for, or offer of, employment;

(2) the person was not physically able to perform the work referred or offered;

(3) the person was incapable of performing the work referred or offered;

(4) the work was so dangerous or hazardous according to OSHA standards as to make the refusal or termination a reasonable one;

(5) the payment offered was less than the applicable minimum wage; or

(6) work expenses related to the job were in excess of gross income.

(c) Exemption. Persons who are exempted from the job search requirement shall be exempt from this regulation.

(d) Penalty. If the applicant or recipient is the principal wage earner in ADC-UP, the individual, and all persons in the mandatory filing unit, shall be ineligible for medical assistance. In all other situations, the penalty of ineligibility shall apply only to the individual.

(e) Penalty period. A first-time penalty shall result in ineligibility for three months and a subsequent penalty shall result in ineligibility for six months. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-89-5, Jan. 21, 1988.)

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

30-10-18. Rates of reimbursement. (a) Rates for existing adult care homes.

(1) The determination of per diem rates shall be made, at least annually, on the basis of the cost information supplied by the provider and retained for cost

auditing. The cost information for each provider shall be compared with other providers that are similar in size, scope of service and other relevant factors to determine the allowable per diem cost.

(2) Per diem rates shall be limited by percentile maximums.

(3) To establish a per diem rate for each provider, a factor for historical and estimated inflation and efficiency shall be added to the allowable per diem cost. After the rate is established for a provider, a detailed listing of the computation of that rate shall be provided to the provider. The effective date of the rate for existing facilities shall be in accordance with subsection (a) of K.A.R. 30-10-19.

(b) Comparable service rate limitations.

(1) Skilled and intermediate care. The per diem rate for skilled nursing care or intermediate care shall not exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(2) Intermediate care facilities for the mentally retarded and persons with related conditions. The per diem rate for intermediate care for the mentally retarded and persons with related conditions shall not exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(3) Intermediate care facilities for mental health. The per diem rate for intermediate care for mental health shall not exceed the rate or rates charged to patients or residents not under the medicaid/medikan program for the same level of care in the adult care home and for the same types of services.

(4) All private pay rate structure changes and the effective dates shall be reported on the uniform cost report.

(5) Adult services shall be notified of any private pay rate structure changes within 30 days of the effective date.

(c) Rates for new construction or bed additions. The per diem rate or rates for newly constructed adult care homes and for adult care homes with bed additions of more than 25% shall be based on a projected cost report filed within 90 days after the opening of the newly constructed facility and submitted in accordance with subsection (f) of K.A.R. 30-10-17. A projected cost report shall be filed including only the costs of the new construction which are normally reported in the property cost center, if the number of beds increases by 10% but less than 25%. Limitations established for existing facilities providing the same level of care shall apply to the new facility. The effective date of the per diem rate for new providers shall be in accordance with subsection (b) of K.A.R. 30-10-19.

(d) Rates for existing facilities which have received certification for a different level of care.

(1) The per diem rate for skilled care providers who were participants in the program as an intermediate care facility shall be computed as follows:

(A) If the remaining portion of the provider's fiscal year is equal to or greater than six months, the provider shall file a projected cost report for the remaining period within 30 days of the date of change in the certification level. This projected cost report shall be used to compute the skilled care rate only for the period from the change in certification level to the effective date of a new rate based on the historical cost report filed for the provider's current fiscal year. The intermediate care rate shall continue to be based on the provider's cost report for the prior fiscal year.

(B) (i) If the remaining portion of the provider's current fiscal year is less than six months, the provider shall file a projected cost report which coincides with the provider's next full fiscal year. This projected cost report shall be used to compute only the skilled care rate.

(ii) The projected skilled care rate shall be in effect from the effective date of the new rate, as determined under subsection (a) of K.A.R. 30-10-19, to the effective date of the rate from the historical cost report filed for the projection period. The interim rate for skilled care for the period from the change in certification level to the effective date of the rate based on the projected cost report shall be equal to the current hospital swing bed rate for skilled care.

(iii) The provider shall also be required to file a historical cost report at the end of the provider's current fiscal year for the purpose of computing an intermediate care rate in accordance with subsection (a) of K.A.R. 30-10-17 and subsection (a) of K.A.R. 30-10-19.

(2) The per diem rate or rates for intermediate care providers that were participants in the program as a skilled nursing facility shall be determined by using the existing cost report for the facility and applying the limitation applied to the intermediate care facilities.

(3) Per diem rates computed in accordance with this subsection shall be limited by applicable limitations for skilled and intermediate care facilities.

(e) Change of provider.

(1) When a new owner or provider makes no change in the facility, number of beds or operations, the interim payment rate for the first 12 months of operation shall be based on the historical cost data of the previous owner or provider. The new owner or provider shall file a historical cost report within 90 days after the end of the 12-month period and again within 90 days after the end of the provider's fiscal year established for tax or accounting purposes. A retroactive settlement will be made based on the variances between the interim payment rates and the historic rates from the first cost report filed by the new provider subject to K.A.R. 30-10-18(a)(2). The rates determined from these cost reports shall be effective in accordance with subsection (c) of K.A.R. 30-10-19.

(2) The new owner shall file a projected cost report when:

(A) The new owner increases the number of beds by more than 25%;

(B) the new owner increases the number of beds by more than 10%, but less than 25%. The projected cost report shall be restricted to the construction costs normally included in the property cost center;

(C) the new owner makes capital improvements to the facility that are in excess of \$100,000.00 and that benefit patient care, are required for recertification of the facility or that will substantially reduce operating costs; or

(D) the care of the residents may be at risk because the per diem rate of the previous provider will jeopardize the ability of the new provider to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards. The provisions of this subparagraph shall not apply when capital improvements, applicable to all providers, are required by new state or federal regulations.

(f) Per diem rates with errors.

(1) When per diem rates, whether based upon projected or historical cost data, are audited by the agency and are found to contain errors, a direct cash settlement shall be required between the agency and the provider for the amount of money overpaid or underpaid.

(2) Per diem rates for providers may be increased or decreased as a result of a desk review or field audit on the provider's cost reports. Written notice of these per diem rate changes and of the audit findings due to a field audit shall be sent to the provider. Retroactive adjustments of rates paid during any projection period shall apply to the same period of time covered by the projected rates, except that no adjustment shall be made for the period of time that the lowest rate, or other penalty-reduced rate, is in effect.

(3) Providers have 30 days from the date of the audit report cover letter to request an administrative review of the audit adjustments that result in an overpayment or underpayment. The request shall specify the finding or findings that the provider wishes to have reviewed.

(g) Out-of-state providers. Rates for out-of-state providers certified to participate in the Kansas medicare/medicaid program shall be the rate or rates approved by adult services. Out-of-state providers require prior authorization by adult services.

(h) Projected survey correction budget to meet survey requirements.

(1) Intermediate care facilities for the mentally retarded (ICF-MR) required by a state or federal certification survey to incur additional operating costs in excess of \$125,000.00 for facilities with more than 15 beds, and \$40,000.00 for facilities with 15 beds or less, to meet certification requirements, shall be allowed to file a projected survey correction budget.

The projected survey correction budget shall be based on a proposed budget for the survey corrections for the provider's most immediate future 12-month period. The projection period shall end on the last day of a calendar month. Copies of the survey deficiencies shall be attached to the projected survey correction budget.

(2) The projected survey correction budget shall be reviewed for reasonableness and appropriateness by the agency before the rate or rates are established for the projection period. The projected budget items

(continued)

which are determined to be unreasonable or not appropriate to the survey corrections shall be excluded.

(3) A reasonable add-on to the per diem rate already in effect shall be determined from the reviewed correction budget. The increases to the per diem rate shall not be limited by K.A.R. 30-10-18(a)(2).

(4) Within three months after the end of the projection period, the provider shall submit sufficient documentation for audit of its actual expenditures for the survey corrections. The add-on adjustments shall be reduced for any amounts of the survey correction budget not spent for purposes reasonable and appropriate to the survey corrections.

(i) Determination of rates for adult care home providers re-entering the medicaid program.

(1) The per diem rate for each provider re-entering the medicaid program shall be determined from:

(A) A projected cost report where the provider has not actively participated in the program by the submission of any current patient service billings to the program for 24 months or more or has not participated in the medicaid program for less than 24 months, and the per diem rate to be paid is not sufficient reimbursement for providing the economic and efficient care and services required by program laws and regulations; or

(B) the last historic cost report filed with the agency if the provider has not actively participated in the program during the most recent 24 months, and if the per diem rate to be paid is sufficient reimbursement for providing the economic and efficient care and services required by program laws and regulations, the agency shall apply the appropriate historic and estimated inflation factors to the per diem rate determined in accordance with this paragraph.

(2) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(A) of this section, the agency will make a settlement in accordance with K.A.R. 30-10-18(f).

(3) Where the per diem rate for a provider re-entering the program is determined in accordance with paragraph (1)(B) of this section, the agency will make settlements only on those historic cost reports with fiscal years beginning after the date on which the provider re-entered the program. (Authorized by and implementing K.S.A. 39-708c; effective May 1, 1985; amended May 1, 1986; amended, T-87-29, Nov. 1, 1986; amended May 1, 1987; amended, T-89-5, Jan. 21, 1988.)

WINSTON BARTON
Secretary of Social and
Rehabilitation Services

Doc. No. 006186

State of Kansas

DEPARTMENT OF HEALTH AND ENVIRONMENT

TEMPORARY ADMINISTRATIVE REGULATIONS

Article 39.—LICENSURE OF ADULT CARE HOMES

28-39-77. Licensing procedure; all adult care homes. (a) Initial license; site approval. The site for any proposed new skilled nursing home, intermediate nursing care home, intermediate nursing care home for the mentally retarded and intermediate personal care homes shall be approved by the licensing agency before design development or preliminary drawings for the facility are submitted.

(b) New intermediate nursing care homes for the mentally retarded shall not have more than one residential building, as defined in K.A.R. 28-39-225, located on one site or on contiguous sites. Residential buildings shall be dispersed geographically so as to achieve integration and harmony with the community or neighborhoods in which they are to be located.

(c) A written request for site evaluation shall be made to the licensing agency and shall include the following information:

(1) the street name and number or the legal description of the proposed site;

(2) the name and telephone number of the individual in the locale to be contacted by evaluation personnel;

(3) dimensions and boundaries of the site; and

(4) the name of the public utility or municipality that provides services to the site, including water, sewer, electricity, and natural gas.

(d) Initial license; new construction, conversion of an existing building, or modification of structure. Completed application forms as prescribed by the licensing agency shall be submitted when a facility is to be newly constructed, or when an existing building is to be converted for use an adult care home, or when a structure is to be modified or expanded.

(e) All skilled nursing homes, intermediate nursing care homes, intermediate nursing care homes for the mentally retarded, and intermediate personal care homes shall comply with the following provisions:

(1) With the initial application, the owner shall submit one copy of preliminary construction plans and outline specifications in compliance with regulations as follows:

(A) Skilled nursing homes and intermediate care homes, K.A.R. 28-39-108 to K.A.R. 28-39-113, inclusive;

(B) Intermediate personal care homes, K.A.R. 28-39-311 to K.A.R. 29-39-312, inclusive;

(C) Intermediate nursing care homes for the mentally retarded with 15 beds or fewer, K.A.R. 28-39-225; and

(2) Prior to commencing construction, the owner shall submit one copy of the final plans and specifica-

tions which are certified by a registered architect to be in compliance with regulations as follows:

(A) Skilled nursing homes and intermediate nursing care homes, K.A.R. 28-39-108 to K.A.R. 28-39-113, inclusive;

(B) Intermediate personal care homes, K.A.R. 28-39-311 and K.A.R. 28-39-312, inclusive; and

(C) Intermediate nursing care homes for the mentally retarded with 15 beds or fewer, K.A.R. 28-39-225.

(3) All construction, including new work, addition, alteration, or remodeling which costs in excess of \$10,000 or involves primary structural elements of cost, shall be executed with construction documents and inspection of the work under the immediate supervision of a registered architect currently licensed to practice in the state of Kansas. All project documents, including design development drawings, working drawings, specifications, and the certificate of completion in accordance with the construction documents, shall bear the official seal or stamp of the responsible architect.

(4) If construction does not commence within one year of the date the final plans and outline specifications are submitted to the licensing agency, they shall be resubmitted.

(5) The owner shall submit to the licensing agency any changes in the information in the initial application, plans, or specifications.

(6) When the architect determines that construction is 50 percent completed, the owner shall notify the licensing agency.

(7) The owner shall notify the licensing agency 30 days in advance of the estimated completion date of the facility.

(8) The licensing agency shall issue a license when:

(A) Construction is completed;

(B) the facility is found to meet all applicable requirements of law; and

(C) the applicant is found to qualify for a license.

(f) Renewal of license. Each licensee shall apply for renewal of an existing license not less than 120 days before the existing license expires. The application shall be submitted on forms prescribed by the licensing agency. The renewal of a license shall be contingent upon a finding by the licensing agency that the applicant meets all applicable requirements of law.

(g) Change in ownership. Each licensee shall notify the licensing agency of any anticipated change in ownership information from that which is on the current license application form. This notice shall be submitted 60 days in advance of the proposed effective date of the change. A change of ownership shall not take effect prior to the issuance of the initial license.

(h) Change of administrator. Each licensee of a skilled nursing home, intermediate nursing care home, intermediate nursing care home for the mentally retarded, and intermediate personal care home shall notify the licensing agency immediately when the designated administrator is no longer employed. When a new administrator is employed, the licensee shall notify the licensing agency of the name, address, and Kansas license number of the new administrator.

(i) Change of bed capacity. Any proposed change in bed capacity of any facility, whether an increase or a decrease, shall be approved by the licensing agency before the change is made.

(j) License fees. Each initial application for a license and each application for renewal of a license shall be accompanied by a license fee of \$50.00 plus \$7.00 for each bed.

If a license is issued for less than one year, the license fee shall be prorated from the month the license is effective. No refund of a license fee shall be made if a license application is denied.

(k) Application information. Each application submitted for initial license shall include:

(1) The completed application form prescribed by the licensing agency;

(2) legal documents transferring ownership or control, including sales contracts, leases, management agreements, and any required approvals of other licensees or mortgagors;

(3) curriculum vitae or resumes for all professional staff to be involved with operating or supervising the operation of the applicant's facility or facilities. This requirement shall apply to anyone an applicant will rely on to supervise operations of the facility or facilities and anyone who will be involved in conducting the business affairs of the applicant's facility or facilities; and

(4) A current balance sheet and statement of net worth prepared according to generally accepted accounting principles and certified by the applicant to be accurate. (Authorized by K.S.A. 39-932; implementing K.S.A. 1986 Supp. 39-927, 39-930, and K.S.A. 39-932; effective May 1, 1982; amended, T-84-17, July 26, 1983; amended May 1, 1984; amended, T-87-51, December 19, 1986; amended May 1, 1987; amended, T-88-57, Dec. 16, 1987.)

28-39-83. Administration; management standard.

(a) Each licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) Policies and procedures: Each licensee shall adopt and enforce written policies and procedures relative to:

(1) The health care, safety, psychosocial, and self-esteem needs of the residents;

(2) Protection of personal and property rights of residents;

(3) Review of policies. All policies and procedures of the facility shall be revised as necessary and reviewed at least annually; and

(4) Availability of policies. Policies and procedures shall be available, on request, to all persons during normal business hours. A notice of availability shall be posted in a conspicuous location in the facility.

(c) Administrator. Each licensee shall adopt a written job description for, and shall employ, a full-time licensed administrator. The administrator shall be responsible for the overall management of the facility, including:

(1) Planning, organizing, and directing the operation of the facility as authorized by the licensee;

(continued)

(2) Implementing operational policies and procedures for the facility; and

(3) Authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in the administrator's absence.

(d) Advisory committee. Each facility shall have an advisory committee, including, but not limited to, a physician, a nurse, and a religious advisor. The advisory committee shall:

- (1) Give advice and counsel to the administrator;
- (2) Review resident care policies at least annually;
- (3) Meet at least once every six months; and
- (4) Record and retain minutes of the meetings.

(e) Admission. Each licensee shall have written policies regarding admission of residents. The admission policy shall meet the following requirements:

(1) The facility shall admit only those persons whose nursing care and physical needs can be met.

(2) Each resident admitted shall be under the care of a physician licensed to practice in Kansas.

(3) Upon admission or within 48 hours of admission, referral information shall be obtained by the facility. Referral forms shall include a medical history, diagnosis, personal and social data, and a description of permitted activities.

(4) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges for the facility's services and of the resident's obligations regarding payment. This information shall include the refund policy of the facility.

(5) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident will receive and which sets forth the obligations that the resident has toward the facility.

(6) The facility shall not admit:

- (A) Children under the age of 16 years;
- (B) Women who are pregnant or within three months following pregnancy; or
- (C) Persons in need of active treatment for alcoholism, a mental condition, or drug addiction.

(f) Transfer and discharge. Each facility shall have written policies regarding transfer and discharge of residents. The policy shall meet the following requirements:

(1) Immediate arrangements shall be made to transfer a resident when, in the written judgment of the resident's attending physician, changes in the physical or mental condition of the resident necessitate care which the facility is not capable of providing.

(2) Persons with an infection or disease in communicable stage shall be isolated in accordance with "Systems A. Category-Specific Isolation Precautions" of the CDC Guidelines for Isolation Precautions in Hospitals, U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, as in effect July 1, 1987. If the facility cannot provide isolation required, the person shall not be admitted.

(3) When any resident develops a communicable disease or infection that cannot be managed in the

facility, immediate arrangements shall be made for the transfer of the resident to an appropriate hospital or other facility. The development of any communicable disease or infection after admission shall be reported to the local health department.

(4) Except in an emergency, a resident shall not be transferred or discharged from the facility for medical reasons without a written order from the attending physician and prior notification to the resident or the legal guardian of the resident as prescribed in K.A.R. 28-39-78(a)(3). A summary of administrative, social, medical, and nursing information shall accompany the resident if transferred to another facility or hospital.

(g) Transfer agreement. Each facility shall have on file and in effect a transfer agreement with one or more hospitals which provides the basis for effective working arrangements under which inpatient hospital care or other hospital services are available promptly to the facility's residents when needed. A hospital and the facility shall be considered to have a transfer agreement in effect if, by reason of a written agreement between them, or if the two institutions are under common control, by reason of a written understanding by the person or body who controls both institutions, there is reasonable assurance that:

(1) Transfer of residents will be effected between the facilities, without delay, whenever a transfer is medically appropriate as determined by the attending physician;

(2) There will be an interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the facilities; and

(3) There will be arrangements made for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items when necessary.

(h) Outside resources. Each facility shall provide services to residents according to their needs either by staff or by the use of qualified outside resources. These services shall be provided as follows:

(1) When a facility does not have a professional on its staff who is qualified to provide a specific required service, it shall make arrangements to have the service provided by a qualified person or agency through direct services to residents or as a consultant to the facility.

(2) The terms of the agreement, including financial arrangements and charges, shall be delineated in writing and signed by an authorized representative of the facility and the person or agency providing the service.

(3) The outside resource, when acting as a consultant, shall apprise the administrator of recommendations and plans for their implementation, and shall provide continuing assessment through dated, signed reports. These reports shall be retained by the facility.

(i) Resident possessions.

(1) Each facility shall have written policies which ensure the security of residents' personal possessions.

(2) A written inventory of each resident's personal possessions, signed by the resident, or by the resi-

dent's legal guardian, shall be completed at the time of admission and shall be updated annually.

(3) If a resident deposits personal possessions with the facility for safekeeping, a written record shall be maintained and a receipt shall be given to the resident.

(j) Resident funds.

(1) If any facility accepts a resident's funds for safekeeping or assumes responsibility for a resident's financial affairs, the resident shall agree in writing to the transfer of responsibility to the facility.

(2) Each facility shall utilize an accounting system which ensures an accurate accounting of receipts and disbursements made to, or on behalf of, a resident.

(3) Each facility shall designate in writing the person responsible for the accounting system.

(4) Receipts for all transactions shall be signed by the resident or the legal guardian of the resident.

(5) Each facility shall make a written quarterly accounting of transactions to the resident and shall advise the resident of the current balance of the resident's funds.

(k) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(l) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(m) Telephone. The facility shall maintain at least one noncoin-operated telephone accessible to residents or employees for use in emergencies. Names and telephone numbers of persons or places commonly required in emergencies shall be posted adjacent to the telephone.

(n) Smoking. Smoking may be permitted only in designated areas. Residents shall have the choice to be assigned a room in which smoking is not permitted. Smoking shall be prohibited in all other areas that are used for resident treatment or diagnosis. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended May 1, 1985; amended, T-88-57, Dec. 16, 1987.)

28-39-114 to 28-39-129. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked, T-88-57, Dec. 16, 1987.)

28-39-130. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; amended, T-83-15, July 1, 1982; amended May 1, 1983; revoked, T-88-57, Dec. 16, 1987.)

28-39-131. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked, T-88-57, Dec. 16, 1987.)

28-39-139 to 28-39-143. (Authorized by and implementing K.S.A. 39-932; effective, T-83-28, Sep-

tember 22, 1982; effective May 1, 1983; revoked, T-88-57, Dec. 16, 1987.)

28-39-300. Administration. The intermediate personal care home shall be operated in a manner to ensure the delivery of all required administrative services. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-301. Administration; management standard. (a) The licensee shall have authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) The licensee shall operate the facility to assure the health care, safety, psychosocial, and self-esteem needs of the residents; and to protect personal and property rights of residents.

(c) Admission.

(1) The facility shall admit and retain only persons in need of supervision or simple nursing care;

(2) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges and the resident's obligations regarding payment, including the refund policy of the facility;

(3) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident shall receive and which sets forth the obligations which the resident has toward the facility; and

(4) The facility shall not admit persons with an infection or disease in communicable stage; women who are pregnant or within three months following pregnancy; or persons in need of active treatment for alcoholism, mental condition, or drug addiction.

(d) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(e) Reports. The facility shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The facility shall submit any other reports as required by the licensing agency. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-302. Health services. The intermediate personal care home shall provide organized health services with qualified personnel to meet the health needs of the residents, including those health services prescribed in K.A.R. 38-29-303 to K.A.R. 28-39-306. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-303. Health services; medical and dental services standard. (a) Residents shall provide for their own medical services through personal physicians and for dental services by their personal dentists.

(b) Residents may self-administer medications or

(continued)

facility personnel may supervise residents who self-administer medication by:

- (1) Reminding residents to take medication,
- (2) opening bottle caps for residents,
- (3) reading the medication label to residents,
- (4) observing residents while they take medications,
- (5) checking the self-administered dosage against the label of the container,
- (6) reassuring residents that they have obtained and are taking the dosage as prescribed,
- (7) assisting a resident with the taking of medications when the resident requires assistance, and
- (8) keeping daily records of when residents receive supervision. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-304. Health services; supportive services standard. (a) The facility shall provide sufficient licensed nurses or nurse aides to meet the needs of residents.

(b) Residents shall be provided simple nursing care as needed, including bathing, oral hygiene, hair care, manicure, pedicure, shaving, and dressing.

(c) Personnel shall be on site and available immediately to all residents to assure prompt necessary action in case of injury, illness, fire, or other emergency.

(d) The facility shall make arrangements with local health departments to provide professional consultation on matters of personal and environmental health.

(e) The resident's nearest relative or legal guardian and personal physician shall be notified of any change in the resident's condition. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-305. Health services; records standard. (a) Resident records shall be maintained with pertinent information regarding care of the resident.

(b) Resident records shall include name, date of admission, birth date, nearest relative or legal guardian, personal physician, and whom to notify in case of illness or accident. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-306. Health services; dietetic services standard. The facility shall provide meal services which include:

(a) Menus planned and followed to meet the nutritional needs of residents;

(b) Foods prepared by methods that conserve the nutritive value, flavor, and appearance and attractively served at the proper temperature; and

(c) A dietetic services supervisor having overall responsibility for supervision of dietetic services in facilities of more than 10 beds. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-307. Environmental sanitation and safety. The intermediate personal care home shall provide staff and services to ensure a clean, safe, and comfortable environment for residents and shall meet the environmental sanitation and safety requirements

prescribed in K.A.R. 28-39-308 to K.A.R. 28-39-310, inclusive. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-308. Environmental sanitation and safety; housekeeping standard. (a) Housekeeping services shall be provided to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections.

(b) The facility shall be kept free of insects, rodents, and vermin.

(c) The grounds shall be free from accumulation of rubbish and other health and safety hazards.

(d) The interior and exterior of the building shall be maintained in a clean, safe, and orderly manner. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-309. Environmental sanitation and safety; maintenance standard. (a) All buildings shall be maintained in good repair and free from hazards.

(b) All electrical and mechanical equipment shall be maintained in good repair and in safe operating condition.

(c) Resident care equipment for personal care and treatments shall be maintained in a safe and sanitary condition. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-310. Environmental sanitation and safety; disaster preparedness standard. (a) The facility shall have a written plan with procedures to be followed if a disaster, such as fire, tornado, explosion, or flood, occurs inside or outside the facility. The facility shall ensure that the staff are prepared for a disaster.

(b) The disaster plan shall be available and posted for residents and staff.

(c) The plan shall include evacuation routes and procedures to be followed in case of fire, tornado, explosion, flood, or other disaster. The plan shall include procedures for the transfer of residents, casualties, medical records, medications, and notification of next of kin and other persons. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-311. Physical environment. The intermediate personal care home shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and which meets the physical environment requirements prescribed in K.A.R. 28-39-312. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-312. Physical environment and complete construction. (a) General provisions. The following provisions describe the physical environment and complete construction requirements for intermediate personal care homes. The facility shall provide for a safe, sanitary environment and for the safety and comfort of the residents.

(b) Each intermediate personal care home shall consist of at least the following units, areas, and rooms which shall all be within a single building and under one roof;

(1) All beds shall be located in rooms designed for not more than five beds. Each resident bedroom shall meet the following requirements;

(A) Minimum room areas, excluding toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 80 square feet in single-bed rooms and 60 square feet per bed in multibed rooms. Visual privacy shall be provided each bed in a multibed room;

(B) Each toilet room shall contain at least a toilet and a lavatory but not more than two toilets. The lavatory may be omitted if the toilet adjoins bedrooms containing a lavatory. There shall be not less than one toilet for each five residents; and

(C) Each resident room shall be provided with a fixed closet or freestanding wardrobe with doors. A shelf and hanging rod shall be provided.

(2) Service areas or elements required below shall be located in all intermediate personal care homes. All service areas shall have access from the general corridor system without passing through any intervening use area. Exceptions shall include adjoining use areas which have closely related functions. Large open or central living areas, such as lounges, living rooms, and dens, may be considered as corridors. Each facility shall contain:

(A) Space for charting, records, and a telephone;

(B) A toilet and lavatory for staff and visitors;

(C) A locked medication storage area with space for separate storage of each resident's medication. A separate locked compartment shall be provided within the area for controlled drugs and narcotic storage;

(D) Space for storage of clean linen separate from the soiled linen area;

(E) Space for holding of soiled laundry with provisions to prevent odors, contamination of clean linen, and spread of disease. In buildings where laundry processing is done, washing and drying machines shall be provided to process soiled laundry in the workroom area. The workroom shall contain a work counter and a storage cabinet for supplies;

(F) Space for storage of equipment for the facility's use. This space may be part of the janitor's closet;

(G) Bathing units at the rate of one bathtub or shower per five residents. Bathing units shall be located in rooms or areas with access to a toilet and a lavatory without entering the general corridor. Bathing units shall be located within enclosures which provide for privacy.

(H) A utility sink, hot and cold water, shelf, and mop hanging provision;

(I) Living, dining, and recreational areas;

(J) Public areas which include:

(i) An entrance at grade level which is designed to accommodate the handicapped in wheelchairs;

(ii) At least one public toilet accessible to and usable by the physically handicapped; and

(iii) A public telephone accessible for use from a wheelchair;

(K) Dietary areas in the size required to implement meal service. The dietary area shall include provision for disposal of waste by incineration, mechanical destruction, compaction, removal, or by a combination of

these techniques. Stored waste shall be in water-tight, closed containers; and

(L) If tools, supplies, or equipment used for yard or exterior maintenance are stored at the facility, a room which opens to the outside or which is located in a detached building for storage of such equipment.

(c) Details and finishes.

(1) Details.

(A) Rooms containing bathtubs, sitz baths, showers, and toilets subject to occupancy by residents shall be equipped with doors and hardware capable of opening outward or allow ingress to the room without the need to push against a resident who may have collapsed in the room.

(B) Windows and outer doors left in an open position shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be provided with security screens.

(C) Doors, sidelights, borrowed lights, and windows in which the glazing is within 18 inches or 46 centimeters of the floor shall be glazed with glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges if broken. If glazing in any areas does not meet the above requirement, protective barriers or railings shall be provided. Safety glass or plastic glazing materials as described above shall be used for shower doors and bath enclosures.

(D) Grab bars shall be provided for all residents' toilets, showers, tubs, and sitz baths. The bars shall have 1½ inch or 3.8 centimeters clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of 150 pounds or 113.4 kilograms.

(E) Shower bases and tubs shall have a nonslip surface.

(2) Finishes.

(A) Wall bases in kitchens, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be tightly sealed and constructed without voids that can harbor insects.

(B) Wall finishes shall be washable and in the immediate area of plumbing fixtures shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(C) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(D) Ceilings in the dietary and food preparation areas shall be cleanable by dustless methods, such as vacuum cleaning or wet cleaning. These areas shall not have exposed or unprotected sewer lines.

(d) Mechanical requirements.

(1) Heating, air conditioning, and ventilating systems. The system shall be designated to maintain a year-round indoor temperature range in resident care areas of 70°F. with a relative humidity range of 30 to 60 percent.

(2) Plumbing and piping systems.

(A) Backflow prevention devices or vacuum break-

(continued)

ers shall be installed on fixtures to which hoses or tubing can be attached.

(B) Water distribution systems shall be arranged to provide hot water outlets at all times. The temperature of hot water shall range between 98°F and 115°F. at shower, bathing, and handwashing facilities throughout the system.

(e) Electrical requirements.

(1) All spaces occupied by persons or machinery and equipment within the buildings, approaches to buildings, and parking lots shall have adequate lighting.

(2) Minimum lighting intensity levels shall be as required in Table 1.

(3) Corridors and stairways shall remain lighted at all times.

(4) All lights shall be equipped with shades, globes, grids, or glass panels that prevent direct glare to the residents' eyes.

(f) Site location requirements. The facility shall be:

(1) Served by all-weather roads or streets;

(2) free from noxious or hazardous smoke or fumes;

(3) a minimum of 3,000 feet or 914 meters from concentrated livestock operations, including feedlots, shipping or holding pens;

(4) free of flooding for a 20-year period; and

(5) sufficient in area and configuration to accommodate the facility, drives, parking, sidewalks, and a recreation area.

(g) Site development requirements.

(1) Final grading of the site shall provide topography for positive surface drainage away from the building and positive protection and control of surface drainage and freshets from adjacent areas.

(2) Except for lawn or shrubbery which may be used in landscape screening, an unencumbered outdoor open area of at least 20 square feet per resident shall be provided for recreational use and shall be so designated on the plot plan. The licensing agency may approve equivalent facilities provided by terraces, roof gardens, or similar provisions for homes located in high density urban areas. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

TABLE 1. ARTIFICIAL LIGHT REQUIREMENTS

Place	Light Measured in Foot Candles	Where Measured
Kitchen and other food preparation and serving areas	30	Counter level
Dining room	25	Table level
Living room and/or recreation room	15	Three feet above floor
General Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Central bath and showers	30	Three feet above floor
Resident's room		
General	10	Three feet above floor
Bed	30	Mattress top level
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level

28-39-400. Administration. The boarding care home shall be operated in a manner to ensure the delivery of all required administrative services. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-401. Administration; management standard. (a) The licensee shall have full authority and responsibility for the operation of the facility and for compliance with licensing requirements.

(b) The licensee shall operate the facility to assure the safety, psychosocial, and self-esteem needs of the residents; and to protect personal and property rights of residents.

(c) Admission.

(1) The facility shall admit and retain only persons in need of supervision. The facility shall accommodate a maximum of 10 residents.

(2) Before admission, the prospective resident or the legal guardian of the resident shall be informed, in writing, of the rates and charges and the resident's obligations regarding payment, including the refund policy of the facility.

(3) At the time of admission, the licensee shall execute a written agreement with the resident or the legal guardian of the resident which describes in detail the goods and services which the resident shall receive and which sets forth the obligations which the resident has toward the facility.

(4) The facility shall not admit persons with an infection or disease in communicable stage; women who are pregnant or within three months following pregnancy; or persons in need of active treatment for alcoholism, mental condition, or drug addiction.

(d) Power of attorney and guardianship. A power of attorney from or legal guardianship for a resident shall not be accepted by anyone employed by or having a financial interest in the facility unless the person is related by marriage or blood within the second degree to the resident.

(e) Reports. The facility shall submit to the licensing agency, not later than 10 days following the period covered, a quarterly report of residents and employees. The report shall be submitted on forms provided by the licensing agency. The facility shall submit any other reports as required by the licensing agency. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-402. Health services. The boarding care home shall provide qualified personnel to meet the needs of the residents, including those services prescribed in K.A.R. 28-39-403 to K.A.R. 28-39-405. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-403. Health services; medical and dental services standard. (a) Residents shall provide for their own medical services through personal physicians and for dental services by their personal dentists.

(b) Residents may self-administer medications or facility personnel may supervise residents who self-administer medication by:

(1) Reminding residents to take medication,

- (2) opening bottle caps for residents,
 - (3) reading the medication label to residents,
 - (4) observing residents while they take medications,
 - (5) checking the self-administered dosage against the label of the container,
 - (6) reassuring residents that they have obtained and are taking the dosage as prescribed,
 - (7) assisting a resident with the taking of medications when the resident requires assistance,
 - (8) keeping daily records of when residents receive supervision, and
 - (9) immediately reporting noticeable changes in the condition of a resident to the resident's physician and nearest relative or legal guardian.
- (c) Restraints shall not be used. (Authorized by and implementing K.S.A. 39-932; effective, T-_____.)

28-39-404. Health services; records standard. (a) Resident records shall be maintained with pertinent information regarding care of the resident.

(b) Resident records shall include name, date of admission, birth date, nearest relative or legal guardian, personal physician, and whom to notify in case of illness or accident. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-405. Health services; dietetic services standard. The facility shall provide meal services that include:

- (a) Menus planned and followed to meet the nutritional needs of residents; and
- (b) Foods prepared by methods that conserve the nutritive value, flavor, and appearance and attractively served at the proper temperature. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-406. Environmental sanitation and safety. The boarding care home shall provide staff and services to ensure a clean, safe, and comfortable environment for residents and shall meet the environmental sanitation and safety requirements prescribed in K.A.R. 28-39-407 to K.A.R. 28-39-409, inclusive. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-407. Environmental sanitation and safety; housekeeping standard. (a) Housekeeping services shall be provided to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections.

- (b) The facility shall be kept free of insects, rodents, and vermin.
- (c) The grounds shall be free from accumulation of rubbish and other health and safety hazards.
- (d) The interior and exterior of the building shall be maintained in a clean, safe, and orderly manner. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-408. Environmental sanitation and safety; maintenance standard. (a) All buildings shall be maintained in good repair and free from hazards.

(b) All electrical and mechanical equipment shall be maintained in good repair and in safe operating condition.

(c) Resident care equipment shall be maintained in a safe and sanitary condition. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-409. Environmental sanitation and safety; disaster preparedness standard. (a) The facility shall have a written plan with procedures to be followed if a disaster, such as fire, tornado, explosion, or flood, occurs inside or outside the facility. The facility shall ensure that the staff are prepared for a disaster.

(b) The disaster plan shall be available and posted for residents and staff.

(c) The plan shall include evacuation routes and procedures to be followed in case of fire, tornado, explosion, flood, or other disaster. The plan shall include procedures for the transfer of residents, casualties, medical records, medications, and notification of next of kin and other persons. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-410. Physical environment. The boarding care home shall provide a physical environment that promotes the health, safety, and well-being of residents and employees and which meets the physical environment requirements prescribed in K.A.R. 28-39-411. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

28-39-411. Physical environment and complete construction. (a) General provisions. The following provisions describe the physical environment and complete construction requirements for boarding care homes. The facility shall provide for a safe, sanitary environment and for the safety and comfort of the residents.

(b) Each boarding care home shall consist of at least the following units, areas, and rooms which shall all be within a single building and under one roof;

(1) All beds shall be located in rooms designed for not more than five beds. Each resident bedroom shall meet the following requirements;

(A) Minimum room areas, excluding toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, or vestibules, shall be 60 square feet per bed. Visual privacy shall be provided for each bed in a multibed room;

(B) Each toilet room shall contain at least a toilet and a lavatory but not more than two toilets. The lavatory may be omitted if the toilet adjoins bedrooms containing a lavatory. There shall be not less than one toilet for each five residents; and

(C) Each resident room shall be provided with space for resident clothing and personal items.

(2) Services areas or elements required below shall be located in all boarding care homes. Each facility shall contain:

- (A) Space for storage of clean linen;
- (B) Space for holding of soiled laundry;

(continued)

(C) Space for storage of equipment for the facility's use.

(D) Bathing units at the rate of one bathtub or shower per five residents. Bathing units shall be located in rooms or areas with access to a toilet and lavatory without entering the general corridor. Bathing units shall be located within enclosures which provide for privacy;

(E) Living and dining areas;

(F) Food preparation areas in the size required to implement meal service. The area shall include provision for disposal of waste by incineration, mechanical destruction, compaction, removal, or by a combination of these techniques. Stored waste shall be in water-tight, closed containers; and

(C) If tools, supplies, or equipment used for yard or exterior maintenance are stored at the facility, a room which opens to the outside or which is located in a detached building for storage of such equipment.

(c) Details and finishes.

(1) Windows and outer doors left in an open position shall be provided with insect screens.

(2) Shower bases and tubs shall have a nonslip surface.

(3) Wall finishes shall be washable and in the immediate area of plumbing fixtures shall be smooth and moisture resistant. Finish, trim, wall, and floor constructions in food preparation areas shall be free from spaces that can harbor rodents and insects.

(4) Ceilings in the food preparation areas shall be cleanable by dustless methods, such as vacuum cleaning or wet cleaning. These areas shall not have exposed or unprotected sewer lines.

(d) Mechanical, plumbing, and electrical requirements.

(1) Heating, air conditioning, and ventilation systems. The system shall maintain a year-round indoor temperature range between 70°F. to 85°F.

(2) The temperature of hot water shall range between 98°F. and 115°F. at shower, bathing, and hand-washing facilities throughout the system.

(3) All spaces occupied by persons or machinery and equipment within the buildings, approaches to buildings, and parking lots shall have adequate lighting. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987.)

Article 50.—ASBESTOS CONTROL

28-50-1. Definitions. As used in these regulations:

(a) "Accredited asbestos worker" means a person who has fulfilled the training requirements and successfully completed the written examination requirements prescribed under federal law for persons who conduct response actions with respect to friable asbestos-containing material in elementary and secondary schools.

(b) "Agent" means any person who is not an employee of a business or public entity that has been specifically authorized by the entity to act in its behalf in regard to carrying out any activity which requires the person to be present in the work area while an asbestos removal project, an asbestos encapsulation

project, or an asbestos related dismantling project is in progress.

(c) "Appropriate protective clothing" means outer clothing intended to be worn by a person who is engaged in asbestos removal or encapsulation activities. The purpose of the protective clothing is to facilitate the removal of asbestos fibers from the person before that person moves from an area that contains asbestos fibers into an area that is intended to remain free of these fibers. Protective clothing shall consist of coveralls or a similar whole body covering, head covers and foot covers. Protective clothing shall be worn at all times that friable asbestos containing materials are being handled directly and when otherwise required by OSHA or EPA regulations, work specifications governing the activities, or work plans submitted to the department in compliance with the requirements of K.A.R. 28-50-8.

(d) "Appropriate respirator" means an air purifying respirator:

(1) That has replaceable filters;

(2) that is MSHA/NIOSH approved for respiratory protection against dust, fumes and mists having an air contamination level less than 0.05 milligrams per cubic meter;

(3) that is MSHA/NIOSH approved for respiratory protection against radionuclides; or

(4) that is a respirator providing a higher protection factor if its use is specified by any of the following requirements applying to asbestos removal or encapsulation activities:

(A) OSHA and EPA regulations;

(B) work specifications governing the activities; or

(C) a work plan submitted to the department in accordance with the requirements of K.A.R. 28-50-8.

(e) "Appropriate warning sign" means any asbestos hazard warning sign that complies with federal OSHA or EPA regulations and is required when airborne concentrations of asbestos exceed the prescribed limits. If these signs are not used an appropriate sign shall mean a sign that is not less than 11 inches wide and contains at least the equivalent of the following legend printed in letters of sufficient size and contrast to be readily visible and legible:

CAUTION
ASBESTOS WORK AREA
DO NOT ENTER
WITHOUT APPROVAL

(f) "Approved waste disposal site" means a solid waste disposal area that is operated under a permit issued by the department as provided for by K.S.A. 65-3407 and is authorized, by the department, to receive friable asbestos containing solid wastes.

(g) "Asbestos caution label" means a label that complies with applicable federal EPA, DOT and OSHA regulatory requirements and is to be securely affixed to a waste container that contains friable asbestos materials.

(h) "Asbestos encapsulation project" means activities that include, and are incidental to, the coating of a friable asbestos containing surface material with a coating or penetrating type of sealing substance, when

the intended purpose of the activities is to prevent the continued release of asbestos fibers from the material into the air. This definition shall not include:

(1) The repainting of a previously painted asbestos containing surface primarily for the intended purpose of improving the appearance;

(2) the application of a sealing material to a surface subsequent to the removal of asbestos from it;

(3) the application of an encapsulant to asbestos containing material while the material is being removed;

(4) the application of a sealing substance to three square feet or less of friable asbestos containing material that is contiguous to other types of material;

(5) the application of a sealing substance to asbestos containing material that has previously been enclosed or encapsulated; or

(6) the painting of friable asbestos containing material located in a privately owned single family residence.

(i) "Asbestos related demolition project" means any activity that includes the razing of all or a portion of a structure that contains friable asbestos containing materials or other asbestos containing materials which may become airborne if they are crushed or broken.

(j) "Asbestos related dismantling project" means activities that include the disassembly, handling and moving of the components of any structural or equipment item that has been coated with friable asbestos containing material without first removing this material from the item. This definition shall not include these activities when they are conducted for the purpose of repair, replacement or maintenance of the item and require the removal of either three lineal feet or less of friable asbestos containing materials from the surface of a pipe or three square feet or less of friable asbestos containing materials from any other type of surface in order to dismantle the item.

(k) "Asbestos related maintenance operation" means any operation that involves the removal or cleanup of either three lineal feet or less of friable asbestos containing material from the surface of a pipe or three square feet or less of friable asbestos containing material from any other type of a structural or equipment item in order to repair, replace or maintain the item or any appurtenances to it.

(l) "Asbestos repair" means returning damaged friable asbestos-containing material to an undamaged state or to an intact state so as to contain fiber release.

(m) "Asbestos removal project" means activities that involve, and are required by these regulations to be carried out in relation to, the removal of a friable asbestos containing material from:

(1) The surface of a structural or equipment item that is intended to remain in place; or

(2) the surface of a structural or equipment item subsequent to its removal as a result of an asbestos related dismantling operation.

This definition includes activities associated with the cleanup of loose, friable asbestos containing debris and refuse from floors and other surfaces. This definition does not include activities that are asso-

ciated with the removal of friable asbestos containing materials as part of an asbestos related maintenance operation or the collection of samples for asbestos analysis.

(n) "Class I asbestos worker" means a person who is certified to engage in asbestos removal or encapsulation projects in a non-supervisory capacity.

(o) "Class II asbestos worker" means a person who is certified to supervise and direct asbestos removal and encapsulation projects in compliance with the requirements of these regulations and applicable federal regulations.

(p) "Control curtain" means either of the two following types of closure devices that are to be constructed of not less than four mil thick plastic sheeting material and installed in an entryway of an area that is considered to be contaminated with free asbestos fibers:

(1) A ventilation curtain that is intended to allow unrestricted air flow movement into a contaminated area when it is being ventilated with an exhaust fan. This curtain consists of a single flap that opens into the contaminated area and is securely fastened across the top of the entryway frame work in a manner that will allow it to overlap both sides of the entryway by a distance of not less than 12 inches and the floor by a distance of not less than one inch.

(2) A confinement curtain that is intended to restrict the movement of air into, and from, an unventilated and contaminated area. This curtain consists of three constructed baffles that cover the entire area of the entryway and are securely fastened along the top of the entryway framework and along alternate sides of it at locations and in a manner that will allow two of the curtains to fully cover the entryway opening while a person passes through the third curtain. An airlock arrangement consisting of two baffle curtain entryways that are located at least three feet apart may be substituted for the triple baffle arrangement.

(q) "Department" means staff employed by the Kansas department of health and environment.

(r) "DOT" means the federal department of transportation.

(s) "EPA" means the federal environmental protection agency.

(t) "Emergency situation" means a condition that exists as the result of a sudden and unexpected event and is likely to cause immediate and substantial damage to persons or property.

(u) "Encapsulation" means the treatment of a friable asbestos-containing material with a substance to prevent the release of fibers into the air.

(v) "Enclosure" means the construction of an airtight, impermeable, permanent barrier around friable asbestos-containing material to control the release of fibers into the air.

(w) "Equipment" means any item that is designed or intended to perform any operation and includes any item attached to it to assist in the operation.

(x) "Furnishings" means removable furniture, drapes, rugs and decorative items.

(continued)

(y) "Grade D breathing air" means an air supply that:

- (1) contains 19-23% oxygen on a volumetric basis;
- (2) contains not more than 20 volumes of carbon monoxide per million volumes of air;
- (3) contains not more than 1,000 volumes of carbon dioxide per million volumes of air;
- (4) contains not more than five milligrams of condensed hydrocarbons per cubic meter of air; and
- (5) contains no objectionable odors.

(z) "HEPA filter" means a filter capable of removing, from an air stream, 99.97 percent of all particles that are larger than 0.3 microns in size.

(aa) "MSHA/NIOSH approved respirator" means a respirator and any required attachments, including filters, that have been jointly approved by the federal mine safety and health administration and the federal national institute for occupational safety under provisions of federal law.

(bb) "OSHA" means the federal occupational safety and health administration.

(cc) "Physician" means a person licensed to practice medicine and surgery in the state where a physical examination required by these regulations is given.

(dd) "Sealing material" means a material that does not contain asbestos which is used to cover a surface that has previously been coated with a friable asbestos containing material for the intended purpose of preventing any asbestos fibers remaining on the surface from being disbursed into the air. Sealing material shall include sprayed or brushed on decorative and fire proofing materials as well as coating or penetrating type sealants. Liquid sealants shall be color tinted unless their presence and surface integrity can be otherwise readily determined.

(ee) "Structural item" means roofs, walls, ceilings, floors, structural supports, pipes, ducts, fittings and fixtures that have been installed as an integral part of any structure.

(ff) "Type C respirator system" means an airline respirator designed for atmospheres not immediately dangerous to life or health which consists of a source of respirable breathing air, an air hose with a detachable coupling, flow control fittings and a facepiece, helmet or hood.

(gg) "Waste generator" means the business entity that is most directly responsible for the supervision of activities that result in the accumulation of friable asbestos containing waste materials.

(hh) "Wet cleaning" means the process of using water or other liquid and a wet brush, mop, cloth, sponge or similar wet cleaning device to completely remove any residue of asbestos containing materials from surfaces on which they may be located. This definition does not include the use of a wet vacuum cleaner to pickup wet friable asbestos containing debris, or asbestos contaminated wastewater.

(ii) "Wetting agent" means any chemical that is added to water to decrease its surface tension and allow it to spread more easily over or penetrate into friable asbestos containing materials.

(jj) "Work area" means a specific room or physically isolated portion of a room, other than the space enclosed within a glove bag, in which friable asbestos containing material is required to be handled in accordance with the requirements of these regulations. These areas are designated as work areas from the time that the room, or portion of it, is being prepared in order to carry out the removal, encapsulation or dismantling activity until the time that the area has been cleaned in accordance with any requirements applicable to these operations. (Authorized by and implementing K.S.A. 65-5303; effective, T-86-1, January 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-2. Business entity license. (a) A business entity shall not engage in an asbestos removal project, an asbestos encapsulation project, or an asbestos related dismantling project unless the secretary has issued, or renewed, a license authorizing the business entity to engage in the activities. This requirement shall not apply to business entities that conduct the activities in accordance with section 28-50-4 of these regulations.

(b) A business entity shall not be issued a license, or a license shall not be renewed or remain in effect, unless the business entity demonstrates that it has met the following requirements:

(1) The business entity shall be owned by, or employ, one or more identified individuals who shall be required to be physically present at, and directly supervise, each project for which the license is required and who shall be responsible for compliance with these regulations. This individual shall hold a currently valid certificate as a class II asbestos worker that has been issued in accordance with these regulations.

(2) Each employee or agent of the business entity who shall come into contact with asbestos or who shall engage in an asbestos removal project, an asbestos encapsulation project or an asbestos related dismantling project shall be certified and accredited as appropriate in accordance with these regulations.

(3) The business entity shall provide, or make available at its cost, medical examinations for all employees to the extent that the examinations are required by OSHA and EPA.

(4) The business entity shall designate an individual who is responsible for the establishment and maintenance of its respiratory protection program. The business entity shall submit a written description of the program to the department for its approval.

(5) The business entity shall own and maintain in operable condition, at minimum, the following equipment items for use in each asbestos removal or encapsulation project that it proposes to engage in:

(A) Two HEPA filter equipped portable exhaust fan units with a minimum rated capacity of 500 cubic feet per minute;

(B) two HEPA filter equipped portable vacuum cleaning devices equipped with hoses and attachments necessary for cleaning dry surfaces;

(C) a type C pressure demand or continuous flow

respirator system. The air supply equipment shall be capable of providing sufficient volumes and pressures of grade D breathing air to accommodate the manufacturers' specifications for all respirators intended to be connected to it. A sufficient number of respirators to meet all anticipated requirements shall be maintained for use with the compressor and all respirators, hoses and regulators shall be designated as being MSHA/NIOSH approved;

(D) a sufficient number of air purifying respirators to meet all anticipated requirements. The respirators shall be MSHA/NIOSH approved for respiratory protection against dust, fumes and mists having an air contamination level less than 0.05 milligrams per cubic meter of air. At least 10 filter cartridges specifically designated for use with each of these respirators shall be maintained on a continuing inventory basis.

(6) The business entity shall not prohibit the department from inspecting any work area where an asbestos removal project, an asbestos encapsulation project, or an asbestos related dismantling project is being conducted under a license issued in accordance with this regulation.

(c) Any requirement of subsection (b)(5) of this regulation may be waived by the department provided that the business entity demonstrates to the satisfaction of the department that compliance with the requirement is not necessary in order to assure compliance with all requirements, procedures and standards of OSHA, EPA and K.A.R. 28-50-9 through 28-50-14 that are applicable to asbestos abatement and encapsulation projects for which the application for license, or license renewal has been submitted.

(d) Application for a license or license renewal shall be made on forms provided by the department and shall be accompanied by a check or money order for the fee prescribed in subsection (e) of this regulation.

(e) Business entities applying for a license or renewal of a license to engage in asbestos removal or asbestos encapsulation projects shall pay an annual licensing fee of \$1000.00. The fee shall cover a 12-month period beginning on the effective date of the issuance or renewal of the license. No portion of the fee shall be refunded if the license is suspended or revoked during the 12-month period or if the business entity otherwise discontinues the licensed activities within the state during the 12-month period.

(f) The department shall notify the applicant of each deficiency that it considers sufficient to deny the license or renewal of the license. The license shall be denied if the listed deficiencies are not corrected within 60 days of the mailing date of the notification. The department shall retain the application fee if a license is denied or the application is withdrawn. Each reapplication for a license shall be accompanied by the full fee prescribed in subsection (e) of this regulation. (Authorized by K.S.A. 65-5303, and implementing K.S.A. 65-5303, 65-5304, 65-5305, 65-5306, 65-5309, as amended by L. 1987, Ch. 252, Sec. 1; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-4. Business entity using employees to carry

out asbestos removal or encapsulation projects on its own facilities. (a) A business entity that assigns its own employees to remove or encapsulate asbestos for the purpose of renovating, maintaining or repairing its own facilities shall only be required to comply with the notification requirements of K.A.R. 28-50-8.

(b) Employees of business entities that remove or encapsulate asbestos in accordance with the provisions of subsection (a) of this section shall not be required to be certified under the provisions of K.A.R. 28-50-5. Employees shall be required to be provided training by their employer in accordance with the applicable requirements of federal law. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5302, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-5. Asbestos worker certification. (a) A person shall not supervise or engage in an asbestos removal project, an asbestos encapsulation project, or an asbestos related dismantling project unless that person has a valid class I or class II asbestos worker certificate that has been issued in accordance with this regulation.

(b) A class I or class II asbestos worker certificate shall not be issued to any person, or renewed for that person unless:

(1) The person has been examined by a licensed physician within the preceding year and declared by the physician to be physically capable of working while wearing a respirator. A signed statement by the physician that attests to this finding shall be submitted to the department at the time that application is made for a certificate or a certificate renewal.

(2) The person has successfully completed a basic training or annual review course within the preceding year that has been approved in accordance with the requirements of K.A.R. 28-50-6 or otherwise approved by the department. Any person who has been certified in Kansas prior to the effective date of any amendment made to K.A.R. 28-50-6 shall not be required to complete training complying with any new requirements of the amendment until the person's current certificate expires.

(3) The person certified as a class II asbestos worker has successfully passed a written examination as described in K.A.R. 28-50-7.

(4) The person applies for a certificate or renewal of a certificate on a form provided by the department and submits along with this application a check or money order for the fee prescribed in subsection (c) of this regulation. Failure to submit all information and items required by this regulation or as otherwise required by the department within six months of initial submission of the application form shall void the application.

(5) The person has complied with requirements of (1), (2) and (4) of this subsection and has submitted an application for renewal of a certificate not later than six months after the certificate has expired. Failure to renew a certificate within this time period shall require compliance with all requirements applicable to initial application for a certificate.

(continued)

(c) Persons applying for a class I or class II asbestos worker certificate or renewal of these certificates shall pay an annual fee of \$15.00 for a class I certificate or an annual fee of \$30.00 for a class II certificate. This fee shall cover a 12-month period beginning on the effective date of issuance of the certificate or renewal. No portion of this fee shall be refunded if the certificate is denied or is suspended or revoked during the 12-month period or if the person no longer plans to engage in asbestos abatement or asbestos removal projects during any portion of the 12-month period.

(d) A certificate issued under this regulation may be suspended or revoked by the secretary if the secretary determines that:

(1) The certificate holder has fraudulently or deceptively complied with the requirements of subsection (b) of this regulation.

(2) The certificate holder has willfully disobeyed any instructions or written procedural policies provided by an employer for the purpose of complying with these regulations.

(3) The certificate holder has knowingly permitted another person to represent themselves as the holder of the certificate.

(e) Other provisions of this regulation notwithstanding, a person shall not supervise or engage in the removal, encapsulation, enclosure or repair of any friable asbestos-containing material located in an elementary or secondary school, except as part of an asbestos related maintenance operation, unless that person is currently an accredited asbestos worker. Persons who engage in these activities shall provide evidence, acceptable to the department, that the person has been accredited by successfully completing a federal EPA approved training course, has been certified under a state program that has been approved by the federal EPA, or has been certified in Kansas at the class I or class II level, as appropriate, after completing training in compliance with the requirements of these regulations. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5303, 65-5308, 65-5309, as amended by L. 1987, Ch. 252, Sec. 1, 65-5310; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-6. Asbestos worker training course approval.

(a) Any person, business entity, state agency, political or taxing subdivision of the state, or other entity may develop and present a class I or class II asbestos worker certification training course that is intended to comply with the requirements of K.A.R. 28-50-5(b)(2). After the effective date of the regulation, the training course shall be approved by the department prior to its official presentation for the purpose of complying with the regulatory requirements. Training courses shall be approved in writing and the approval shall remain in effect until suspended or withdrawn in accordance with the provisions of subsection (f) of this regulation.

(b) Application for approval of a training course, as provided for in subsection (a) of this regulation, shall be made on forms provided by the department. The application shall include the following information:

(1) A listing of the persons who shall present the

training course and their experience, education and other qualifications;

(2) a description of the course including the title and length of each lecture to be presented, the general nature of the information to be included in the lecture, the training aids and handouts intended to be used in its presentation, and the written examination to be given;

(3) the maximum number of students to be enrolled in each course presentation;

(4) the dates or time period over which individual courses are intended to be presented;

(5) the proposed charge for each course; and

(6) other information that the department considers necessary to evaluate the probable effectiveness and acceptability of the training course including copies of the course manual and other handouts that are to be provided to the students and a copy of the written examination that is intended to be given.

(c) The department shall be immediately informed in writing whenever there is any change in the information provided under subsection (b) of this regulation.

(d) Provisions shall be made to allow a representative of the department to attend one or more presentations of any course for which approval is required without payment of any associated fees. This attendance shall be for the purpose of determining compliance with this regulation and the correctness of the information being presented. The department may deny, withdraw or suspend the approval of any course on the basis of findings resulting from this attendance.

(e) Training courses approved in accordance with these regulations shall meet the following criteria:

(1) Lectures shall be presented by persons who have education and experience that is appropriate for the subject matter presented.

(2) Training courses for class I asbestos workers shall include respirator fit-testing of each student and shall provide a total of at least 18 hours of instruction consisting of the following:

(A) A discussion concerning the identification of asbestos including its physical characteristics and a summary of its uses and the abatement procedures used for its control;

(B) a general discussion concerning the health hazards associated with exposure to asbestos including special problems associated with smoking and a general description of common diagnostic procedures used to detect asbestos related disease;

(C) a general description of state-of-the-art work practices used to reduce asbestos exposures to workers and the public during asbestos removal and encapsulation operations and emergency clean-up operations and maintenance operations including use of wet removal methods, control of spraying operations, use of ventilation equipment, use of barriers and decontamination enclosures, use of glove bags, use of HEPA filtered vacuum cleaning devices, and proper cleanup and waste disposal procedures;

(D) a general description of the use of personal protective clothing, and need for good personal hy-

giene practices including a discussion of proper procedures for entering and exiting asbestos work areas and the need to abstain from eating, drinking or smoking in these areas;

(E) a detailed description of the level of protection afforded by different types of respirators, the procedures for proper use and care of respirators (including donning, seal testing, cleaning and storage procedures), and the components of a proper respirator protection program;

(F) a general description of other hazards commonly encountered in asbestos control work including electrical shock, falls, cuts, fires and heat exhaustion or heat stroke, and measures that need to be taken to avoid and respond to them;

(C) a general description of state and federal regulations intended to provide protection to asbestos workers including information on federal requirements pertaining to medical examinations and air monitoring and how people responsible for their enforcement may be contacted;

(H) not less than six hours of hands-on training in the proper use of work procedures identified in the preceding item (C); and

(I) a separate final review session to discuss key information that is presented during the remainder of the course.

(3) Training courses for class II asbestos workers shall include respirator fit testing of each student and shall provide a total of at least 24 hours of instruction. The instruction shall include discussion of the following topics in addition to the instruction required by subsection (e)(2) of this regulation.

(A) A detailed discussion of asbestos-related notification and record keeping requirements included in state and federal regulations and records recommended to be kept for legal and insurance purposes;

(B) a detailed discussion of Kansas and federal requirements concerning work procedures to be followed in asbestos removal and asbestos encapsulation projects including:

(i) Requirements of Title II of the federal toxics substance control act;

(ii) requirements of the federal air pollution control regulations that pertain to asbestos removal associated with the renovation and demolition of structures;

(iii) requirements of OSHA pertaining to respiratory protection practices and programs that are applicable to asbestos control activities;

(iv) requirements of the OSHA construction standard pertaining to asbestos;

(v) requirements of the OSHA construction industry standards applicable to safe work practices at temporary work sites including requirements concerning the use of scaffolds, ladders, electrical equipment and fire safety;

(vi) requirements of the EPA worker protection rule that applies to public employees who engage in asbestos control activities; and

(vii) work practice requirements established by K.A.R. 28-50-9 through 28-50-14.

(C) a general discussion of the principles involved

in assessing the hazards associated with exposures to asbestos containing building materials prior to undertaking abatement actions;

(D) a general discussion of the principles and procedures involved in collecting, analyzing and interpreting the results of clearance-type airborne asbestos samples that must be collected under federal EPA regulatory requirements after response actions have been completed in schools;

(E) a general discussion of insurance and liability issues that are encountered in relation to asbestos control activities including the type of coverage and exclusions associated with worker's compensation and other types of insurance and third party liabilities and defenses;

(F) a general discussion about the purpose, development and use of contract specifications in asbestos control work; and

(G) a general discussion about supervisory practices that are effective in the establishment and maintenance of proper and safe work practices at asbestos control work sites.

(4) Training courses intended to provide annual review training required by state statute for class I and class II asbestos workers shall be of at least six hours duration and shall provide information on one or more topics listed in subsections (e)(2) and (e)(3) including a general presentation concerning new state and federal asbestos control related regulatory requirements that are in effect or pending at the time that the training is presented and any other subject matter that may be prescribed by the department prior to the presentation of the training.

(5) Training courses for initial certification of class I and class II asbestos workers shall include the administering and grading of a written closed book examination for all persons who attend the course. The examinations shall adequately cover the subject matter prescribed by sections (e)(2) and (e)(3) of this regulation and shall consist of 50 multiple choice questions for class I worker training courses and 100 multiple choice questions for class II worker training courses. Only persons who correctly answer 70 percent or more of the questions included in the examination shall be considered to have successfully completed the training course for the purpose of certification under the provisions of K.A.R. 28-50-5(b)(2).

(f) The department may deny, suspend or withdraw approval of any training course that fails to comply with the requirements of this regulation or is otherwise deemed unacceptable. The department shall notify the person responsible for presentation of the training course of the basis for the proposed denial, suspension or withdrawal in writing and shall allow a 30 day time period for the identified deficiencies to be corrected before initiating adjudicative proceedings in accordance with the provisions of the Kansas administrative procedure act.

(g) Each person who has attended any asbestos control related training course presented prior to January 6, 1986 or any other asbestos training course that

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has been presented subsequent to this date and is required for asbestos worker certification or accreditation in any other state where the person is certified or accredited or any other asbestos training course that has been approved by the federal EPA may be considered to have met the requirements of K.A.R. 28-50-5(b)(2) for initial certification or certification renewal provided that the department determines that the training course essentially complies with the requirements of subsection (e) of this regulation. Each person requesting that the determination be made shall submit the following information to the department:

(1) The date or dates that the course was attended and the location;

(2) the name and address of the business, organization, institution or agency that presented the course;

(3) a schedule or outline of the course that indicates the subject matter that was presented and the amount of time devoted to each subject; and

(4) a written personal certification that the person had attended all course presentations in their entirety on the dates specified.

(h) Each person who applies for initial certification or certification renewal under the provisions of subsection (g) of this regulation may be required to complete additional training on topics included in subsection (e) prior to issuance or renewal of a certificate if the department determines that the credited course did not substantially comply with the requirements of subsection (e) of this regulation. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5303, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-7. Certification examinations. (a) Written examinations given to comply with the requirements of K.A.R. 28-50-5(b)(3) shall be administered only by the department. Unless special arrangements are made, the examinations shall only be given in the offices of the department at times appropriate to allow their completion during normal business hours and at no cost to the person taking the examination. Examinations shall be read to any person who has difficulty in reading the English language. An examination shall not be given in any language besides English unless the examinee received the training required by K.A.R. 28-50-5(b)(2) in the same language and is only employed in asbestos related projects or operations where all work instructions are provided in the language.

(b) Examinations shall be intended to test the class II asbestos worker's knowledge and understanding of the topics included in K.A.R. 28-50-6(e)(3)(B). Examinations shall not be returned. Each applicant shall receive a written notification from the department concerning examination results not more than 30 days after the examination date.

(c) Each person failing to initially pass an examination may retake the examination after receiving notification of the failure. Each person failing to pass the examination on two consecutive occasions shall be required to receive additional training that is designated by the department before taking the examina-

tion again. There shall be no charge for reexamination. (Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-8. Asbestos project notification requirements. (a) Each business entity, state agency or political or taxing subdivision of the state that proposes to use its own employees to engage in an asbestos removal project, an asbestos encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project shall notify the department of this intent by written communication delivered in a manner that will reasonably assure its receipt at the department's offices not less than 10 working days before the project is intended to be started. For the purpose of this regulation working days means days other than Saturdays, Sundays or legal holidays. The department may waive the 10 day notification requirement in emergency or other situations provided that the written notification required by subsection (b) is received a sufficient amount of time before initiation of the project to allow the department to complete any proposal reviews or inspections that it considers to be necessary. An emergency notification may be made verbally but shall be verified in writing within one working day thereafter.

(b) The notification required by subsection (a) of this regulation shall be submitted on forms provided by the department and shall be accompanied by a check or money order for payment of the fee prescribed by subsection (d) of this regulation except as otherwise provided by that subsection. The notification shall include the following information and any additional information that is requested by the department in order to determine the nature of the project and to identify any state and federal laws or regulations that are applicable to it:

(1) A description of the structure at which the activities will be carried out;

(2) the anticipated dates during which the activities will be carried out;

(3) the anticipated amount and type of friable asbestos containing material that will be involved in the activity;

(4) a general description of the work practices that will be followed, including containment and worker protection measures that are proposed;

(5) a listing of the employees that will be involved in the project or operation and information concerning whether or not they have been certified in accordance with these regulations or have received special asbestos-related work training; and

(6) the manner in which asbestos containing materials are to be disposed of.

(c) Any notification that is provided in accordance with the requirements of subsections (a) and (b) of this regulation and indicates that the activity for which the notification has been provided will be or is likely to be carried out in violation of any of the requirements of an asbestos control regulation that pertains to the project shall be considered to be an invalid notification. The department shall notify the person who

submits the notification of the nature of the identified violation as quickly as practicable before the activity is scheduled to start. A notification that has been revised to eliminate the identified violation shall be submitted to, and approved by, the department before the activity is initiated.

(d) Each business entity that engages in an asbestos removal project, an asbestos encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project that is required to be reported under this regulation, other than as provided for by K.A.R. 28-50-4, shall pay a project evaluation fee that has been calculated in accordance with the following requirements;

(1) A baseline fee of \$50 shall be paid for each activity required to be individually reported under this regulation.

(2) An additional fee shall be paid for each asbestos removal project, asbestos encapsulation project, asbestos-related dismantling project and asbestos-related demolition project involving 260 lineal feet or more of friable asbestos containing material that is installed on a pipe surface or 160 square feet or more of friable asbestos containing material that is installed on the surface of any other type of structural or equipment item. The additional fee shall be based upon the amount of money proposed to be paid to the business entity for the completion of all project related activities that are subject to requirements of these regulations and shall be calculated as one percent of the amount of this payment, except that the fee shall be rounded off to the nearest whole dollar and shall not exceed \$5,000. In situations where the business entity is to be paid a lump sum to cover the work done on facilities that are required to be reported on more than one notification form, or a lump sum that will only be reasonably determinable upon completion of one or more reportable activities, the department may approve an alternate schedule that will permit delayed payment of the fee established under this subsection.

(3) In situations where the department agrees to waive the normal 10 day notification period for other than emergency situations, under provisions of subsection (a) of this regulation, the project evaluation fee shall be two times the amount that is calculated in accordance with the provisions of subsections (d)(1) and (d)(2) of this regulation.

(4) If the payment used to calculate the fees established by subsection (d)(2) of this regulation subsequently changes, the department shall be immediately advised of the reason for, and the amount of, this change. When the payment is proposed to be increased, the fee shall also be increased in accordance with the provisions of subsections (d)(1) and (d)(2). No portion of a fee that is initially paid shall be refunded in situations where the payment to the contractor has been reduced below the amount that was used to originally calculate the fee. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5302, 65-5303, 65-5307, 65-5312, 65-5309, as amended by L. 1987, Ch. 252, Sec. 1; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-9. Work practices for asbestos removal projects in areas to be reoccupied. (a) An asbestos removal project that involves the removal of friable asbestos containing materials from a structural item or equipment that is located in any area which can be expected to subsequently be reoccupied by any person after the project is completed, or in an area that is only directly accessible from an area that is, or subsequently will be, occupied by any person other than persons directly involved in the project, shall be conducted in accordance with the following requirements:

(1) The proposed work area shall be isolated from other areas of the building and outside areas by erecting airtight temporary partitions around the work area or by installing airtight seals over doorways, windows and ventilation system openings, except that doorways between the work area and decontamination facilities shall be closed off with a control curtain. Wall surfaces on the work area side of temporary partitions shall be of rigid and airtight construction. Plastic sheeting used for the construction of airtight seals shall be not less than four mils thick. Whenever possible heating and ventilation systems serving the work area shall be shut down and locked out. If these systems cannot be shut down, special provisions shall be made to assure that airborne contamination from the work area cannot enter the ventilation system and be carried to other areas of the building. Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent a person other than those persons having responsibilities directly related to the project from entering the area before final cleanup has been completed and approved in accordance with requirements applicable to the project.

(2) All movable furnishings, equipment and fixtures in the proposed work area shall be precleaned with a HEPA filter equipped vacuuming device or wet cleaning methods. After cleaning, the items shall be removed from the work area and stored in an area that is not subject to contamination with asbestos fibers. The items shall not be returned to the work area until final room cleanup has been completed and approved in accordance with requirements applicable to the project.

(3) All wall and floor surface areas, other than those from which asbestos is to be removed, and all non-movable furnishings, equipment and fixtures remaining in the proposed work area shall be precleaned with a HEPA filter equipped vacuuming device or wet cleaning methods and covered with not less than four mil thick plastic sheeting, except that floors shall be covered with a minimum of two layers of six mil thick plastic sheeting that extends up the walls at least 12 inches. Plastic sheeting on walls shall be affixed to the wall in a manner that will assure that it will remain in position throughout the length of the project and shall overlap the floor sheeting at least 12 inches above the intersection of the walls with the floor. Any tears that are noted in the protective plastic sheeting required by this subsection shall be immediately repaired.

(4) HEPA filter equipped ventilation fans shall be

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installed in a manner that will continually exhaust air from all locations within the work area. The capacity of the fans shall be sufficient to remove the entire volume of air contained in the workroom area within a time period of 15 minutes or less unless a longer time period is specifically approved by the department. The removed air shall be discharged through a duct that has been installed through the plastic on the walls in a manner that will provide an airtight seal between the plastic and the outside surface of the duct. The exhausted air shall be discharged outside of the building whenever possible and shall not be discharged inside the building unless this discharge is specifically approved by the department in writing. The ventilation fan shall be continuously operated throughout the duration of the project until at least 24 hours after the action required by subsection (a)(9) of this regulation is completed. The fan shall be operated in a manner that will establish and maintain a flow of air into the work area from all adjacent areas of the building as demonstrated by use of smoke producing tubes or other appropriate means. As a minimum these determinations shall be made and the results recorded before asbestos removal operations are initiated and at the start of each day's operation.

(5) A decontamination facility shall be provided between the work area and building areas intended to remain uncontaminated with asbestos fibers generated by the asbestos removal operations. The decontamination facility shall consist of the following designated areas which are each to be entered through a doorway that is covered by control curtains:

(A) A clean room that must be first entered by any persons entering the work area. This room shall be used for removing or putting on street clothing, putting on and fit testing respirators, and putting on protective clothing and other protective equipment required to be worn in the work area. This clean area may also be used as a rest and eating area for employees after they have passed through the decontamination process.

(B) A shower room that must be first passed through by any person that moves from the work area into the clean room. These persons shall be required to shower before entering the clean room. The shower room shall be provided with at least one shower head that is supplied with hot and cold or warm water. Adequate quantities of soap, hair shampoo and towels must be provided to accommodate each person who emerges from the work area. Shower enclosures shall be leak proof and constructed of disposable or easily washable material. Shower water may be drained directly into the building's plumbing system or collected for subsequent disposal in accordance with the requirements of K.A.R. 28-50-14.

(C) An equipment room that must be passed through before the shower room can be entered from the work area. The room shall be used for temporary storage of contaminated tools, equipment and protective clothing used in the work area. The floor and walls of the room shall be lined with not less than four mil thick plastic sheeting. Tools, equipment and pro-

tective clothing shall be free of gross contamination before removal from the work area into the equipment room.

(D) All decontamination facility areas shall be contiguous to each other and the work area unless connected to one another by enclosed passageways that are effectively isolated from areas intended to remain free of asbestos contamination.

(6) All exposed surfaces of friable asbestos containing materials shall be maintained in a wet condition while the material is being removed or cleaned up from structural or equipment items. The friable asbestos containing material shall be wetted with a water solution containing an effective wetting agent. The wetting solution shall be applied with a low pressure spraying system. The effectiveness of the solution in penetrating the asbestos containing materials shall be determined by applying it to a small representative sample of the material before the gross removal operation is initiated. The removed friable asbestos containing materials shall be maintained in a wet condition and placed in sealed containers as quickly as practicable. All accumulations of loose debris shall be removed from floors and other surfaces and placed in sealed bags or containers at least daily.

(7) After the asbestos containing materials have been removed from the structural or equipment items, all plastic sheeting, equipment and surfaces in the work area shall be cleaned free of all visible residue with a HEPA filter equipped vacuuming device or by wet cleaning methods, except that if more than one layer of plastic sheeting has been used on walls and floors this additional layer of sheeting may be removed and disposed of instead of being cleaned. Sheetting that is removed shall be enclosed in a six mil thick plastic bag or clean plastic sheeting and disposed of in compliance with the requirements of K.A.R. 28-50-14. Any liquid or material that has leaked through these additional layers of sheeting shall be removed by wet cleaning methods.

(8) The surfaces from which the friable asbestos containing materials have been removed shall be covered with an effective sealing material before the final layer of plastic sheeting covering the floors, walls and non-movable items is removed.

(9) A minimum of 24 hours time shall be allowed between application of the sealant and removal of the final layer of plastic sheeting. The removed plastic sheeting shall be enclosed in a six mil thick plastic bag or clean plastic sheeting and disposed of in compliance with the requirements of K.A.R. 28-50-14.

(10) After the plastic sheeting has been removed, all previously covered surfaces in the work area shall be cleaned free of all visible debris with a HEPA filter equipped vacuuming device or by wet cleaning methods.

(11) Not less than 24 hours after completing the cleanup required by subsection (a)(10) of this regulation, an air stream from a high speed leaf blower or equivalent device shall be swept across all cleaned surfaces for a period of not less than five minutes for each 1000 square feet of surface area.

(12) Airtight seals provided for doors, windows and duct openings in accordance with subsection (a)(1) of this regulation shall remain in place for a period of not less than 24 hours after completion of the actions required by subsection (a)(9) and until the cleanup is approved in accordance with any other special requirements applicable to the project.

(b) The department may waive any individual requirement of subsection (a) of this regulation for asbestos removal projects if the notification submitted in accordance with K.A.R. 28-50-8 identifies the requirements for which waiver is requested, the reason for requesting the waiver, and any alternate procedure that is proposed. A waiver shall not be granted unless the health and safety of the workers and building occupants are adequately protected and the following minimum requirements are met:

(1) The work area in which the asbestos is to be removed shall be completely isolated from other areas of the building by the construction or installation of airtight barriers which shall continually remain in place for the duration of the asbestos removal project until final cleanup is completed and approved in accordance with requirements applicable to the project.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area and access to the work area shall be restricted to only those persons that are required to enter it because of responsibilities directly related to the project until final cleanup is completed and approved in accordance with requirements applicable to the project.

(3) The surfaces from which the asbestos containing materials have been removed shall be cleaned free of all visible residue and all visible asbestos containing debris shall be removed from the surfaces of all other structural items, furnishings, equipment and fixtures located in the work area by the time that the project is completed.

(4) Asbestos contamination shall be removed from all persons that have been in the work area before they leave the premise or enter any area intended to remain free from asbestos contamination. All equipment used on the project shall be cleaned free of visible debris before it is removed from the work area.

(5) The waiver and all proposed alternative procedures shall be approved by the department in writing before the project is initiated, except that verbal approval may be provided in situations where the 10 day notification period has been waived in accordance with the provisions of K.A.R. 28-50-8(a).

(c) The department may waive the requirements of subsections (a) and (b) of this regulation for the removal of friable asbestos containing materials from the surface of pipes or other similar conduits if the notification submitted in accordance with the requirements of K.A.R. 28-50-8 demonstrates, to the satisfaction of the department, that the following requirements will be met.

(1) All friable asbestos containing materials proposed to be removed in the work area shall be removed using at least six mil thick leak proof glove bags in accordance with the manufacturer's instructions. A

copy of these instructions shall be submitted to the department along with each notification.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent a person other than those persons that have responsibilities directly related to the project from entering the work area before final cleanup is completed and approved in accordance with requirements applicable to the project.

(3) Each person using the glove bag shall avoid damaging or otherwise causing the release of asbestos fibers from any other friable asbestos containing materials that are located within the work area, including any debris that may have accumulated in the area prior to the start of the project. Each section of the pipe or conduit from which damaged or loose hanging friable asbestos containing material is to be removed that is not immediately enclosed within a glove bag shall be tightly enclosed in six mil thick plastic sheeting until a glove bag is placed over it and the asbestos containing material is removed.

(4) Glove bags shall be sealed to pipe or conduit in a manner that provides an airtight seal around the area from which the asbestos is to be removed unless the air space within the bag is maintained at a lower air pressure than the air outside of the bag. Airtight seals shall be continuously maintained until the pipe or conduit surface that is enclosed within the glove bag has been cleaned free of all visible residue.

(5) All exposed surfaces of friable asbestos containing materials shall be wetted with a water solution containing an effective wetting agent while the material is removed and be maintained in a wet condition while it remains in the glove bag until the bag is sealed for final disposal in accordance with the requirements of K.A.R. 28-50-14.

(6) A sealing material shall be applied to all surfaces from which the asbestos containing material is removed, and to all friable asbestos containing material surfaces that become exposed as a result of this removal, by the time that final cleanup is completed.

(7) At the completion of the project and before the warning signs required by subsection (c)(2) are removed and the area can be reoccupied by persons other than those having responsibilities directly related to the project, the work area shall be free of all visible asbestos containing debris, including accumulations that existed prior to the start of the project.

(8) Each project activity in the work area shall be immediately discontinued if there is any asbestos contamination of the general work area as a result of damage or improper use of the glove bags or damage to any other friable asbestos containing materials located within the area. Project activities shall not be resumed until all surfaces in the area that are likely to have become contaminated with asbestos fibers have been thoroughly cleaned with a HEPA filter equipped vacuuming device or by wet cleaning methods. Each person who is likely to be contaminated with asbestos fibers resulting from these sources, including the cleanup operation shall remove or use a HEPA filter equipped vacuuming device or wet cleaning methods

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to clean all contaminated outer work clothing before leaving the work area. The department shall be notified of the date and nature of such occurrences and the cleanup measures that were used before the work area is approved for occupancy by persons other than those directly involved in the removal project. The department may require that additional cleaning be completed before the area is reoccupied.

(d) The department may waive the requirements of subsections (a) and (b) of this regulation for an asbestos removal project that involves the removal of friable asbestos containing materials from structural items or equipment that are installed in, and accessible from, outdoor areas provided that the following requirements are met:

(1) Each door, window or other opening into enclosed areas that is adjacent to the work area shall be securely covered with not less than four mil thick plastic sheeting if the opening is located 100 feet or less from the work area.

(2) A person other than the persons that have responsibilities directly related to the project shall not be allowed to occupy or pass through any unenclosed area that is located 50 feet or less from the work area. This area shall be identified and defined by fences or other effective means. Appropriate warning signs shall be prominently posted at all entryways into the area until the project is completed.

(3) All exposed surfaces of friable asbestos containing material shall be wetted with a water solution that contains an effective wetting agent while the material is being removed. All removed material, including debris that falls on surfaces below the location from which the material is removed, shall be immediately placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14. Friable asbestos containing debris resulting from the removal operation shall not be allowed to accumulate in a dry condition. All friable asbestos containing debris including accumulations that existed prior to the start of the project shall be removed from the work area before the warning signs required by subsection (d)(2) are removed and the area is permitted to be reoccupied by persons other than those having responsibilities directly related to the project.

(4) Each person who removes asbestos containing materials or otherwise occupies the restricted area identified in subsection (d)(2) of this regulation shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(e) The department may waive the requirements of subsections (a) and (b) of this regulation for an asbestos project that involves the removal of friable asbestos containing materials from structural items that are installed in, and accessible from, any structure or portion of a structure that is demolished after the material is removed provided that the following requirements are met:

(1) A person other than the persons that have responsibilities directly related to the asbestos removal

project shall not be allowed to occupy or pass through the work area until the project is completed. Appropriate warning signs shall be prominently posted at all entryways into the work area until the project is completed.

(2) Each window, door and other direct opening between any area where asbestos is to be removed and any other area of the structure that is not intended to be demolished shall be sealed airtight with securely fastened plastic sheeting until the project is completed. The plastic sheeting seals shall be not less than four mils thick.

(3) All exposed surfaces of friable asbestos containing material shall be maintained in a wet condition while the material is being removed. The material shall be wetted with a water solution containing an effective wetting agent. All removed friable asbestos containing material including debris that falls on surfaces below the location from which the material is removed shall be placed in sealed containers as quickly as practicable. Friable asbestos containing debris resulting from the removal operation shall not be allowed to accumulate in a dry condition. All friable asbestos containing debris including accumulations that existed prior to the start of the project shall be removed from the work area before the warning signs required by subsection (e)(1) are removed and the area is permitted to be reoccupied by persons other than those having responsibilities directly related to the project.

(4) Each person who removes asbestos containing materials or otherwise occupies the work area before the project is completed shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(5) Structural items from which friable asbestos containing material is removed shall not be sold or reused for any purpose unless the surfaces from which the material has been removed are free from visible residue and have been covered with an effective sealing material, unless the sealing requirement is waived by the department in writing.

(f) Each person engaged in an asbestos removal project or entering an asbestos removal project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing. (Authorized by and implementing K.S.A. 65-5303; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

28-50-14. Asbestos waste disposal. (a) All solid waste materials containing friable asbestos that result from an asbestos removal project, an asbestos encapsulation project, an asbestos related dismantling project, an asbestos related demolition project, or an asbestos related maintenance operation shall be handled in the following manner:

(1) All friable asbestos containing waste shall be placed in tightly sealed containers in a wet condition before it is removed from the work area. Waste containers shall be double bagged in not less than six mil thick liquid tight plastic bags unless the waste con-

tains rigid or heavy objects that are likely to tear the bags. If bag damage is likely to occur, the waste shall be placed in fiber or metal containers that are equipped with a plastic bag liner and a tight fitting lid which can be firmly fastened in position. Large sections of structural items such as pipe or duct work that has been removed with friable asbestos containing materials left in place may be tightly wrapped in not less than a double layer of six mil thick plastic sheeting for disposal purposes if they cannot be placed in containers. All exposed surfaces of the friable asbestos containing material shall be in a wet condition when an item is wrapped.

(2) The exterior surface of each container or individually wrapped object shall be cleaned free of all visible residue and an asbestos caution label shall be securely attached to the surface before the container is removed from the work area to another area for storage or transport purposes.

(3) Each waste container shall be carefully handled and transported in order to prevent breaking or opening. Whenever a container breaks or otherwise becomes unable to completely contain the waste, the waste shall be immediately transferred into another sealed container that complies with the requirements of subsections (a)(1) and (a)(2) of this regulation. Any friable asbestos containing solid waste materials that come out of the original container shall be immediately cleaned up after being saturated with water and placed in the replacement container.

(4) Friable asbestos containing solid waste shall not be transported from a work site or disposed of unless the waste generator has received prior approval from the department for its disposal at an approved disposal site. Application for disposal approval shall be made in writing and contain the following information:

(A) The type of waste intended to be disposed of and the name of the premises at which it was generated;

(B) the amount of waste designated for disposal expressed either as cubic yards of containerized materials or lineal feet of individually wrapped materials;

(C) the disposal site to which the waste is to be transported;

(D) the time period over which the waste is expected to be transported to the disposal site; and

(E) the name of the waste generator and the person responsible for transporting the waste to the disposal site.

(5) Waste shall be transported in vehicles that have completely enclosed cargo areas or the cargo area shall be completely covered with six mil thick plastic sheeting while the waste is being transported. All visible residue remaining in the vehicle cargo area after the waste has been deposited at the disposal area shall be immediately removed by wet cleaning methods and disposed of in accordance with the requirements of this subsection.

(6) The waste generator shall remain responsible for storage, transport and disposal of the waste in accordance with this subsection until the time that the waste is delivered to and accepted by the operator of

an approved waste disposal site. The waste generator shall be released from further responsibility for handling of the waste when the disposal site operator acknowledges in writing that the delivered waste has been properly identified as friable asbestos containing material and has been delivered in a manner and condition that is acceptable to the disposal site operator.

(b) Wastewater and other liquid waste that contains friable asbestos containing materials that result from an asbestos removal project, an asbestos encapsulation project, or an asbestos related maintenance, dismantling or demolition operation may be disposed of by mixing them with solid waste materials and disposing of the mixture in accordance with the requirements of subsection (a) of this regulation. Wastewater that cannot be handled in this manner shall be disposed of by one of the following methods:

(1) Wastewater from decontamination showers and final cleanup of equipment may be disposed of in public sewer systems either by discharge into the plumbing system where the waste is generated or by storing the waste and discharging it directly into the sewer system at a location designated by the operator of the system. The wastewater shall be free of any material that is likely to cause stoppage in the plumbing or sewer systems.

(2) Discharge of any other asbestos contaminated wastewater or liquid waste or the use of any other method for the disposal of contaminated liquid wastes shall only be at a location and in a manner specifically approved by the department in writing. (Authorized by and implementing K.S.A. 65-5303; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987.)

STANLEY C. GRANT, Ph.D.
Secretary of Health
and Environment

Doc. No. 006155

(Published in the Kansas Register, February 11, 1988.)

NOTICE OF ADVANCE REFUNDING

City of Wichita, Kansas

Industrial Revenue Bonds

(The Kansas Masonic Home Project)

Series XII, 1980

\$3,335,000

Notice is hereby given pursuant to the provisions of Section 5 of Ordinance No. 36-965 adopted by the city of Wichita, Kansas, on January 6, 1981, that the city has issued its industrial revenue refunding bonds dated December 1, 1987 (the Series XI, 1987 bonds). The proceeds of the Series XI, 1987 bonds will be used to provide funds to redeem the \$3,335,000 aggregate principal amount of the outstanding city of Wichita, Kansas, industrial revenue bonds, Series XII, 1980 (The Kansas Masonic Home) dated December 1, 1980. On December 1, 1990 (the redemption date), all bonds maturing on or after December 1, 1991 will be called for early redemption at a redemption price of 103 percent of the principal amount

(continued)

thereof plus interest accrued to the redemption date. The following bonds will be called for redemption:

Maturity Date	Interest Rate	Principal Amount
12-1-91	10.300%	\$ 95,000
12-1-92	10.500%	105,000
12-1-93	10.750%	120,000
12-1-94	11.000%	130,000
12-1-95	11.125%	140,000
12-1-00	11.750%	955,000
12-1-05	12.000%	1,545,000

Subsequent notice of call for redemption will be given in accordance with Section 5, Ordinance No. 36-965 of the city.

Sufficient funds to redeem the bonds called for redemption on December 1, 1990 have been deposited with the trustee pursuant to a trust indenture agreement dated December 1, 1987.

The proceeds of the Series XI, 1987 bonds will also be used to retire at maturity the Series XII, 1980 bonds due December 1, 1988 through and including December 1, 1990.

Dated December 16, 1987.

The City of Wichita, Kansas
By: Union National Bank of Wichita
Wichita, Kansas, Trustee

Doc. No. 006205

(Published in the KANSAS REGISTER, February 11, 1988.)

SENATE BILL No. 483

AN ACT making and concerning appropriations for the fiscal year ending June 30, 1988, for the attorney general, attorney general—Kansas bureau of investigation and state corporation commission; authorizing certain transfers, imposing certain restrictions and limitations, and directing or authorizing certain receipts and disbursements and acts incidental to the foregoing.

Be it enacted by the Legislature of the State of Kansas:

Section 1. For the fiscal year ending June 30, 1988, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, receipts, disbursements and acts incidental to the foregoing are hereby directed or authorized as provided in this act.

Sec. 2.

1-1 ATTORNEY GENERAL

(a) The attorney general is hereby authorized to pay the amount of \$12,500 from the tort claims fund in satisfaction of a settlement agreement entered into by the parties in the case of Floyd A. Robinson vs. Kansas Department of Corrections, et al., Case No. 87-C-126, in the Leavenworth County District Court, except that a written release and satisfaction of all claims under such case against the state of Kansas, the Kansas Department of Corrections and all officers and employees of the state of Kansas shall be secured prior to payment of this amount, and provided further, that a condition of the settlement shall be that the terms and conditions thereof shall be public record.

(b) On the effective date of this act, the director of accounts and reports shall transfer \$12,500 from the state general fund to the tort claims fund.

Sec. 3.

4-5 ATTORNEY GENERAL—KANSAS
BUREAU OF INVESTIGATION

(a) There is appropriated for the above agency from the state general fund the following:

Special services \$213,647

(b) The position limitation established by section 16(d) of chapter 37 of the 1987 Session Laws of Kansas for the attorney general—Kansas bureau of investigation, is hereby increased from 159.0 to 162.0.

Sec. 4.

STATE CORPORATION COMMISSION

(a) The expenditure limitation established by section 6(a) of chapter 25 of the 1987 Session Laws of Kansas on the energy grants management fund is hereby increased from \$5,479,743 to \$7,576,135.

(b) The expenditure authorized by section 6(a) of chapter 25 of the 1987 Session Laws of Kansas from the energy grants management fund for the low income energy assistance program administered by the department of social and rehabilitation services is hereby increased from \$2,231,397 to \$4,327,789: *Provided*, That expenditures from the energy grants management fund for energy grant payments under the low income energy assistance program administered by the department of social and rehabilitation services shall be made for energy grant payments at the benefit levels having a projected average benefit level of \$217 as projected for such program by the department of social and rehabilitation services prior to any reductions in the amount of federal LIEAP block grant moneys available for such program during fiscal year 1988.

Sec. 5. *Appeals to exceed position limitations.* The limitations imposed by this act on the number of full-time and regular part-time positions equated to full-time, excluding seasonal and temporary positions, paid from appropriations made in this act or in any appropriations act of the 1987 regular session of the legislature or in any other appropriations act of the 1988 regular session of the legislature may be exceeded upon approval of the state finance council.

Sec. 6. *Appeals to exceed limitations.* Upon written application to the governor and approval of the state finance council, expenditures from special revenue funds may exceed the amount specified in this act.

Sec. 7. *Effective date.* This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body January 26, 1988.

SENATE concurred in HOUSE amendments February 8, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended February 5, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED February 9, 1988.

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 9th day of February, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

KANSAS REGISTER
Secretary of State
2nd Floor, State Capitol
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