

# KANSAS REGISTER



**BILL GRAVES**  
Secretary of State

State of Kansas

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## State of Kansas

**DEPARTMENT OF HEALTH  
AND ENVIRONMENT  
STATE EMERGENCY RESPONSE  
COMMISSION**

## NOTICE OF MEETING

The State Emergency Response Commission will meet at 9 a.m. Tuesday, May 3, in the State Defense Building, 2800 S. Topeka Blvd., Topeka.

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

Doc. No. 006432

## State of Kansas

**KANSAS TECHNOLOGY  
ENTERPRISE CORPORATION**

## REQUEST FOR PROPOSALS

The Kansas Technology Enterprise Corporation (KTEC), a non-profit corporation established by the state of Kansas to affect advanced technology development in Kansas, hereby requests proposals for a two-phased effort to develop and implement a Kansas technology resource data base.

The purpose of the data base will be to identify and generate research grants and contracts, respond to consulting requests, identify available technologies, locate appropriate laboratory and testing facilities, develop research consortia, stimulate interdisciplinary research, and develop training programs.

The data base will provide a remotely accessed, personal computer based automated retrieval system of Kansas research and development resource information to appropriate concerns both within and outside of Kansas. It will be utilized by university faculty and administrators, manufacturers, service and research and development firms, inventors, venture capitalists, consultants and state government.

The data base will include the following information:

- (1) Faculty Resource Inventory—research objectives and capabilities, representative research projects, recent publications, grants and industrial consulting, professional awards, licenses and certificates, equipment and laboratory facilities;
- (2) Independent Laboratory and Professional Society Inventory—research objectives and capabilities, facilities and equipment;
- (3) Corporate Research & Development Inventory—research objectives and capabilities, marketing expertise;
- (4) Vocational Technical and Community College Inventory—training programs, testing capabilities and facilities, faculty consulting with industry;
- (5) Intellectual Property Inventory—patents, copyrights, other technology developed in Kansas available for commercialization;

- (6) Marketing Resource Inventory—marketing capabilities in the private and academic sectors.

The data base will be operated in conjunction with the NASA Industrial Affiliates Program, which provides comparable information at the national level.

Any Kansas academic institution, research organization, corporation, or individual may submit a proposal. The credentials and experience of the proposer in terms of data base development should be clearly identified.

The proposal should reflect the proposer's capabilities and should discuss the proposal's features in sufficient detail to be evaluated in accordance with this solicitation. Proposals should be single-spaced and no more than 10 pages (not including appendices), and must be signed by the chief executive officer or designated individual of the proposing organization.

The following items should be presented in the proposal:

- (1) Data collection—the method of data collection and level of detail;
- (2) Software development—the software to be used and/or developed should be described. The software should be compatible with standard data base systems;
- (3) Hardware—the data base will be accessible at a number of remote locations. The hardware required to operate the network is critical to the project. The cost of hardware to operate the system should be detailed as part of the proposal;
- (4) Search process—the search process relative to the final product should be clearly specified (e.g., by phrase, keyword, etc.);
- (5) Potential linkages to other data sources should be presented;
- (6) User costs—an estimate of the cost of a typical search should be given;
- (7) Budget—development (Phase I) costs should be discussed in detail;
- (8) System maintenance and management (Phase II)—services rendered, along with associated costs, should be presented.

The awardee will be required, upon completion of the development phase, to provide system documentation, install the system and complete any necessary software or data revisions to the specification of the original proposal. The cost to KTEC of any hardware or software support following development must be specified in the proposal.

Proposals will be evaluated by a committee selected by the President of KTEC. Five copies of the proposal must be received by May 10 and should be sent to: Vice President, KTEC, 400 S.W. 8th, Topeka 66603. Further information may be obtained at the same address, (913) 296-5272.

KTEC will award the contract by June 10.

WILLIAM C. BRUNDAGE  
President

Doc. No. 006428

## State of Kansas

## DEPARTMENT OF CORRECTIONS

NOTICE OF COMMENCEMENT OF  
NEGOTIATIONS FOR CAPITAL IMPROVEMENTS  
PROGRAM MANAGEMENT SERVICES

Notice is hereby given of the commencement of negotiations for capital improvements program management services for the Kansas Department of Corrections. Interested firms should be capable of providing professional and technical expertise in all phases of work, including planning, development and construction of capital improvement programs for the Kansas correctional system.

Interested firms must submit their proposals containing statements of interest, qualifications, and performance data to Gary Rayl, Deputy Secretary of Corrections, Kansas Department of Corrections, Suite 400, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, (913) 296-3317, not later than April 25.

ROGER V. ENDELL  
Secretary of Corrections

Doc. No. 006438

## State of Kansas

## CONSUMER CREDIT COMMISSIONER

NOTICE OF HEARING  
ON PROPOSED  
ADMINISTRATIVE REGULATIONS

A public hearing will be conducted at 11 a.m. Friday, May 6, at the office of the Consumer Credit Commissioner, Room 352, Landon State Office Building, 900 S.W. Jackson, Topeka, on temporary and permanent regulation 104-1-2. All interested parties may present oral comments at the hearing. Written comments may be sent to any of the following state agencies:

Consumer Credit Commissioner  
Landon State Office Building  
900 S.W. Jackson, Room 352  
Topeka, KS 66612

State Bank Commissioner  
700 Jackson, Suite 300  
Topeka, KS 66603

Department of Credit Unions  
Landon State Office Building  
900 Jackson, Room 451A  
Topeka, KS 66612

Savings and Loan Department  
Landon State Office Building  
900 Jackson, Room 509  
Topeka, KS 66612

The regulation will have no fiscal impact on the state financial regulatory agencies as it does not affect fees, and there will be little, if any, expense involved in the enforcement of the regulation. The regulation does not set rates; therefore, there will be no financial impact on either the lender or the consumer.

The regulation to be adopted is as follows:

104-1-2. Adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. Any A creditor may use any interest-rate index that is readily verifiable by the borrower and is beyond the control of the creditor to adjust the interest rate on adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. *Each adjustment Adjustments* shall correspond directly to the movement of the index, subject to any rate-adjustment limitations that a creditor may provide. *If When* the movement of the index permits an interest-rate increase, the creditor may decline to increase the interest rate by the indicated amount. *The creditor shall reduce the interest rate when the index moves down by at least the decrease in the index.* The creditor may decrease the interest rate at any time.

Any *adjustment Adjustments* to the interest rate may be implemented through adjustments to the outstanding principal loan balance, loan term, payment amount, or any combination of the above.

*Each The* borrower shall not be charged any costs or fees in connection with regularly-scheduled adjustments to the interest rate, payment, outstanding principal loan balance, or loan term. (Authorized by and implementing K.S.A. 16-207d; effective, T-88-28, August 19, 1987; amended, T-\_\_\_\_, \_\_\_\_.)

104-1-2. Adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. Any A creditor may use any interest-rate index that is readily verifiable by the borrower and is beyond the control of the creditor to adjust the interest rate on adjustable rate notes secured by a real estate mortgage or a contract for deed to real estate. *Each adjustment Adjustments* shall correspond directly to the movement of the index, subject to any rate-adjustment limitations that a creditor may provide. *If When* the movement of the index permits an interest-rate increase, the creditor may decline to increase the interest rate by the indicated amount. *The creditor shall reduce the interest rate when the index moves down by at least the decrease in the index.* The creditor may decrease the interest rate at any time.

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JUDITH K. STRINGER  
Consumer Credit Commissioner

Doc. No. 006442



## State of Kansas

## SOCIAL AND REHABILITATION SERVICES

STATE PLANNING COUNCIL ON  
DEVELOPMENTAL DISABILITIES  
SERVICES

## NOTICE OF MEETING

The State Planning Council on Developmental Disabilities Services will meet from 9 a.m. to 2:30 p.m. Thursday, April 21, at the Holidome, French Quarter, 6th and Fairlawn, Topeka.

JOHN KELLY  
Executive Director

Doc. No. 006444

## State of Kansas

## CONSUMER CREDIT COMMISSIONER

NOTICE OF HEARING  
ON PROPOSED  
ADMINISTRATIVE REGULATIONS

The Consumer Credit Commissioner will conduct a public hearing at 10 a.m. Friday, May 6, in Room 352, Landon State Office Building, 900 S.W. Jackson, Topeka, on temporary and permanent regulation 75-6-24. All interested parties may present oral or written comments at the hearing. The fiscal impact on the individual consumer, based on the average size consumer loan of \$3,102 as taken from the 1986 annual report of licensed lenders, would result in an increase of \$21.60. There will be no fiscal impact on either the agency or the industry.

The regulation to be adopted is as follows:

**75-6-24. Adjustment in dollar amounts.** (a) The dollar amounts of \$300 and \$1,000 in K.S.A. 16a-2-401(2) and any amendments thereto shall be changed to ~~\$600 and \$2,000~~ \$630 and \$2,100.

(b) This regulation shall be effective on and after ~~July 1, 1986~~ July 1, 1988. (Authorized by and implementing K.S.A. 16a-2-401a; effective, E-79-9, April 20, 1978; effective May 1, 1979; amended, E-81-15, June 25, 1980; amended May 1, 1981; amended, T-83-16, July 1, 1982; amended May 1, 1983; amended, T-85-18, July 1, 1984; amended May 1, 1985; amended, T-87-14, June 6, 1986; amended May 1, 1987; amended, T-\_\_\_\_, \_\_\_\_.)

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JUDITH K. STRINGER  
Consumer Credit Commissioner

Doc. No. 006443

## 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 March 31—April 6:

## House Bills

**HB 3111**, by Committee on Appropriations: An act concerning the Kansas public employees retirement system; relating to membership thereof; election by certain employees; death and disability benefits.

## Senate Bills

**SB 753**, by Committee on Ways and Means: An act authorizing the state board of regents to sell certain real property on behalf of Kansas state university of agriculture and applied science; imposing conditions thereon; authorizing disposition of proceeds.

**SB 754**, by Committee on Federal and State Affairs: An act authorizing raffles to be conducted by certain nonprofit organizations; amending K.S.A. 1987 Supp. 21-4302 and repealing the existing section.

**SB 755**, by Committee on Ways and Means: An act concerning the state grants-in-aid to libraries act; relating to limitations on expenditures from state aid funds; amending K.S.A. 75-2558 and repealing the existing section.

**SB 756**, by Committee on Ways and Means: An act concerning the practice of nursing; exempting therefrom the performance of certain tasks; amending K.S.A. 1987 SUPP. 65-1124 and repealing the existing section.

**SB 757**, by Committee on Ways and Means: An act repealing K.S.A. 2-2216, 65-761, 65-762, 65-763, 65-764, 65-765, 65-766, 65-768 and 65-769 and K.S.A. 1987 SUPP. 65-767, relating to certain powers and duties of the state board of agriculture.

## House Resolutions

**HR 6085**, by Representative Sughrue: A resolution honoring teachers for their contributions to the citizens of the State of Kansas on Teacher Day USA, May 3, 1988.

**HR 6086**, by Representative Bowden: A resolution congratulating and commending the City of Bentley on its Centennial Anniversary.

**HR 6087**, by Representatives Blumenthal and Amos: A resolution in memory of Robert O. Stanley, Jr.

**HR 6088**, by Representative Harder: A resolution congratulating and commending the Hutchinson Community College basketball team and Coach Dave Farrar for winning the 1988 National Junior College Athletic Association Basketball Tournament.

**HR 6089**, by Representative Sughrue: A resolution congratulating and commending the ten teachers to be inducted into the Kansas Teachers' Hall of Fame in Dodge City on June 18, 1988.

**HR 6090**, by Representative Wilbert: A resolution congratulating and commending Prairie Historian Robert W. Richmond of Topeka for his many years of service to the history of the American West and the State of Kansas.

**HR 6091**, by Representative Bowden: A resolution congratulating and commending the "Warm Hearts" community service project.

**HR 6092**, by Representative Guldner: A resolution congratulating and commending Greeley County on its Centennial Anniversary.

**HR 6093**, by Representative Lowther: A resolution congratulating and commending the Kansas Master Teachers for 1988.

## Senate Resolutions

**SCR 1622**, by Senate Committee on Energy and Natural Resources: A concurrent resolution encouraging the Secretary of the Department of Wildlife and Parks and the Secretary of the Department of Agriculture to address aspects of agricultural concern regarding the deer resource and further, providing for a special committee to make a legislative study concerning Kansas deer management programs.

**SR 1855**, by Committee on Transportation and Utilities: A resolution establishing a Select Committee for Highway Progress and Safety.

**SR 1856**, by Senator Hayden: A resolution honoring Dr. Thomas F. Saffell upon his retirement as President of Garden City Community College.

**SR 1857**, by Senator Montgomery: A resolution congratulating and commending the City of Summerfield on its Centennial Anniversary.

**SR 1858**, by Senator D. Kerr: A resolution in memory of Senator Frank Stanton Hodge.

**SR 1859**, by Senator Winter: A resolution congratulating and commending the members of the Kansas State Firefighters Association on the organization's Centennial Anniversary.

**SR 1860**, by Senator Thiessen: A resolution congratulating and commending KOPCO, Inc., for being selected the 1988 recipient of the American Legion, Department of Kansas, "National Employ the Older Worker" Award.

**SR 1861**, by Senator Thiessen: A resolution congratulating and commending Geri Kay Hart for her outstanding achievements in athletics and academics at Independence High School.

**SR 1862**, by Senator Arasmith: A resolution congratulating and commending the City of Palco on its Centennial Anniversary.

**SR 1863**, by Senators Talkington and Allen: A resolution congratulating the *Oswatomie Graphic* on its 100th Anniversary.

**SR 1864**, by Senator Martin: A resolution congratulating and commending Prairie Historian Robert W. Richmond of Topeka for his many years of service to the history of the American West and the State of Kansas.

**SR 1865**, by Senator Montgomery: A resolution congratulating and commending the Bremen Farmers' Mutual Insurance Company on its Centennial Anniversary.

**SR 1866**, by Senator Anderson: A resolution congratulating and commending Judith Burns McCrea on her artwork being awarded first place in the KANSAS SEVEN Statewide Visual Arts Competition.

**SR 1867**, by Senator Karr: A resolution congratulating and commending the Kansas Master Teachers for 1988.

Doc. No. 006439

## State of Kansas

## DEPARTMENT ON AGING

REQUEST FOR PROPOSALS FOR  
IN-HOME NUTRITION PROGRAM

The Kansas Department on Aging is currently accepting proposals for in-home nutrition services funded by state resources for the program period July 1, 1988 through June 30, 1989. Complete proposals must be submitted on or before May 15.

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

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

ESTHER V. WOLF  
Secretary of Aging

Doc. No. 006441

## State of Kansas

KANSAS PUBLIC DISCLOSURE  
COMMISSION

## Advisory Opinion No. 88-8

Written March 24, 1988 to Roger V. Endell, Secretary of Corrections, Topeka.

This opinion is in response to your letter of March 21, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning K.S.A. 46-215 *et seq.*

We note at the outset that the commission's jurisdiction is limited to the above section as it applies to your question. Thus, whether some other common law, statutory system or administrative rule or policy relates to your question is not covered by this opinion.

We understand you request this opinion in your capacity as Secretary of Corrections. You advise us that the Department of Corrections has proposed a substantial capital improvements package as part of the solution to the state's prison overcrowding problem. As a part of the planning process for that project, the department requires the services of an engineering consultant experienced in the construction of corrections institutions.

To obtain those services, you are considering entering into a short-term contract, not to exceed \$20,000, with an individual named Peter White of PWA Engineers. Your purpose in writing to the Public Disclosure Commission is to seek an opinion as to whether such a contract would violate any Kansas laws.

During the summer of 1987, you worked with PWA Engineers in Oregon as an employee. You own no interest in the company whatsoever, nor is there a continuing

relationship with the company. You would receive no benefit of a personal nature from the proposed contract.

Based on this factual situation, you ask whether you may participate in the making of contracts with a former employer.

We have reviewed K.S.A. 46-215 *et seq.* in its entirety, and if you received more than \$2,000 in calendar year 1987 from PWA Engineers, you are deemed to hold a "substantial interest" in that firm for the entire calendar year of 1988 (see K.S.A. 46-229(b)). Under this circumstance, you could not participate in the making of a contract with PWA under K.S.A. 46-233(a) unless the contract is let after competitive bidding or for which the price or rate is fixed by law pursuant to 46-233(d)(1).

If you received less than \$2,000 in 1987 from PWA, it is our opinion, based on the factual situation provided to us, that you would not hold a substantial interest in PWA and may proceed without bid to enter into the contract discussed without violation of K.S.A. 46-215 *et seq.*

## Advisory Opinion No. 88-9

Written March 24, 1988 to Augie Bogina III, Vice President, Operations, Bogina Consulting Engineers, Lenexa.

This opinion is in response to your letter of March 10, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning K.S.A. 46-215 *et seq.*

We understand you request this opinion in your capacity as Vice President of Bogina Consulting Engineers. You advise us that Senator Gus Bogina, Jr., holds a substantial interest in the firm and that the firm frequently submits bids and contracts with municipalities, state and federal agencies.

You ask under what circumstances Senator Bogina is required to file a "Representation Case Disclosure Statement" when the firm contracts with the state of Kansas.

There are two requirements for filing representation case disclosure statements. The first is contained in K.S.A. 46-239. That section, however, does not apply to contractual settings (see K.A.R. 19-42-1(a)).

The other requirement is contained in K.S.A. 46-233(b). That subsection states:

"No individual shall, while a legislator or within one year after the expiration of a term as legislator, be interested pecuniarily, either directly or indirectly, in any contract with the state, which contract is funded in whole or in part by any appropriation or is authorized by any law passed during such term, except that the prohibition of this subsection (b) shall not apply to any contract interest in relation to which a disclosure statement is filed as provided by K.S.A. 46-239."

We believe the language to be fairly self-explanatory but no doubt is subject to questions in specific factual situations. Thus, if you have a specific question, we would be happy to respond to it.

We note in closing that it appears from a check of our records that Senator Bogina has been filing the statements in a timely and appropriate manner.

## Advisory Opinion No. 88-10

Written March 24, 1988 to Linden G. Appel, Institu-

tional Attorney, Kansas Department of Corrections, Kansas State Penitentiary, Lansing.

This opinion is in response to your letter of February 23, 1988, in which you request an opinion from the Kansas Public Disclosure Commission concerning K.S.A. 46-215 *et seq.*

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

We understand you request this opinion in your capacity as the institutional attorney for the Kansas State Penitentiary.

You advise us that Kansas State Penitentiary needed to purchase institutional pagers and a cellular telephone. Said items were let for bid in accordance with the Kansas competitive bidding statute, K.S.A. 75-3739, and in due course, United TeleSpectrum of Kansas City, Missouri, was awarded said contract. The administrative captain of the institution handled certain aspects of the transaction, including contact and communications with the vendor. This particular individual had had no contact with United TeleSpectrum or its account representative prior to this transaction.

In their last meeting concerning the transaction, the account representative asked our administrative captain for the name of any person he could suggest as a contact at the United States Penitentiary in Leavenworth for the purpose of soliciting a sale at that institution. The administrative captain then provided the name of an employee of that institution. In response, the United TeleSpectrum account representative stated that in the event she made a sale to the United States Penitentiary, United TeleSpectrum, as part of its ordinary practice, would provide a referral fee or finder's fee to him. The captain responded that he could not accept any such fee for his own use, but that he believed that it would be proper to have the fee turned over to a fund which is maintained and administered by the Leavenworth Area Chamber of Commerce to support K.S.P.'s annual competition for special response teams from various correctional institutions around the country. The arrangement was left in those terms.

Based on this factual situation, you ask whether the terms of K.S.A. 46-237, or other applicable statutes within the State Governmental Ethics Act, prohibit the receipt by a state employee of said referral fee or gratuity where the amount in question is under \$100, and where the same shall be donated to a fund administered by a private non-profit organization, the purpose of which is to support an activity in which the state employee has no direct or indirect pecuniary interest.

We have reviewed K.S.A. 46-215 *et seq.* in its entirety and are satisfied that the situation you describe will not constitute a violation thereof.

JOHN HAYES  
Vice-Chairman

Doc. No. 006389

## State of Kansas

### ATTORNEY GENERAL

#### Opinion No. 88-45

**Waters and Watercourses—Water Districts; Rural Water Districts—Public Letting of Contracts; Prequalification of Bidders; Lowest Responsible Bidder.** Murray E. Anderson, Legal Counsel, Rural Water District No. 2, Overland Park, March 31, 1988.

The statutes governing Rural Water District No. 2 of Johnson County do not require the district to seek competitive bids on construction projects. For sound policy reasons, however, the district should award such contracts by public bid-letting. If such a system is used, the board may reject the lowest bid if it determines that the bidder is not responsible. The board should not prequalify or pre-screen bidders. Cited herein: K.S.A. 19-214; 19-215; K.S.A. 1987 Supp. 19-3516; 68-521; K.S.A. 68-1115; K.S.A. 1987 Supp. 72-6760; K.S.A. 75-3737a; 82a-612. RLN

#### Opinion No. 88-46

**Cities and Municipalities—Local Residential Housing—Mortgage Credit Certificate Program.** Norman E. Gaar, Special Counsel for Geary and Riley counties, Overland Park, April 1, 1988.

The local residential housing act, K.S.A. 12-5219 *et seq.*, does not through its provisions authorize participation in a mortgage credit certificate program as established by section 25 of the Internal Revenue Code of 1986, as amended. Neither does the local residential housing act preclude participation in a mortgage credit program. Kansas cities may, therefore, by the exercise of their constitutional powers of home rule as provided in Article 12, Section 5 of the Kansas Constitution, join in a mortgage credit program of the type organized by Geary County and Riley County. Cited herein: K.S.A. 1987 Supp. 12-5219 to 12-5235; Kan. Const., Art. 12, § 5. REF

#### Opinion No. 88-47

**Corporations—Agricultural Corporations—Prohibition Against Certain Corporations Owning Agricultural Land; Exemption; 1988 Senate Bill No. 727.** Senator Don Montgomery, 21st District, Sabetha, April 1, 1988.

Section 7(a)(15) of a 1988 Senate Bill No. 727, amending K.S.A. 1987 Supp. 17-5904 by providing an additional exemption to the corporate farming act, is unconstitutional. It violates Sections 1 and 2 of the Kansas Bill of Rights and the Equal Protection Clause of the 14th Amendment to the United States Constitution in that it establishes an arbitrary classification that does not bear a rational relationship to the purpose of the act. Cited herein: K.S.A. 17-5902; K.S.A. 1987 Supp. 17-5904; 1988 Senate Bill No. 727; Kan. Bill of Rights, §§ 1, 2; U.S. Const., Amend. XIV. GE

#### Opinion No. 88-48

**Agriculture—State and Other Agricultural Societies and Fairs; Shawnee County Fair Association—Board of Directors.**

(continued)

**State Departments; Public Officers and Employees—Public Officers and Employees; Open Public Meetings—Meetings of State and Subdivisions Open to Public; County Fair Association.**

**State Departments; Public Officers and Employees—Kansas Tort Claims Act—Definitions; Exemptions.** Douglas F. Martin, Shawnee County Counselor, Topeka, April 5, 1988.

The Shawnee County Fair Association is not an agency of the county. However, it is a governmental entity subject to the Kansas tort claims act and the Kansas open meetings act. In order to qualify for the discretionary recognition granted by the State Board of Agriculture, the Shawnee County Fair Association must fulfill the remaining requirements under K.S.A. 2-125 *et seq.* that are not specifically excepted pursuant to K.S.A. 1987 Supp. 2-158. Cited herein: K.S.A. 2-125; 2-127; 2-132; 2-133; K.S.A. 1987 Supp. 2-158; K.S.A. 75-4317 *et seq.*; 75-6101; K.S.A. 1987 Supp. 75-6102; 1987 House Bill No. 2360. TMN

#### Opinion No. 88-49

**State Boards, Commissions and Authorities—State Board of Agriculture; Election and Duties of Board—Position on Legislative Issues; Selection of Members.** Representative Bruce F. Larkin, 62nd District, Baileyville, April 5, 1988.

The Kansas State Board of Agriculture may take a position on matters of public policy involving agricultural issues. The method of selecting members to the board as provided in K.S.A. 1987 Supp. 74-502 and 74-503 does not contravene the constitutional equal protection rights of Kansas residents. Cited herein: K.S.A. 46-221; 46-222; K.S.A. 1987 Supp. 74-502; 74-503; K.S.A. 74-504; 74-504a; 74-504b; 74-530; U.S. Const. Amend. 24; Kan. Const. Bill of Rights § 7. RLN

#### Opinion No. 88-50

**Counties and County Officers—County Attorney—Duties.**

**Criminal Procedure—Uniform Criminal Extradition Act—Change of Venue.** James H. Nickel, Ernest S. Kistler, and John M. Sears, Thomas County Commissioners, Colby, April 5, 1988.

K.S.A. 28-175 and K.S.A. 19-705 prohibit additional compensation or fees for performance of duties connected with the office of county attorney beyond what is specifically allowed by law. Case law uniformly allows additional compensation to be paid when a county attorney performs legal services outside the county's jurisdiction. While K.S.A. 22-2616(4) requires a county attorney to remain responsible for prosecution of cases transferred to another venue pursuant to that statute, it does not prohibit compensation or evidence legislative intent to abolish this case law. It is therefore our opinion that the county attorney may properly receive additional compensation for services rendered in another county pursuant to K.S.A. 22-2616(4). Cited herein: K.S.A. 2-1208a; 8-605; 9-2014; 17-1267; 19-701; K.S.A. 1987 Supp. 19-702; 19-703; K.S.A. 19-705;

19-723; 22-2616(4); 22-3902; 22a-107, 28-175; 65-4036. TMN

ROBERT T. STEPHAN  
Attorney General

Doc. No. 006436

### State of Kansas DEPARTMENT OF HUMAN RESOURCES PRIVATE INDUSTRY COUNCIL

#### PUBLIC NOTICE

The Kansas Private Industry Council of Service Delivery Area III is submitting a final two-year Job Training Plan to the Governor of Kansas through the Department of Human Resources. Funding for this plan is through Title IIA of the Job Training Partnership Act (JTPA), which is designed to provide training to disadvantaged youth and adults. The respective program years are July 1, 1988 to June 30, 1989, and July 1, 1989 to June 30, 1990. The funding level for each program year is \$1,339,942. The total two-year plan allocation is \$2,679,884.

The SDA plans to serve over 500 eligible participants each program year. The purpose of the proposed programs and activities is to prepare youth and unskilled adults for entry into the labor force and to afford job training to economically disadvantaged individuals and other individuals facing serious barriers to employment.

The Kansas Private Industry Council of Service Delivery Area III is also submitting to the Governor through the Department of Human Resources a final Summer Youth Employment and Training Plan, as a sub-part of the Title IIA two-year plan, for program years 1988 and 1989. The 1988 Summer Youth Employment and Training Plan program is October 1, 1987 to September 30, 1988, and the 1989 program year is October 1, 1988 to September 30, 1989. The sub-part for program year 1988 will be an update; for program year 1989 a new application.

Funding for this plan is through Title IIB of the Job Training Partnership Act, which is designed to provide training for disadvantaged youth. The SDA plans to serve over 400 youth each program year. The estimated amount to be received for the Summer Youth Program is \$563,600 for the 1988 program year and \$563,468 for the 1989 program year, totalling \$1,127,068 for the two-year period.

The purpose of the proposed programs and activities is to afford job training to economically disadvantaged youths ages 14-21, facing serious barriers to employment.

The full plan and its IIB sub-part are available at the following location and may be reviewed upon request. Questions and comments may be directed to the Private Industry Council, SDA III, 827 Gateway Centre II, 4th and State Ave., Kansas City, KS 66101, (913) 371-1607.

ANN CONWAY  
Executive Director  
Kansas Private Industry Council  
Service Delivery Area III

Doc. No. 006429

State of Kansas

## OFFICE OF JUDICIAL ADMINISTRATION

## SUPREME COURT DOCKET

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

Monday, April 25, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,277	State of Kansas, Appellant, v. Charles L. Craig, Appellee.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney  Walter C. Williamson Broc E. Whitehead	Sedgwick
61,628	State of Kansas, Appellant, v. Guy V. Henwood, Appellee.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney  Cheryl J. Roberts, Assistant Public Defender Benjamin C. Wood	Sedgwick
61,498	State of Kansas, Appellee, v. Jose I. Rojas, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney  Benjamin C. Wood	Sedgwick
60,396	State of Kansas, Appellee, v. Gregory A. Daily, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney  Benjamin C. Wood	Sedgwick

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,857	State of Kansas, Appellee, v. Franklin E. Patterson, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney  Benjamin C. Wood	Sedgwick
60,768	Susan Stang, Appellant, v. Paul Caragianis, Appellee.	Bruce A. Swenson  Amy S. Lemley	Sedgwick
61,438	Emil Johnson (Orletha Johnson substituted as Executor of the Estate of Emil Johnson, Deceased), Appellant, v. American Cyanamid, <i>et al.</i> , Appellees.	Gerald L. Michaud Marlys A. Marshall Jerry Hannah William S. Bowers  Donald Patterson Steve R. Fabert Ronald J. Greene William Tinker Randall Fisher	Sedgwick

(continued)

Tuesday, April 26, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
60,606	State of Kansas, Appellee, v. Mark A. Wright, Appellant.	Robert T. Stephan, Attorney General Tim Chambers, County Attorney  Benjamin C. Wood	Reno
60,585	State of Kansas, Appellee, v. Richard L. Surratt, Appellant.	Robert T. Stephan, Attorney General Darrell E. Miller, County Attorney  Benjamin C. Wood	Jewell
61,600	L. Frank Dougan, <i>et al.</i> , Appellees, v. Rossville Drainage District, Appellant.	J. Roger Hendrix  Anne L. Baker Richard F. Hayse	Shawnee
61,326	Clifford F. Davis and Iva L. Davis, Appellants, v. City of Leavenworth, Kansas, and Greenamyre Rentals, Inc., Appellees.	Rod L. Richardson  Neil R. Shortlidge Robert D. Beall	Leavenworth

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,314	State of Kansas, Appellee, v. Ralph Sittingdown, Appellant.	Robert T. Stephan, Attorney General Wayne R. Tate, County Attorney  William J. Graybill	Stevens  On Petition for Review
61,209	Equitable Life Leasing Corporation, v. Marion G. Abbick, <i>et al.</i> , Appellees, v. Moore Business Systems, Inc., Appellants.	Walter P. Robertson Kenneth C. Jones  Michael E. Francis	Geary
61,022	State of Kansas, Appellee, v. Scott A. Chisholm, Appellant.	Robert T. Stephan, Attorney General Gabrielle Thompson, Assistant County Attorney  Benjamin C. Wood David J. Gottlieb Kurt D. Tilton	Riley

Wednesday, April 27, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
60,939	State of Kansas, Appellee, v. Robert Lynn Lucas, Appellant.	Robert T. Stephan, Attorney General Michael B. Buser, Assistant District Attorney  Benjamin C. Wood	Johnson
60,686	State of Kansas, Appellee, v. Gordon W. Jamison, Appellant.	Robert T. Stephan, Attorney General Michael B. Buser, Assistant District Attorney  Benjamin C. Wood John P. Gerstle	Johnson
61,064	High Plains Oil Exploration, Inc., a Kansas Corporation, Appellant, v. C. C. & S. Oil Operations, Inc., a Kansas Corporation, <i>et al.</i> , Appellees.	Raymond L. Dahlberg  Marvin E. Thompson Jerome D. Riffel Joseph W. Jeter J. Eugene Balloun	Johnson
60,658	James L. Summers, Appellant, v. Montgomery Elevator Company, <i>et al.</i> , Appellees.	Thomas Francis Sullivan  Frank Saunders Elizabeth Drill Hartsook Ronald W. Nelson	Johnson

1:30 p.m.

Case No.	Case Name	Attorneys	County
59,875	State of Kansas, Appellee, v. Kenneth Eugene Guth, Appellant.	Robert T. Stephan, Attorney General Nick Tomasic, District Attorney  Benjamin C. Wood	Wyandotte
60,416	Richard Pyeatt, Appellee, v. Roadway Express, Inc., Appellant.	Davy Walker  J. Donald Lysaught, Jr.	Wyandotte On Petition for Review

Thursday, April 28, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,097	State of Kansas, Appellee, v. James Ray Smith, Jr., Appellant.	Robert T. Stephan, Attorney General Kyle G. Smith, Assistant County Attorney  Benjamin C. Wood	Lyon
59,998	Loretta Lagal Newman, <i>et al.</i> , Appellees, v. Jim George, <i>et al.</i> , Appellants.	Stanley R. Ausemus Roy U. Jordan  Thomas A. Krueger Keith A. Greiner	Lyon On Petition for Review  (continued)

58,965	State of Kansas, Appellee, v. Lisa Jeanne Dunn, Appellant.	Robert T. Stephan, Attorney General Perry Murray, County Attorney	Thomas
60,419	Maurice G. Barnhart, Appellant, v. Kansas Department of Revenue, Appellee.	Jessica R. Kunen Michael V. Foust James G. Keller	Thomas On Petition for Review

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,914	Vincent Jones and Cynthia Jones, Appellees, v. Ted J. Bordman, <i>et al.</i> , Appellants.	James R. Shetlar Margie J. Phelps Paul Hasty, Jr. Michael T. Halloran	Johnson
60,915	Shirley Barnett, Appellee, v. Elizabeth A. Drees and Dr. Joseph Lichter, Appellants.	Joel K. Goldman Arthur Choykin William P. Coates Margie J. Phelps	Johnson

Friday, April 29, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
60,682	Pauline Burch, Appellant, v. University of Kansas, <i>et al.</i> , Appellees.	Kevin L. Diehl Mary Prewitt	Shawnee On Petition for Review
61,066	R. Atteberry, <i>et al.</i> , Appellees, v. Ed Ritchie, <i>et al.</i> , Appellants.	Stephen W. Cavanaugh Charles S. Fisher, Jr. Randy L. Baird David N. Holstead	Shawnee

LEWIS C. CARTER  
Clerk of the Appellate Courts



**State of Kansas  
KANSAS INSURANCE DEPARTMENT**

**NOTICE OF HEARING**

A formal hearing will be held at 9:30 a.m. Wednesday, April 20, at the Kansas Insurance Department, 420 S.W. 9th, Topeka, to determine whether BATUS, Inc. has violated the Kansas Insurance Holding Companies Act, K.S.A. 40-3301 *et seq.*, in particular K.S.A. 40-3304(g)(2). It is alleged that BATUS, Inc.'s solicitation and eventual holding of proxies for use at a May 20, 1988 annual meeting of Farmers Group, Inc. without first making the applicable filings and receiving the prior approval of the Commissioner of Insurance would be a violation of the above mentioned Kansas insurance statutes.

FLETCHER BELL  
Commissioner of Insurance

Doc. No. 006445

**State of Kansas  
DEPARTMENT OF ADMINISTRATION  
DIVISION OF ARCHITECTURAL SERVICES**

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

Notice is hereby given of the commencement of negotiations for a contract for kitchen consulting services for the cafeteria in Wescoe Hall at the University of Kansas, Lawrence. A kitchen consultant with architectural experience is desired.

Any questions or expressions of interest should be directed to James E. Modig, Office of Facilities Planning, 114 Carruth O'Leary Hall, University of Kansas, Lawrence 66045-7000, (913) 864-3431, no later than April 29.

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

Doc. No. 006440

**State of Kansas  
DEPARTMENT OF HEALTH  
AND ENVIRONMENT**

**NOTICE CONCERNING KANSAS  
WATER POLLUTION CONTROL PERMIT**

In accordance with state regulations 28-16-57 through 28-16-63 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Name and Address of Applicant	Waterway	Type of Discharge
Mayor and City Council c/o City Clerk—City Hall 324 N. Washington Liberal, KS 67901	Cimarron River Riparian Wetland Area	Secondary Wastewater Treatment Facility
Kansas Permit No. M-CI10-0002 Federal Permit No. KS-0080870 Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.		

Name and Address of Applicant	Waterway	Type of Discharge
Kansas Army Ammunition Plant East Main Parsons, KS 67357-9107 Labette County, Kansas	Neosho River and Unnamed Tributaries to Neosho River and Labette Creek Neosho River Basin	Process and Domestic wastewater
Kansas Permit No. F-NE55-P004 Federal Permit No. KS-0029360 Description of Facility: This facility is a government-owned, contractor-operated military industrial installation engaged in an ammunition load/assemble/pack operation. Wastewater treatment at this installation includes a primary clarifier, trickling filter and secondary clarifier, an oxidation pond, an oil and grease containment device, diatomaceous earth filters and carbon absorption filters, and a physical-chemical treatment system. This is an existing permit and the previous limitations have been modified. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).		

Name and Address of Applicant	Waterway	Type of Discharge
Panhandle Eastern Pipeline Company Attention: Alan Adams 3444 Broadway, Box 418348 Kansas City, MO 64141-9348 Miami County, Kansas	Marais des Cygnes via Bull Creek River Basin	Hydrostatic Test Discharge
Kansas Permit No. I-MC33-P008 Federal Permit No. KS-0085987 Description of Facility: Water is discharged to Bull Creek after it is used to hydrostatically test an existing pipeline. This is a new facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).		

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to May 13 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-88-22/24) 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. 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, including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices 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. 006433

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENTNOTICE 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

Gottsch Feeding, Inc.  
Box 237  
Deerfield, KS 67838

Legal Description	Receiving Water
S½ Section 1, N½ Section 12, Township 24S, Range 35W, Kearny County, Kansas	Upper Arkansas River Basin

Kansas Permit No. A-UAKE-C001 Federal Permit No. KS-0037532

The feedlot has capacity for approximately 30,000 cattle with expansion planned for an additional 20,000 cattle and a contributing drainage area of approximately 385 acres.

Runoff Control Facilities: Feedlot runoff is impounded for subsequent disposal upon agricultural land. Storage capabilities are provided in excess of 128.3 acre-feet.

Compliance Schedule: None, existing controls adequate.

Name and Address  
of Applicant

White Cloud Grain Co., Inc.  
c/o Roger Wolfe  
P.O. Box 276  
Hiawatha, KS 66434

Kansas Permit No. A-MODP-H001 Federal Permit No. KS-0079049

The facility has capacity for approximately 4,200 swine.

Wastewater Control Facilities: Wastewater is impounded for subsequent disposal upon agricultural land. Storage capabilities are provided in excess of minimum requirements.

Compliance Schedule: None, existing controls adequate.

Written comments on the proposed NPDES permits may be submitted to Bethel Spotts, Permit Clerk, Permits and Compliance, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Topeka 66620. All comments received prior to May 13 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-88-7/8) 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 30 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. 006435

## State of Kansas

DEPARTMENT OF HEALTH  
AND ENVIRONMENTNOTICE CONCERNING UNDERGROUND  
INJECTION WELL PERMIT

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for the construction of one fresh water injection well, within the state of Kansas, for the applicant described below.

Name and Address  
of Applicant

Mesa Limited Partnership  
Ogallala Aquifer Cleanup  
Project  
One Mesa Square  
P.O. Box 2009  
Amarillo, TX 79189-2009  
Haskell County, Kansas

## Well Number Well Location

Recharge Well #2	SW SW SW 34-29-34W, Haskell County
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Kansas Permit No. KS-05-081-002

Description of Project: This well is designed to accept fresh water resulting from a groundwater cleanup project.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Forbes Field, Topeka 66620. All comments received prior to May 13 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate number (KS-EG-88-2) and name of applicant as listed when preparing comments. If no objections are received, the Secretary of Health and Environment will issue the final determinations.

The application, proposed permit, fact sheets as appropriate, comments received, and other information are on file and may be inspected at the Division of Environment offices 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. 006434

## State of Kansas

DEPARTMENT OF ADMINISTRATION  
DIVISION OF PURCHASES

## NOTICE TO BIDDERS

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

Monday, April 25, 1988

#A-5863

Adjutant General's Department—PARTIAL REROOF OF THE NATIONAL GUARD ARMORY BUILDING, Pittsburg

#27082

Statewide—SAFETY RAZOR BLADES AND DISPOSABLE RAZORS

#73627

Kansas Lottery—LOTTERY GAME EQUIPMENT

#73639

Topeka State Hospital—REPAIR FIRE DAMAGE TO RAPAPORT SOUTH

Tuesday, April 26, 1988

#27087

Statewide—TOOTHBRUSHES AND TOOTHPASTE

#27803

University of Kansas Medical Center—PERFUSION SERVICES

#73570

Pittsburg State University—DISHWASHER

Wednesday, April 27, 1988

#A-5800

Youth Center at Atchison—REPLACE AIR COOLED CONDENSING UNITS FOR WALK-IN FREEZER AND COOLERS, Dietary Building

#A-5801

Youth Center at Atchison—REPLACE COMPRESSORS ON AIR CONDITIONING UNITS, DIETARY BUILDING, AND REPLACE CONDENSING UNITS, IVY COTTAGE

#27246

University of Kansas Medical Center and other state agencies—DRESSING/PATIENT CARE ITEMS (CLASS 02)

#73578

University of Kansas—PIANOS

#73579

Department of Transportation—CRACK SEALANT, Norton

#73580

Kansas Lottery—FORMS—CONTINUOUS, various locations

Thursday, April 28, 1988

#27119

University of Kansas Medical Center—ANIMAL BEDDING

#27517

Statewide—SPICES AND MISCELLANEOUS GROCERIES

#73567

Department of Administration, Division of Accounts and Reports—80286 BASED MICROCOMPUTERS

#73608

University of Kansas—PRINTING OF GENERAL CATALOG

Friday, April 29, 1988

#26003

Pittsburg State University—FOOD SERVICE CONTRACT

#27515

Statewide—FROZEN FOODS

#73617

Adjutant General's Department—FURNISH ALL LABOR AND MATERIALS FOR RENOVATION OF MAINTENANCE SHOP #3, Wichita

#73618

Department of Administration, Division of Printing—COPIER—600M MONTHLY VOLUME

#73619

Kansas State University—PLAIN PAPER COPIER

#73620

University of Kansas—PLAIN PAPER COPIER

#73626

Kansas State University—REPAINT WATER TOWER, Garden City

#73630

Kansas School for the Deaf—PASSENGER VAN

#73631

Department of Transportation—LIGHT POLE SHEAR BASES

#73632

University of Kansas Medical Center—ORTHOPEDIC TABLE

#73633

Kansas State University—TRACTOR

Monday, May 2, 1988

#73638

Department of Transportation—DUMP TRUCKS, various locations

Tuesday, May 3, 1988

#73621

University of Kansas Medical Center—PROTOCOL/ REVERSE PROTOCOL CONVERSION SYSTEM

Wednesday, May 4, 1988

#26893

University of Kansas Medical Center and other state agencies—PERFUSION SUPPLIES (CLASS 18)

Friday, May 6, 1988

#73629

Department of Corrections—CONSULTING SERVICES—PRISON FACILITIES

Tuesday, May 10, 1988

#A-4937

Kansas State University—HOLTON HALL ADAPTATION

(continued)

Tuesday, May 17, 1988

#73575

Adjutant General's Department—CONSTRUCTION  
OF GOODLAND ARMORY

NICHOLAS B. ROACH  
Director of Purchases

Doc. No. 006437

(Published in the *Kansas Register*, April 14, 1988.)

**NOTICE OF BOND SALE**  
**\$166,000**  
**City of Grenola, Kansas**  
**General Obligation Refunding Bonds**  
**Series 1988**

**Sealed Bids**

Sealed bids for the purchase of \$166,000 principal amount of general obligation refunding bonds, Series 1988, of the city hereinafter described, will be received by the undersigned, city clerk of the city of Grenola, Kansas, on behalf of the governing body of the city at City Hall, Main Street, Grenola, until 7:30 p.m. C.D.T. on Tuesday, April 26, 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 \$1,000 or any integral multiple thereof. The bonds will be dated May 1, 1988, and will become due serially on December 1 in the years as follows:

Year	Principal Amount
1988	\$ 3,000
1989	3,000
1990	4,000
1991	4,000
1992	4,000
1993	4,000
1994	5,000
1995	5,000
1996	6,000
1997	6,000
1998	6,000
1999	7,000
2000	8,000
2001	8,000
2002	9,000
2003	9,000
2004	10,000
2005	11,000
2006	12,000
2007	13,000
2008	14,000
2009	15,000

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 June 1 and December 1 in each year, beginning on December 1, 1988.

**Place of Payment and Bond Registration**

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar). The prin-

cipal 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 whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

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

**Redemption of Bonds Prior to Maturity**

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  $\frac{1}{8}$  or  $\frac{1}{20}$  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 1.5 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest thereon 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. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices).

**Basis of Award**

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

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

The bonds are being authorized and issued to refund an outstanding general obligation bond of 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 imposes requirements on the city which must be met subsequent to the issuance of the bonds by the city and, as a result, the city will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

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

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

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

#### Legal Opinion

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

when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the city, with the provisions of the ordinance authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation.

#### Delivery and Payment

The city will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly prepared, executed and registered, on or prior to May 25, 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. C.D.T. on May 20, 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.

The successful bidder shall furnish the city by 10 a.m. C.D.T. on May 23, 1988, a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

#### Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$3,320, 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

(continued)

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. 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 Refunding 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 7:30 p.m. C.D.T. on Tuesday, April 26, 1988.

**Official Statement**

Upon the sale of the bonds, the city will adopt an official statement in substantially the form as the preliminary official statement, subject to minor amendments and supplementation. Copies of the city's preliminary official statement relating to the bonds may be obtained from the city clerk or the city's financial adviser, Mid-Continent Investments, Inc., Century Plaza, Suite 333, 111 W. Douglas, Wichita, KS 67202-2370, (316) 262-5161. Upon request, a reasonable number of copies of the official statement will be made available to the successful bidder without charge. Additional copies may be obtained at the expense of such bidder.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the city for the year 1987 is \$290,800. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds, is \$381,000. In accordance with the financial adviser's agreement with the city, the financial adviser will not be submitting a bid or participating in a group submitting a bid for the purchase of the bonds.

Dated April 26, 1988.

City of Grenola, Kansas  
Dixie Conklin  
City Clerk  
City Hall  
Main Street  
Grenola, KS 67346  
(316) 358-2860

(Published in the Kansas Register, April 14, 1988.)

**NOTICE OF BOND SALE**

Shawnee County, Kansas

**\$1,719,103 General Obligation Bonds  
Series 1988A (Street Improvements)  
and Series 1988B (Sewer and Park Improvements)**

Shawnee County, Kansas will receive sealed bids at the office of the County Clerk, Room 107, Shawnee County Courthouse, 200 E. 7th, Topeka, until 9 a.m. C.D.T. on Tuesday, April 19, 1988, for the purchase of all, and not less than all, of the following two series of general obligation bonds of Shawnee County, Kansas: \$650,819 par value Series 1988A (Street Improvements) bonds; and \$1,068,284 par value Series 1988B (Sewer and Park Improvements) bonds; in the aggregate principal amount of \$1,719,103 of the county. Immediately thereafter the county commission shall, at its meeting to be held at 9 a.m. C.D.T. on such date in the county commission chamber located in the County Courthouse, publicly open at such place and time any such bids as are properly submitted to and received by the county. No oral or auction bids will be considered.

**Details of the Bonds**

The bonds will be dated April 15, 1988, and shall mature on September 1 in each of the years and in the amounts set forth below. Such bonds shall consist of fully registered certificated bonds, each in the denomination of \$5,000 (except one bond of the Series 1988A bonds in the denomination of \$5,819 and one bond of the Series 1988B bonds in the denomination of \$8,284) or integral multiples thereof not exceeding the principal amounts of bonds maturing in each year. Interest will be payable semiannually on March 1 and September 1 of each year until their respective maturities beginning March 1, 1989. The principal of, and premium, if any, on the bonds shall be payable in lawful money of the United States of America, at the principal office of the Kansas State Treasurer (the paying agent and bond registrar) to the registered owners thereof upon presentation of the bonds for payment and cancellation. Interest of 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 first day of the month next preceding each interest payment date. The fees of the bond registrar for registration and transfer of the bonds shall be paid by the county.

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

The Series 1988A Bonds (Street Improvements)	
Principal Amount	Maturity (September 1)
\$20,819	1989
45,000	1990
45,000	1991
45,000	1992
45,000	1993
45,000	1994
45,000	1995
45,000	1996
45,000	1997

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45,000	1998
45,000	1999
45,000	2000
45,000	2001
45,000	2002
45,000	2003

**The Series 1988B Bonds  
(Sewer and Park Improvements)**

Principal Amount /	Maturity (September 1)
\$18,284	1989
30,000	1990
35,000	1991
40,000	1992
45,000	1993
60,000	1994
60,000	1995
60,000	1996
60,000	1997
60,000	1998
60,000	1999
60,000	2000
60,000	2001
60,000	2002
60,000	2003
60,000	2004
60,000	2005
60,000	2006
60,000	2007
60,000	2008

**Redemption**

At the option of the county, the bonds maturing on and after September 1, 1999 will be subject to redemption and payment prior to maturity on September 1, 1998, or on any interest payment date thereafter, in whole or in part in inverse order of maturity, at a redemption price of 100 percent of the par value thereof together with accrued interest to the redemption date, without any additional premium.

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

Whenever bonds of less than a single maturity are to be redeemed, the paying agent and bond registrar shall select bonds by lot in multiples of \$5,000 principal amount in such equitable manner as it shall designate and shall, in the case of bonds in denominations greater than \$5,000, treat each \$5,000 of face value of each bond as though it were a separate bond of the denomination of \$5,000.

**Interest Rates**

Proposals will be received on the bonds bearing such rate or rates of interest, not exceeding eight different interest rates, as may be specified by the bidder. The repetition of a rate will not constitute one of said maximum number of rates. The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be in an even multiple of 1/8 or 1/20 of 1 percent. The difference between the highest and lowest interest rates specified in any bid shall not exceed 2 percent. No interest rate shall exceed the maximum interest rate allowed by Kansas law, said rate being 2 percent above 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, and no bid of less than par and accrued interest will be considered. Bids for less than the entire issue of bonds will not be considered.

**Bid Form and Good Faith Deposit**

Bids shall be submitted on the official bid form furnished by the county, and shall be addressed to the county at the office of the County Clerk, Room 107, Shawnee County Courthouse, Topeka, KS 66603, 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 county 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 the order of the Shawnee County Treasurer. In the event a bidder whose bid is accepted shall fail to carry out the contract of purchase, said deposit shall be retained by the county as liquidated damages. The checks of unsuccessful bidders will be returned promptly.

**Legal Opinion**

The bonds, duly printed, executed and registered, will be furnished and paid for by the county and sold subject to the approving opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose opinion will be paid for by the county.

**Internal Revenue Code of 1986**

The Internal Revenue Code of 1986 imposes requirements on the county which must be met subsequent to the issuance of the bonds by the county and, as a result, the county will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The county'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 county'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

(continued)



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 county does intend to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

#### Identification of Initial Owners

The number, denomination of bonds and names of the initial registered owners shall be submitted in writing by the successful bidder to the bond registrar not later than April 29, 1988.

#### Delivery

The purchaser will be furnished with a complete transcript of proceedings evidencing authorization and issuance of the bonds and the usual closing proofs, which will include a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity. Payment for the bonds shall be made in immediately available funds. The county intends to deliver the bonds to the successful bidder approximately May 10, 1988, at any bank in the state of Kansas or Kansas City, Missouri, at the expense of the county. Delivery elsewhere will be made at the expense of the purchaser.

#### Purpose

The bonds will constitute general obligations of the county, payable as to both principal and interest, in part, from the collection of special assessments which have been levied on benefited property; but if not so paid, then said principal and interest will be payable 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 county. The balance of the principal and interest on the bonds not payable from the collection of special assessments will also constitute gen-

eral obligations of the county payable from ad valorem taxes levied without limitation as to rate or amount upon all the taxable, tangible property within the territorial limits of the county. The bonds are being issued by the county to permanently finance and retire certain temporary notes issued by the county to finance certain sanitary sewer system, street and park improvement projects of the county.

#### Award

The sealed bids for the bonds shall be opened publicly and only at the time and place specified in this notice. The county 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 county, and the net interest cost will be determined by deducting any amount of any premium paid from the aggregate amount of interest upon all of the bonds from their date until their respective maturities.

#### CUSIP Numbers

It is anticipated that CUSIP identification numbers will be printed on the bonds, but neither the failure to print such number or assign a number to 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. All expenses incurred in connection with the printing of CUSIP numbers on the bonds and the expenses of the CUSIP Service Bureau for the assignment of said numbers shall be paid for by the county.

#### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the county (including motor vehicle valuation and motor vehicle dealers' inventory valuation) for the year 1988 is \$653,242,880. The total general obligation bonded indebtedness of the county, at the date hereof, including this proposed issue of bonds, is \$56,242,305.30. The county has temporary notes outstanding in the total amount of \$2,199,058.40, of which \$1,813,593.40 will be redeemed and paid from the proceeds of this proposed issue of bonds and from other unencumbered funds legally available to the county.

Additional copies of this notice of bond sale or further information may be received from the county.

Dated April 4, 1988.

SHAWNEE COUNTY, KANSAS  
Patsy A. McDonald, County Clerk  
Shawnee County Courthouse  
200 S.E. 7th  
Topeka, KS 66603  
(913) 291-4111

Doc. No. 006426



(Published in the *Kansas Register*, April 14, 1988.)**NOTICE OF BOND SALE****\$154,000****General Obligation Bonds****Series 1988-A****of the****City of Marion, Kansas****(general obligation bonds payable  
from unlimited ad valorem taxes)****Sealed Bids**

Sealed bids will be received by the undersigned, city clerk of the city of Marion, Kansas, on behalf of the governing body at the City Hall, 203 N. 3rd, Marion, until 3 p.m. C.D.T. on Monday, April 18, 1988, for the purchase of \$154,000 principal amount of general obligation bonds, Series 1988-A, of the city hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body immediately thereafter. No oral or auction bids will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof, except one bond in the denomination of \$4,000. The bonds will be dated May 1, 1988, and will become due serially on December 1 in the years as follows:

Year	Principal Amount
1989	\$ 9,000
1990	10,000
1991	15,000
1992	15,000
1993	15,000
1994	15,000
1995	15,000
1996	20,000
1997	20,000
1998	20,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning on June 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), to the registered owners thereof whose names are on the registration books of the bond registrar as of the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the city and the Kansas Attorney General.

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**

Bonds maturing in the years 1989 to 1995, inclusive, shall become due without option of prior payment. At

the option of the city, bonds maturing in the years 1996 and thereafter may be called for redemption and payment prior to maturity in whole or in part (selection of bonds to be designated by the city in such equitable manner as it may determine) on December 1, 1995, or on any interest payment date thereafter at the redemption price of 101 percent (expressed as a percentage of the principal amount), plus accrued interest to the date of redemption.

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

If the city elects to call any bonds for redemption and payment prior to the maturity thereof, the city shall give written notice of its intention to call and pay said bonds on a specified date, the same being described by maturity, said notice to be mailed by United States certified mail addressed to the owners of said bonds, to the Kansas State Treasurer, and to the original purchaser of the bonds, each of said notices to be mailed not less than 30 days prior to the date fixed for redemption. The city shall also give such additional notice as may be required by Kansas law in effect as of the date of such notice. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

**Authority, Purpose and Security**

The bonds are being issued pursuant to K.S.A. 12-631t and 12-631w, as amended, for the purpose of paying the cost of certain sewage disposal system improvements. The bonds and the interest thereon will constitute general obligations of the city, payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the city.

**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  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate may exceed a rate equal to 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 cannot exceed 3 percent. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be considered. Each bid must specify the total interest cost to the city during the term of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid, all certified by the bidder to be correct, and the city will be entitled to rely on the certificate of correctness of the bidder.

*(continued)*

Each bid must also specify the average annual net interest rate to the city on the basis of such bid.

**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 \$3,080 (2 percent of the principal amount of the bonds) 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. Good faith checks submitted by unsuccessful bidders will be returned. If a bid is accepted, said check or the proceeds thereof will be held by the city until the bidder has complied with all of the terms and conditions of this notice. If a bid is accepted but the city fails to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder defaults 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. No interest will be paid upon the successful bidder's good faith check.

**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 governing body will determine which bid, if any, will be accepted, and its determination is final. The city reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 3 p.m. on the date of sale will be returned to the bidder unopened.

**Bid Forms**

All bids must be made on forms which may be procured from the city clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid.

**Submission of Bids**

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk, and marked "Proposal for General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the City Hall and must be received by the undersigned prior to 3 p.m. C.D.T. on Monday, April 18, 1988.

**CUSIP Numbers**

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

**Delivery and Payment**

The city will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere will be made at the expense of the successful bidder. The successful bidder will 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 number and denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners must be submitted in writing by the successful bidder to the city and bond registrar at least two weeks prior to the closing date. In the absence of such information, the city will deliver one bond per maturity registered in the name of the manager of the successful bidder.

The reoffering prices to the public by the original purchaser must be furnished to the city at least one week prior to the closing date. A certificate stating that at least 10 percent of the bonds of each maturity has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at such reoffering prices must be furnished to the city by the original purchaser at closing.

**Official Statement**

The city has prepared an official statement dated April 6, 1988, copies of which may be obtained from the city clerk. Upon the sale of the bonds, the city will adopt the final official statement and will furnish the successful bidder with a reasonable number of copies thereof without additional cost upon request. Additional copies may be ordered at the successful bidder's expense.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the city, for the year 1987, is as follows:

Equalized assessed valuation of taxable tangible property .....	\$3,330,552
Tangible valuation of motor vehicles .....	\$1,282,959
<hr/>	
Equalized assessed tangible valuation for computation of bonded debt limitations .....	\$4,613,511
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The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$409,855,90. Temporary notes in the principal amount of \$25,000 will be retired out of proceeds of the bonds.

**Approval of Bonds**

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 city, printed on the

bonds and delivered to the successful bidder as and when the bonds are delivered.

#### Opinion of Bond Counsel

In the opinion of bond counsel, assuming continued compliance by the city with the terms of the bond ordinance, 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 city 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 city has covenanted to comply with all such requirements.

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.

Bond counsel expresses no opinion regarding other federal tax consequences arising with respect to the bonds.

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

A form of bond counsel's opinion is contained in the official statement of the city with respect to 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.

#### Additional Information

Additional information regarding the bonds may be obtained from the city clerk or from the city's bond counsel, Gilmore & Bell, One Main Place, Suite 800, Wichita, KS, (316) 267-2091.

Dated March 31, 1988.

CITY OF MARION, KANSAS  
By Joan L. Bowers, City Clerk  
City Hall  
203 N. 3rd  
Marion, KS 66861  
(316) 382-3703

Doc. No. 006423

(Published in the *Kansas Register*, April 14, 1988.)

### NOTICE OF BOND SALE \$500,000

General Obligation Storm Sewer  
and/or Drain Bonds  
Series A, 1988

of the  
City of Chanute, Kansas  
(general obligation bonds payable from  
unlimited ad valorem taxes)

#### Sealed Bids

Sealed bids will be received by the undersigned, city clerk of the city of Chanute, Kansas, on behalf of the governing body at the City Building, 101 S. Lincoln, until noon D.S.T. on April 25, 1988, for the purchase of \$500,000 principal amount of general obligation storm sewer and/or drain bonds, Series A, 1988, of the city hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body on the date of sale. No oral or auction bids will be considered.

#### Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated May 1, 1988, and interest will become due semiannually on March 1 and September 1 in the years as follows:

Maturity	Principal Amount
September 1, 1989	\$50,000
September 1, 1990	50,000
September 1, 1991	50,000
September 1, 1992	50,000
September 1, 1993	50,000
September 1, 1994	50,000
September 1, 1995	50,000
September 1, 1996	50,000
September 1, 1997	50,000
September 1, 1998	50,000

(continued)

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semi-annually on March 1 and September 1 in each year, beginning 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), to the registered owner(s) thereof whose name(s) are on the registration books of the bond registrar as of the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the city and the Kansas Attorney General.

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 bondowner(s).

#### Authority, Purpose and Security

The bonds are being issued pursuant to K.S.A. Sections 12-631r and 12-631s, all as may be amended, for the purpose of paying the cost of certain storm sewer and/or drain improvements. The bonds and the interest thereon will constitute general obligations of the city, if not paid, from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the city.

#### 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  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate may exceed a rate equal to 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. No rate specified may be lower than any rate specified for an earlier maturity of the bonds. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be considered. Each bid must specify the total interest cost to the city during the term of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid, all certified by the bidder to be correct, and the city will be entitled to rely on the certificate of correctness of the bidder. Each bid must also specify the average annual net interest rate to the city on the basis of such bid.

#### 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 \$10,000 (2 percent of the principal amount of the bonds), 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. Good faith checks submitted by unsuccessful bidders will be returned. If a bid is accepted, said check or the proceeds thereof will be held by the city until the bidder has complied with all of the terms and conditions of this notice. If a bid is accepted but the city fails to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this notice, the proceeds of such check will be retained by the city as and for liquidated damages. No interest will be paid upon the successful bidder's good faith check.

#### 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 will be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the governing body shall determine which bid, if any, will be accepted, and its determination is final. The city reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 3 p.m. on the date of sale will be returned to the bidder unopened.

#### Bid Forms

All bids must be made on forms which may be procured from the city clerk. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid.

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the City Building and must be received by the undersigned prior to 3 p.m. D.S.T. on April 18, 1988.

#### CUSIP Numbers

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

#### Delivery and Payment

The city will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere will be made at the expense of the successful bidder. The successful bidder will 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 must be made in Federal Reserve funds, immediately subject to use by the city.

The number and denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owner(s) must be submitted in writing by the successful bidder to the city and bond registrar at least two weeks prior to the closing date. In the absence of such information, the city will deliver one bond per maturity registered in the name of the successful bidder.

The reoffering prices to the public by the original purchaser must be furnished to the city at least one week prior to the closing date. A certificate stating at least 10 percent of the bonds of each maturity has been sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at such reoffering prices must be furnished to the city by the original purchaser at closing.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the city, for the year 1987, is as follows:

Equalized assessed valuation of taxable tangible property .....	\$29,692,225.00
Tangible valuation of motor vehicles .....	\$ 6,331,186.00
Equalized assessed tangible valuation for computation of bonded debt limitations .....	\$36,023,411.00

The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$4,245,000. Temporary notes: none.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of William P. Timmerman, Wichita, Kansas, (316) 685-7212, 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 as and when the bonds are delivered.

**Opinion of Bond Counsel**

In the opinion of bond counsel, assuming continued compliance by the city with the terms of the bond ordinance, 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 city 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 city has covenanted to comply with all such requirements.

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.

Bond counsel expresses no opinion regarding other federal tax consequences arising with respect to the bonds.

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

**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.

**Additional Information**

Additional information regarding the bonds may be obtained from the City Clerk, City Building, 101 S. Lincoln, Chanute, KS 66720, (316) 431-9300, or William P. Timmerman, Bond Counsel, Suite 208, 400 N. Woodlawn, Wichita, KS 67208, (316) 685-7212.

Dated April 6, 1988.

CITY OF CHANUTE  
James D. Youngberg  
City Clerk

Doc. No. 006431

(Published in the *Kansas Register*, April 14, 1988.)

## NOTICE OF BOND SALE

\$2,000,000

### General Obligation Bonds

Series A, 1988

of the

Unified School District 484

Wilson County, Kansas (Fredonia)

(general obligation bonds payable

from unlimited ad valorem taxes)

### Sealed Bids

Sealed bids will be received by the undersigned, clerk of Unified School District 484, Wilson County, Kansas (Fredonia), on behalf of the governing body at the office of the Board of Education, 517 N. 7th, P.O. Box 539, Fredonia, KS 66736, until 4 p.m. C.D.T. on Monday, April 18, 1988, for the purchase of \$2,000,000 principal amount of general obligation bonds, Series A, 1988, of the district hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the governing body at its meeting to be held at 5:30 p.m. on the date of sale. No oral or auction bids will be considered.

### Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated May 1, 1988, and will become due serially on November 1 in the years as follows:

Year	Principal Amount
1990	\$ 85,000
1991	95,000
1992	95,000
1993	105,000
1994	115,000
1995	125,000
1996	135,000
1997	145,000
1998	155,000
1999	165,000
2000	175,000
2001	185,000
2002	205,000
2003	215,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on May 1 and November 1 in each year, beginning on May 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), to the registered owners thereof whose names are on the registration books of the bond registrar as of the 15th day (whether or not a business day) of the calendar month next preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the district and the Kansas Attorney General.

The district 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

Bonds maturing in the years 1990 to 1998, inclusive, shall become due without option of prior payment. At the option of the district, bonds maturing in the years 1999 and thereafter may be called for redemption and payment prior to maturity in whole or in part (selection of bonds to be designated by the district in such equitable manner as it may determine) on November 1, 1998, or on any interest payment date thereafter at the redemption price of 100 percent (expressed as a percentage of the principal amount), plus accrued interest to the date of redemption.

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

If the district elects to call any bonds for redemption and payment prior to the maturity thereof, the district shall give written notice of its intention to call and pay said bonds on a specified date, the same being described by maturity, said notice to be mailed by United States certified mail addressed to the owners of said bonds, to the Kansas State Treasurer, to the original purchaser of the bonds and to the paying agent, each of said notices to be mailed not less than 30 days prior to the date fixed for redemption. The district shall also give such additional notice as may be required by Kansas law in effect as of the date of such notice. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

### Authority, Purpose and Security

The bonds are being issued pursuant to K.S.A. 72-6761, as amended, for the purpose of paying the cost of certain school building improvements. The bonds and the interest thereon will constitute general obligations of the district, payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the district.

### 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  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate may exceed a rate equal to 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 cannot exceed 2.5 percent. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be consid-



ered. Each bid must specify the total interest cost to the district during the term of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the district on the basis of such bid, 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 also specify the average annual net interest rate to the district on the basis of such bid.

#### 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 \$40,000 (2 percent of the principal amount of the bonds), payable to the order of the district to secure the district from any loss resulting from the failure of the bidder to comply with the terms of the bid. Good faith checks submitted by unsuccessful bidders will be returned. If a bid is accepted, said check or the proceeds thereof will be held by the district until the bidder has complied with all of the terms and conditions of this notice. If a bid is accepted but the district fails to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this notice, the proceeds of such check will be retained by the district as and for liquidated damages. No interest will be paid upon the successful bidder's good faith check.

#### Basis of Award

The award of the bonds will be made on the basis of the lowest net interest cost to the district, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the district. 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 governing body will determine which bid, if any, will be accepted, and its determination is final. The district reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 4 p.m. on the date of sale will be returned to the bidder unopened.

#### Bid Forms

All bids must be made on forms which may be procured from the clerk or the financial adviser. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid.

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned clerk, and marked "Proposal for General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the office of the Board of Education, 517 N. 7th, P.O. Box 539, Fredonia, KS 66736, and must be received by the undersigned prior to 4 p.m. C.D.T. on Monday, April 18, 1988.

#### Bond Rating

Standard & Poor's Corporation and Moody's Investors Service, Inc. have assigned their municipal bond ratings of "AAA" and "Aaa," respectively, to this issue of bonds with the understanding that upon delivery of the bonds, a policy insuring the payment when due of the principal of and interest on the bonds will be issued by AMBAC Indemnity Corporation.

#### Municipal Bond Insurance

AMBAC Indemnity Corporation has issued a commitment for municipal bond insurance relating to the bonds. All bids may be conditioned upon the issuance, effective as of the date on which the bonds are issued, of a policy of insurance by AMBAC Indemnity, insuring the payment when due of principal of and interest on the bonds. Each bond will bear a legend referring to the insurance. The purchaser, holder or owner is not authorized to make any statements regarding the insurance beyond those set out here and in the bond legend without the approval of AMBAC Indemnity.

#### CUSIP Numbers

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

#### Delivery and Payment

The district will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before May 25, 1988 at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere will be made at the expense of the successful bidder. The successful bidder will 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 must be made in Federal Reserve funds, immediately subject to use by the district.

The number and denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners must be submitted in writing by the successful bidder to the district and bond registrar at least two weeks prior to the closing date. In the absence of such information, the district will deliver one bond per maturity registered in the name of the manager of the successful bidder.

The reoffering prices to the public by the original purchaser must be furnished to the district at least one week prior to the closing date. A certificate stating that at least 10 percent of the bonds of each maturity has been sold to the public (excluding bond houses, brokers or similar

(continued)

persons or organizations acting in the capacity of underwriters or wholesalers) at such reoffering prices must be furnished to the district by the original purchaser at closing.

**Official Statement**

The district has prepared an official statement dated April 1, 1988, copies of which may be obtained from the clerk or from the financial adviser. Upon the sale of the bonds, the district will adopt the final official statement and will furnish the successful bidder with a reasonable number of copies thereof without additional cost upon request. Additional copies may be ordered at the successful bidder's expense.

**Assessed Valuation and Indebtedness**

The total assessed valuation of the taxable tangible property within the district, for the year 1987, is as follows:

Equalized assessed valuation of taxable tangible property .....	\$22,403,319
Tangible valuation of motor vehicles .....	\$ 2,566,774
<hr/>	
Equalized assessed tangible valuation for computation of bonded debt limitations .....	\$24,970,093
<hr/>	

The total general obligation indebtedness of the district as of the date of the bonds, including the bonds being sold, is \$2,225,000.

**Approval of Bonds**

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.

**Opinion of Bond Counsel**

In the opinion of bond counsel, assuming continued compliance by the district with the terms of the bond ordinance, 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 "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.

Bond counsel expresses no opinion regarding other federal tax consequences arising with respect to the bonds.

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

A form of bond counsel's opinion is contained in the official statement of the district with respect to 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.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk or from the financial adviser, Stifel, Nicolaus & Company, Inc., Wichita, KS 67202, Attention: Larry L. McKown, (316) 264-6321.

Dated April 1, 1988.

UNIFIED SCHOOL DISTRICT 484  
WILSON COUNTY, KANSAS (FREDONIA)

By Debra L. Marshall, Clerk  
Board of Education  
517 N. 7th  
Fredonia, KS 66736  
(316) 378-4177

Doc. No. 006422



(Published in the *Kansas Register*, April 14, 1988.)

**NOTICE OF BOND SALE**

**\$1,600,000**

**General Obligation School Building Bonds**

**Series 1988**

**of Unified School District 289**

**Franklin County, Kansas (Wellsville)**

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

The undersigned, clerk to the Board of Education of Unified School District 289, Franklin County, Kansas (Wellsville), will receive sealed bids on behalf of the board at the district's office, Wellsville, until 7:30 p.m. C.D.T. on Monday, April 25, 1988, for the purchase of \$1,600,000 principal amount of general obligation school building bonds, Series 1988, of the district as hereinafter described. All bids will be publicly opened and read at said time in the board's meeting room in the district's office and will be immediately thereafter acted upon by the board. No oral or auction bids for the bonds will be considered.

**Description of Bonds**

The bonds shall consist of fully registered certificated bonds in denominations of \$5,000, or any integral multiple thereof not exceeding the principal amount of bonds maturing in each year, will bear a dated date of May 1, 1988, and shall mature serially on November 1 in each of the years and in the amounts as follows:

Principal Amount	Maturity Date
\$ 40,000	1990
40,000	1991
45,000	1992
50,000	1993
50,000	1994
55,000	1995
60,000	1996
65,000	1997
70,000	1998
75,000	1999
85,000	2000
90,000	2001
95,000	2002
105,000	2003
115,000	2004
125,000	2005
135,000	2006
145,000	2007
155,000	2008

The bonds will bear interest from the dated date at rates which shall be determined upon the public sale thereof as heretofore provided; and said interest will be payable semiannually on May 1 and November 1 of each year, commencing May 1, 1989, until the bonds are paid in full.

**Payment of Principal and Interest; Registration**

The principal of the bonds shall be payable in lawful money of the United States of America at the principal office of the Kansas State Treasurer (the paying agent and bond registrar), Topeka, Kansas, to the registered owners thereof upon presentation of bonds for payment and cancellation. Interest on the bonds shall be payable in lawful money of the United States of America by mailing of check

or draft of paying agent to registered owners as their names appear on the registration books maintained by the bond registrar as of the 15th day of the month next preceding the interest payment dates.

The fees of the bond registrar for registration and transfer of the bonds shall be paid by the district, and it shall also pay for printing of a reasonable supply of blank registered bond certificates for that purpose. Any additional costs or fees that might be incurred in the secondary market, except the bond registrar's fees, shall be the responsibility of the registered owners of the bonds.

**Initial Registration**

The number and denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the initial registered owners of the bonds shall be submitted in writing to the bond registrar by the successful bidder not later than Monday, May 16, 1988. In the event such information is not furnished by such date, the bonds will be delivered one bond per maturity registered in the name of the successful bidder.

An original purchaser's certificate, which sets forth the initial reoffering price to the public on the bonds, will be furnished to the successful bidder by bond counsel, and such certificate must be completed and returned no later than the date of delivery of the bonds.

**Redemption of Bonds**

Bonds maturing November 1, 1990 through November 1, 1996, inclusive, are not subject to call for redemption prior to their respective maturities.

Bonds maturing November 1, 1997 and thereafter are callable at the option of the district prior to the stated maturities thereof, in whole or in part and in inverse numerical order, on any interest payment date on and after November 1, 1996 (the date being so set for redemption and payment being referred to as the redemption date), at the following redemption prices (expressed as a percentage of the principal amount), together with accrued interest to the redemption date:

Redemption Dates	Redemption Prices
November 1, 1996 to October 31, 1997	101.00%
November 1, 1997 to October 31, 1998	100.50%
November 1, 1998 and thereafter	100.00%

The bond registrar and paying agent shall give written notice of any call for redemption to the registered owners of the bonds not less than 30 days prior to the redemption date. Notice of any call for redemption shall also be published one time in the official newspaper of the state of Kansas not less than 30 days prior to the redemption date.

Prior to the redemption date, the district shall deposit with paying agent sufficient funds to pay the bonds so called at the appropriate redemption price set forth above and all unpaid and accrued interest thereon to the redemption date. Upon the deposit of said funds, and the giving of notice in the form and manner hereinbefore specified, bonds thus called for redemption shall cease to bear interest from and after the redemption date.

**Conditions of Bidding**

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidder,

(continued)

subject to the conditions of this paragraph. The same rate of interest shall apply to all bonds of the same maturity. Each interest rate specified shall be in an even multiple of  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate shall exceed the maximum interest rate allowed by Kansas law, said rate being equal to the index of treasury bonds published by *Credit Markets* in New York, New York, on the Monday next preceding the date on which the bonds are sold, plus 2 percent. No bid of less than the entire par value of the bonds and accrued interest thereon from the dated date to the date of delivery will be considered, and no supplemental interest payments will be authorized. Each bid must state the total interest cost to the district during the life of the bonds on the basis of the bid; the premium, if any, offered by the bidder for the bonds; the net interest cost to the district on the basis of the bid; and the average annual interest rate on the bonds on the basis of the bid. Each bid shall be certified by the bidder to be correct, and the board will be entitled to rely on such certificate of correctness.

#### **Bid Form; Good Faith Deposit**

Bids shall be submitted on an official bid form, which may be obtained from the district, and shall be submitted in sealed envelopes, plainly marked "Bond Bid," addressed to the Board of Education, U.S.D. 289, P.O. Box 537, Wellsville, KS 66092, Attention: Gwendolyn A. Boone, Clerk. Bids may be submitted by mail or delivered in person, and must be received by the clerk no later than the date and time hereinbefore specified.

Each bid shall be accompanied by a good faith deposit in the form of a certified or cashier's check payable to the order of the district in the amount of \$32,000 (being equal to 2 percent of the total amount of the bonds). If a bid is accepted, said deposit will be held by the district until the bidder shall have complied with all of the terms and conditions of this notice and of the bid. In the event a bidder whose bid is accepted shall default in the performance of any of the terms and conditions of this notice or of the bid, said deposit shall be retained by the district as and for liquidated damages. If a bid is accepted, but the district shall fail to deliver the bonds to the bidder in accordance with the terms and conditions hereof, said deposit shall be returned to the bidder. No interest will be paid upon the successful bidder's deposit. The good faith deposit checks of the unsuccessful bidders will be promptly returned.

#### **Award of Bonds**

The bonds will be awarded to the bidder whose proposal results in the lowest net interest cost to the district, which will be determined by deducting the amount of the premium bid, if any, from the total interest cost to the district. 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 identical bids for the lowest net interest cost are received, the board shall determine which bid, if any, shall be accepted, and such determination shall be final. The board reserves the right to reject any and all bids, and to waive any irregularities in a submitted bid.

#### **Delivery of Bonds**

The bonds, duly printed, executed and registered, will be furnished and paid for by the district, and will be delivered to the successful bidder on or about Wednesday, May 25, 1988, at any bank in the state of Kansas or in the city of Kansas City, Missouri, at the expense of the district. Delivery elsewhere will be made at the expense of the successful bidder. The successful bidder will also be furnished with a transcript of proceedings evidencing 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 available for use by the district.

#### **CUSIP Identification Numbers**

CUSIP identification numbers will be printed on the bonds. All expenses in relation to printing of the CUSIP numbers and the expenses of the CUSIP Service Bureau for assignment thereof shall be the responsibility of and shall be paid for by the district.

#### **Official Statement**

The district will prepare an official statement relating to the bonds, copies of which may be obtained from the clerk or from the district's financial adviser. Upon the sale of the bonds, the district will furnish the successful bidder with a reasonable number of copies of the official statement, without cost, upon request. Copies in excess of a reasonable number may be ordered at the successful bidder's expense.

#### **Authority, Purpose and Security for Bonds**

The bonds are being issued under the authority of K.S.A. 10-101 to 10-125, inclusive, and K.S.A. 10-620 *et seq.*, as amended and supplemented, K.S.A. 72-6761 *et seq.*, and approval of the electorate at a special bond election held on March 22, 1988; and will be authorized by a bond resolution which will be adopted by the board immediately after awarding of the bonds.

The proceeds of the bonds will be used to pay the cost of constructing, furnishing and equipping a 10-classroom addition to and otherwise improving the elementary school, including remodeling and expansion of the existing library in the elementary school, and constructing, furnishing and equipping an addition to the high school for use as a gymnasium, and the acquisition of such real property as may be necessary in connection with or as a result of constructing the building additions.

The bonds and the interest thereon 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.

#### **Legal Opinion and Tax Exemption**

All matters incidental to authorization and issuance of the bonds are subject to the approving opinion of Hinkle, Eberhart & Elkouri, bond counsel, Wichita, Kansas. Bond counsel's opinion will be printed on the reverse side of each bond, and a manually signed original will be furnished without expense to the successful bidder concur-

rently with delivery of the bonds. All fees and expenses of bond counsel will be paid by the district.

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 exclusion mentioned in the preceding clause (a) is subject to compliance by the district with all requirements of the Internal Revenue Code of 1986, as amended, which must be satisfied subsequent to issuance of the bonds in order for the interest on the bonds to qualify for such exclusion. 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 will covenant to comply with all such requirements. Bond counsel expresses no opinion regarding other federal tax consequences arising with respect to the bonds.

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

**Related Federal Tax Matters**

Prospective bidders for purchase 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 or, in the case of a financial institution within the meaning of Section 265(b)(5) of the code, that portion of a bondholder's interest expense allocable to interest on the bonds; (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) of the code 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 prior to 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 more 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 railroad retirement benefits to take into account in determining gross income, receipts or accruals of interest on the bonds. The foregoing categories of prospective bondowners should consult their

own tax advisers as to the applicability of any of these consequences.

**Qualified Tax-Exempt Obligations**

The district will covenant to take such actions as are necessary to designate the bonds as "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.

**Assessed Valuation and Bonded Indebtedness**

The assessed valuation of taxable tangible property within the district, for the year 1987, is as follows:

Assessed valuation of taxable tangible property ..	\$10,660,544
Taxable value of motor vehicles and dealers' inventory .....	\$ 2,338,804
Equalized assessed tangible valuation for computation of bonded debt limitations .....	\$12,999,348

The total outstanding general obligation bonded indebtedness of the district, upon issuance of and including this proposed issue, will consist only of this issue in the amount of \$1,600,000.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, or from the district's financial adviser, United Securities, Inc., 444 Board of Trade Center, 120 S. Market, Wichita, KS 67202, Attention: Stephen E. Shogren, (316) 265-9421.  
Dated April 7, 1988.

UNIFIED SCHOOL DISTRICT 289  
FRANKLIN COUNTY, KANSAS  
(WELLSVILLE)  
By Gwendolyn A. Boone, Clerk  
P.O. Box 537  
Wellsville, KS 66092  
(913) 883-2388

Doc. No. 006424

**State of Kansas**  
**DEPARTMENT OF REVENUE**  
**PERMANENT ADMINISTRATIVE**  
**REGULATIONS**  
(Effective May 1, 1988)

**Article 1.—HEARING**

**92-1-1. Director of taxation hearings; acts applicable.** Each rule and regulation in this article applies to pleadings, notices, requests, conduct and procedure in connection with hearings held before the director of taxation under the provisions of the: (1) Transportation and sale of oils and liquid fuels act; (2) inheritance tax act; (3) Kansas income tax act; (4) cigarettes and tobacco products act; (5) motor vehicle and special fuel tax laws; (6) Kansas retailers' sales tax act; (7) Kansas compensating tax act; (8) cereal malt beverages and malt products act; (9) mineral severance tax act; (10) merchants, manufacturers, motor vehicle dealers and

(continued)

certain contractors act; (11) state oil inspection act; (12) bingo act; and any other hearings the director of taxation is authorized to hold and conduct pursuant to law. (Authorized by and implementing K.S.A. 75-5103; effective Jan. 1, 1966; amended May 1, 1988.)

**92-1-2. Information, assistance and hearings.** (a) All communications to the director of taxation shall be addressed to the director of taxation. Pleadings and other papers required to be filed with the director of taxation shall be filed in the office of the director of taxation within the time limit prescribed by law. All communications and documents are deemed received when delivered to the office of the director of taxation, provided they are properly addressed and are otherwise in the form prescribed by law.

(b) Upon request, any interested party may request information regarding an appeal from the director: Provided the director is authorized to divulge the information.

(c) All hearings, oral arguments or conferences shall be set upon notice to the taxpayer in the manner prescribed by law. If statutory law does not designate the manner and time for giving notice, reasonable notice shall be given. (Authorized by and implementing K.S.A. 75-5103; effective Jan. 1, 1966; amended Jan. 1, 1967; amended May 1, 1988.)

**92-1-3. Matters applicable to all proceedings.** (a) Each notice, pleading, order or other paper shall be served personally or by mail, unless specifically provided by statute. Unless a statute prescribes otherwise, service upon an attorney will be deemed to be service upon the party he represents. Service by mail shall be deemed to be completed two days after the mailing of the notice or other paper to be served.

(b) Each order issued by the director of taxation shall be filed in the office of the director of taxation at Topeka, Kansas. Orders of the director of taxation shall be deemed to become effective when signed by the director unless otherwise expressly provided for in the order or by the statute under which the order is issued.

(c) Each matter originating with or coming before the director of taxation on appeal or by request of the taxpayer, shall receive a number and title descriptive of the subject matter. Each number and title shall be used on all papers in the case.

(d) Each notice, complaint, order, or pleading shall bear a caption as follows:

Before the director of taxation of the state of Kansas

In the matter of \_\_\_\_\_. A brief description of the name or matter to be addressed, with a description of the nature of the pleading should be printed in the blank. Each pleading filed after a matter is formally initiated with the director of taxation shall bear the same heading and docket or case number as the original pleading.

(e) Each taxpayer shall follow the applicable statutory method for subscribing or executing a particular instrument. In lieu of a statutory directive, each instrument shall be personally subscribed or executed by the taxpayer or the taxpayer's agent.

(f) Any taxpayer may appear before the director of

taxation in connection with any hearing. Each taxpayer may be heard in person or may be represented by an attorney licensed to practice in the state of Kansas.

(g) Each taxpayer or taxpayer's attorney shall sign a request for a hearing and file the request within the period prescribed by statute. Each taxpayer shall specifically set forth in the request for hearing (1) any objection to the act or ruling of the director of taxation and (2) the relief desired from the hearing. Informal conferences may be held prior to a formal hearing in front of the director of taxation.

(h) For good cause shown, continuances and extension of time will be granted or denied at the director's discretion. Each taxpayer requesting a continuance or extension, shall file a written application with the director of taxation.

(i) A matter shall be considered "fully submitted" to the director of taxation when each party to the action has introduced evidence, argued the case, timely submitted legal briefs or memorandum at the director's request, and the director has taken the case under advisement for the purpose of stating the findings of fact and conclusions of law. The taxpayer will be notified by the director when a matter is "fully submitted" as defined in this regulation.

(j) Each taxpayer shall exhaust all administrative remedies set forth in this act before appealing a final order. (Authorized by and implementing K.S.A. 75-5103; effective Jan. 1, 1966; amended Jan. 1, 1967; amended Feb. 15, 1977; amended May 1, 1988.)

**92-1-4.** (Authorized by K.S.A. 74-2437, 74-2438; effective Jan. 1, 1966; amended Jan. 1, 1967; revoked May 1, 1988.)

**92-1-5.** (Authorized by K.S.A. 74-2437, 74-2438; effective Jan. 1, 1966; amended Jan. 1, 1967; revoked May 1, 1988.)

**92-1-6.** (Authorized by K.S.A. 74-2437, 74-2438; effective Jan. 1, 1966; revoked May 1, 1988.)

**92-1-7.** (Authorized by K.S.A. 74-2437, 74-2438; effective Jan. 1, 1966; revoked May 1, 1988.)

**92-1-8.** (Authorized by K.S.A. 74-2437, 74-2438; effective Jan. 1, 1966; revoked May 1, 1988.)

## Article 12.—INCOME TAX

**92-12-106. Composite returns for nonresident partners and shareholders.** (a) Any partnership or S corporation required to file a return under the Kansas income tax act may elect to file a composite income tax return for all nonresident partners or nonresident shareholders which derive income from the partnership or S corporation. Nonresident partners and nonresident shareholders included in a composite return shall not file a separate income tax return.

(b) Any nonresident partner or nonresident shareholder may be included in a composite return unless the partner or shareholder has income from a Kansas source other than the partnership or S corporation.

(c) Each composite return shall list the name, address, social security number and the percentage

ownership of each nonresident partner or nonresident shareholder.

(d) Each composite return shall be filed and any applicable tax paid by the partnership or S corporation on or before the 15th day of the fourth month following the close of the taxable year of the partnership or S corporation.

(e) Each return shall be filed in the manner prescribed by the director of taxation. (Authorized by K.S.A. 79-3236; implementing K.S.A. 79-3220, 79-3226; effective May 1, 1988.)

### Article 13.—INTERSTATE MOTOR FUEL USE TAX

**92-13-10. Bond requirements.** The director of taxation may require any person making application for an interstate motor fuel users license in the state of Kansas to file a bond with the director when: (1) the licensee has failed to file timely a quarterly report; (2) the correct amount of tax has not been remitted with the report; (3) an audit indicates, that in the discretion of the director, a bond is required to protect the interest of the state; or (4) the licensee is based in a state not a member of the international fuel tax agreement. (Authorized by K.S.A. 79-34,123, implementing K.S.A. 79-34,116; effective Jan. 1, 1966; amended Jan. 1, 1972; amended May 1, 1988.)

### Article 19.—KANSAS RETAILERS' SALES TAX

**92-19-3. Credit, conditional and installment sales.** When the retailer makes credit, conditional and installment sales, the retailer may pay tax on the collections made during each month or, if the retailer's books are regularly kept on an accrual basis, on the full amount of the sale. When the retailer adopts one basis of reporting credit, conditional or installment sales and paying the tax, the retailer shall not change from that basis without first obtaining the permission of the director of taxation.

If the retailer adopts the accrual basis for reporting in order that the tax liability will not be in excess of four percent of the retailer's actual gross receipts from taxable sales, the retailer may deduct any bad debts or uncollectables actually written off the retailer's books from the gross receipts accrued if: 1) the amount was previously reported as taxable gross receipts; and 2) the debts are charged off of the retailer's books for federal income tax purposes. If any amount of the bad debts or uncollectables are subsequently recovered, the retailer shall include the recovery and tax in the next sales tax return.

When tangible personal property and services taxable under K.S.A. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108 and amendments are sold on deferred payments and the deferred payments are covered by a negotiable note or notes, or an assignable conditional sales contract, the retailer shall remit the tax on the total amount of the selling price of the property at the time the sale is made and report it in the retailer's next monthly report.

Interest, finance, or carrying charges on installment sales are not taxable when these charges are separately made and shown by the retailer on bills rendered the customer. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3607, 79-3609; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-5. Extensions.** Any taxpayer requesting an extension pursuant to K.S.A. 1986 Supp. 79-3607 and amendments shall submit the request in writing to the director of taxation before the return and remittance have become delinquent. Each application for an extension shall:

- (1) state the reason an extension is necessary;
- (2) name a definite date when the return and remittance will be filed; and
- (3) be signed by the applicant.

If the director approves an application for extension of time, the taxpayer shall be liable for the tax as well as the interest on the total tax liability at the rate prescribed by K.S.A. 79-2968(a) from the date the tax was due until paid. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3607, 79-3615; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-6. Duty of persons discontinuing business.** Each person discontinuing business shall: (1) Notify the director of taxation; (2) return the certificate of registration for cancellation; and (3) preserve all business records within this state for three years or until the director of taxation issues a receipt indicating that all tax liabilities have been paid, whichever comes first. (Authorized by K.S.A. 79-3618; implementing K.S.A. 79-3612, 79-3609; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-8. Auctions, sales and consignments.** (a) Each person that receives and sells tangible personal property on consignment from others or operates a sale or auction where personal property is sold for their own account for others is deemed to be a retailer regardless of how the retailer's fee is determined. Each retailer shall collect sales tax on the total selling price of the tangible personal property regardless of the location of the sale, unless:

- (1) The purchaser is able to claim an exemption under the Kansas sales tax act;
- (2) the sale of tangible personal property by an auctioneer is on behalf of a single principal if the sale is nonrecurring and is made at the principal's place of residence; or
- (3) the sale is a liquidation of non inventory items held at the principal's place of business, and the principal is not engaged at the time of the sale in the business of selling tangible personal property.

(b) "Consignment" shall mean to commit, entrust or otherwise give over control of tangible personal property either physically or constructively to:

- (1) A person for the purpose of selling tangible personal property; or

(continued)

(2) a consignee who is not an employee of the cosigner but who has the authority to determine:

- (A) The selling price of the property;
- (B) the person to whom it is sold; and
- (C) that the offer to purchase from a buyer is accepted, regardless of the time of the sale or its location.

This regulation shall not apply to the sale of motor vehicles and trailers as defined in K.S.A. 1986 Supp. 8-126 and amendments thereto, unless the auctioneer is a licensed vehicle dealer. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3608, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-9.** (Authorized by K.S.A. 79-3608, 79-3618, K.S.A. 1971 Supp. 79-3602, 79-3603; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; revoked May 1, 1988.)

**92-19-10. Repossessed property.** When the original retailer repossesses tangible personal property and resells it to a final user or consumer, the gross receipts from the sale are taxable. When tangible personal property is repossessed and resold by a bank, savings and loan institution, credit union or finance company licensed pursuant to the Kansas uniform consumer credit code, the sale qualifies as an isolated or occasional sale pursuant to K.S.A. 1986 Supp. 79-3602(j) and amendments.

When a retailer sells tangible personal property on credit and later repossesses the tangible personal property sold, the retailer shall use one of the following methods for recording the transaction:

(1) If the retailer's records are kept on the accrual basis so that the total selling price of the repossessed property was previously reported, the retailer may report the unpaid balance as a deduction from the gross receipts on the retailer's next tax return.

(2) If the retailer included in the gross receipts only the amount of cash actually received from the sale of the repossessed property, the retailer shall not receive credit for the return of the repossessed property to the retailer's stock. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 1986 Supp. 79-3607; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-12. Newspapers, magazines, periodicals, trade journals, publications and other printed matter.**

(a) Newspapers, magazines, periodicals, trade journals, publications and other printed matter are tangible personal property and the receipts from retail sale of these items are taxable.

(b) When subscriptions for newspapers, magazines, periodicals, trade journals, publications and other printed matter are taken within the state of Kansas, sent to a printer or publishing house outside Kansas and the publication is thereafter mailed to the sub-

scriber within Kansas, the receipts from the subscriptions are taxable.

(c) When newspapers, trade publications, advertising pamphlets, circulars and other publications, are distributed free of charge, the person printing or publishing the publication for sale to the distributor is deemed to be the seller thereof and must collect the tax.

(d) Each person who prints or produces and distributes publications, free of charge, is regarded as the final user or consumer of all materials used to print or produce the publication. For tax purposes, the printer or publisher shall pay sales tax on all purchases of materials used to print or produce the publication.

If a person prints or publishes tangible personal property for sale to consumers, and also prints or publishes publications which are distributed free of charge, a person may purchase all materials used in the printing and publishing process exempt from sales tax. When a person prints or publishes the publication for distribution free of charge, that person shall include the cost of all exempt materials purchased for use in printing or producing that publication on the sales tax return and impose sales tax on that amount. (Authorized by K.S.A. 79-3618, K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, 79-3606, as amended by L. 1987, Ch. 64, Sec. 1; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-16. Gifts, premiums, prizes, trading stamps, coupons.** Each person who gives away or donates tangible personal property or who renders or furnishes without charge services taxable under the sales tax act is deemed for tax purposes to be the final user or consumer.

The taxing of tangible personal property used as prizes, premiums or gifts shall depend on the condition under which the property is given away.

(a) When a retailer gives a prize, premium or gift while making a sale of tangible personal property which is taxable or renders or furnishes a service which is taxable, the transaction is regarded as a sale of both items to the purchaser if the attaining of the prize, premium, or gift by the purchaser is certain and does not depend on chance. The retailer shall collect sales tax on the total purchase price paid by the consumer.

(b) Property to be awarded as a prize, premium or gift is taxable if:

(1) The retailer purchases the property for the purpose of resale, but subsequently gives it away as a prize, premium or gift; or

(2) winning the prize, premium, or gift depends on chance or skill. The retailer shall include the cost of the prize, premium, or gift on line 2 of the sales tax return.

A deduction is not allowed for the value of trading stamps or coupons when a purchaser gives the retailer a trading stamp or coupon to use towards the stated price of any item of tangible personal property and the retailer is later reimbursed for the stated value from a third person.



When the retailer is not reimbursed but only accepts the coupons or trading stamps as an inducement to increase sales, the tax shall not apply to the value thereof.

Each person engaged in selling tangible personal property or taxable services shall not collect tax when selling meal tickets, coupon books, merchandise cards, or certificates. Sales tax shall apply when the meal tickets, coupon books, merchandise cards, or certificates are redeemed for taxable services or tangible personal property. Any person engaged in selling meal tickets, coupon books, merchandise cards or certificates who does not sell tangible personal property or taxable services shall collect sales tax on the gross receipts received from the sale of the meal tickets, coupon books, merchandise cards or certificates. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

**92-19-18. Signs.** Each person engaged in the business of selling or leasing signs, billboards, posters or bulletins is engaged in a taxable business. Gross receipts from the sale or lease of a sign, billboard, poster or bulletin shall be taxable. Labor service charges for painting or letter signs or for applying advertising to billboards are taxable, regardless of whether the materials are furnished by the painter or by the customer. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

**92-19-19. Telephone and telegraph services.** (a) Telephone and telegraph services shall not be taxable if the services are rendered to those entities listed in K.S.A. 79-3606 and amendments thereto. Each telegraph or telephone company shall secure an exemption certificate from any person or institution claiming an exemption from the tax. Telephone and telegraph services shall be taxable when the purchaser of the service is engaged in a business specifically subject to the sales tax and the telegraph or telephone service is used in the business.

(b) Taxable sales of service by telegraph companies include the transmission of all telegrams originating and terminating within the state of Kansas for which a charge is made.

(c) Taxable telephone service shall include ordinary exchange and toll service, extra listings, joint-user service and telephone access charges. All amounts paid for telephone services shall be taxable, whether or not telephone services are actually used.

Each sale, lease or rental of telephones, equipment, facilities or other tangible personal property furnished in connection with, as a supplement to, or in association with telephone usage shall be subject to sales tax. Revenues received from rentals of circuits and private lines used for telephone or telegraph services shall be taxable unless the circuits and lines are used by others

in making retail sales of telephone or telegraph service to the public.

Each sale of telephone directories or directory covers to Kansas customers by a telephone company who collects the purchase price shall be taxable.

Each sale of switching service and toll service to service station customers shall be considered a sale of telephone service to consumers. The tax shall be billed by the telephone company furnishing the switching service.

(d) Each toll call originating and terminating within the state of Kansas shall be deemed intrastate service and shall be taxable. When a charge is made to a resident of Kansas for both intrastate and interstate exchange service, through terminals located in or outside Kansas, the tax shall be billed on the total charge. Each telephone company shall have the burden of proving that any or all of the service is not taxable.

(e) Gross receipts from a coin-operated telephone shall be taxable.

(f) Each company furnishing telephone or telegraph services shall pass the tax on to the consumers. When taxable telephone service is furnished over the joint or combined lines of two or more companies, the company collecting the charge for the taxable service shall collect the total amount of the tax from the consumer. Each collecting company shall include in its tax return the total amount of the taxable service and the tax due, regardless of the fact that the receipts from the service may be shared with another company. Each charge made to a hotel by a telephone company for telephone service is taxable, except interstate long distance service.

(g) Each telegram charged to the account of a telephone subscriber and billed by the telephone company shall include the tax as computed by the telegraph company and shall appear on the bill in an amount equal to the regular charge for the telegram plus the sales tax. Each telegraph company shall remit the tax on telegrams to the state. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, 79-3608, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 64, Sec. 1; as further amended by L. 1987, Ch. 292, Sec. 32; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

**92-19-23. Coin operated devices.** Except for operators of laundry services rendered through coin-operated devices, any operator of machines or equipment situated at various locations in this state may apply for a registration for all locations by filing one application form with a supplemental list attached showing the location of each machine, its serial number, and type of merchandise or service vended. Each operator shall keep an accurate list of each machine showing the place where it is located and the type of tangible personal property or taxable services being dispensed. All records shall be made available to the director of taxation or the director's authorized representatives for inspection during normal business

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hours. If an operator of a separate registered retail business also operates one or more coin-operated devices in that place of business, the operator may report the gross receipts of the machines on the operator's return for the separate business in lieu of separately registering the machines.

An operator shall not take deductions for commissions or rental paid to persons upon whose premises the machines are located. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-24. Renting of rooms by hotels; taxable property and services.** (a) Sales tax is imposed on the total gross receipts received from the rental of rooms by hotels as defined in K.S.A. 36-501 and amendments. Accommodations generally referred to as "sleeping rooms" are subject to sales tax. Sales tax shall not apply to accommodations in the nature of ballrooms, banquet rooms, reception rooms, meeting rooms and office space.

(b) Each person renting a room in a hotel for a period of 28 consecutive days or less is subject to tax. However, if the same person rents a room in a hotel for 29 or more consecutive days, the person is not subject to a tax. Each person moving from one hotel to another hotel shall pay tax at each hotel unless the person rents a room in each hotel for more than 28 consecutive days.

(c) Each hotel is deemed to be the consumer of all items which are not for resale and are used to conduct the hotel's business. Each hotel shall pay sales tax on each purchase of tangible personal property and taxable services, unless specifically exempted by statute. Hotel purchases of beds, linens, towels, furniture, equipment, appliances, glass cups and ashtrays and cable television services are subject to sales tax. Items which are used in the hotel room by the customer and which are disposable in nature are considered an ingredient or component part of the service of hotel room rental, and are exempt from sales tax.

(d) Services of installing, applying, repairing, servicing, maintaining or altering the hotel's physical plant, including the equipment, are taxable.

(e) Each hotel may purchase exempt from sales tax, premium cable television service channels which are separately billed to the consumer. Each hotel shall collect sales tax for the cable television services billed by the hotel to the consumer.

(f) Electricity, gas, fuel and water actually used by a hotel in rented rooms are exempt from sales tax. The exemption shall not apply to electricity, gas, fuel and water consumed in a hotel's common areas, parking lots, offices, swimming pools and other areas which are not rented by the hotel. When electricity, gas, fuel or water is furnished through one meter, the hotel shall furnish the utility a statement showing the electricity, gas, fuel or water actually used in the rented rooms of the hotel so the utility can determine the percentage of electricity, gas, fuel or water which is taxable. Each hotel shall make available to the de-

partment of revenue the formula and computations used to determine the exemption.

(g) Receipts received for the providing of laundry services, dry cleaning and valet services are taxable. When a hotel sends a consumer's clothing out to a third party cleaner, each hotel may purchase the cleaning exempt from sales tax for resale purposes, and shall include the charge and sales tax on the consumer's bill.

(h) Each hotel purchasing water, soap, solvents and other cleaning materials for the hotel's own use are subject to sales tax. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 64, Sec. 1 as further amended by Ch. 292, Sec. 32; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987; amended May 1, 1988.)

**92-19-28. Motor carriers.** Sales of tangible personal property or services to any motor carrier engaged in the transportation of persons or property in interstate common-carrier transportation are subject to the Kansas retailers' sales tax in the same manner as are sales to other firms, persons or corporations except as follows:

(a) Sales of rolling stock, including busses and trailers to each motor carrier qualifying as a public utility and engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce, and the rolling stock are immediately and directly used in interstate commerce are exempt. The rolling stock may be temporarily stored within the state until it is directly and immediately consumed in interstate commerce. However, charges for labor services rendered to common carriers authorized to engage in interstate commerce by the interstate commerce commission for the servicing, maintenance, or repair of rolling stock including busses and trailers are taxable.

(b) Sales of all repair parts and replacement materials or parts to each motor carrier qualifying as a public utility, engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce, when the repair parts and replacement material or parts are immediately and directly used in interstate commerce are exempt. The repair parts and replacement materials or parts may be temporarily stored within the state until they are directly or immediately consumed exclusively in interstate commerce.

(c) Sales of gasoline, distillate and other motor fuels to each motor carrier qualifying as a public utility, engaged in either interstate commerce exclusively or interstate commerce and intrastate commerce when the gasoline, distillate and other petroleum products are immediately and directly used in interstate commerce are exempt. The gasoline, distillate and other motor fuels may be temporarily stored within the state until it is directly and immediately consumed in interstate commerce. (Authorized by K.S.A. 79-3618, K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L.



1987, Ch. 182, Sec. 108, 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-19-30. Motor vehicles or trailers; isolated or occasional sale.** (a) Sales tax shall be levied on isolated or occasional sales of motor vehicles or trailers. Tax on the isolated or occasional sale of a motor vehicle or trailer may be paid to the director of taxation by the purchaser or to the county treasurer upon application for certificate of registration or ownership. If payment is made to the director of taxation, the director shall issue a receipt. If the sales tax is not paid to the director of taxation, the county treasurer, upon application for certificate of registration or ownership shall:

- (1) Collect the sales tax payment from the applicant;
- (2) collect a service fee of 50¢ from the applicant; and
- (3) give the applicant a receipt showing the tax and fee paid in full.

The director of taxation or county treasurer shall deny a certificate of registration or ownership to the transferee until the transferee pays the tax or proves to the satisfaction of the director or county treasurer that the transfer is not taxable.

(b) As a general rule, the base for computing the tax shall be the actual selling price of the vehicle. However, the director of taxation or the county treasurer shall compute the tax on the fair market value of the vehicle when:

- (1) The selling price of the vehicle is unknown; or
- (2) the stated selling price is not indicative of, and bears no reasonable relationship to, the fair market value of the vehicle. The fair market value of the vehicle shall be determined by the average retail value as shown in the latest publication of the national automobile dealers' association official used car guide book.

(c) The actual selling price shall be the base for computing the tax on wrecked or damaged vehicles.

(d) "Sale" or "sales" includes the exchange of property, a sale for money, and every other transaction in which consideration is given whether conditional or otherwise.

The term "vehicle" means motor vehicle or trailer.

The term "transferor" means the seller, donor, or other person who sells, gives away, or otherwise parts with the vehicle.

The term "transferee" means the purchaser, donee, or other person who purchases, receives by gift, or otherwise acquires the vehicle.

(e) The taxable event is the sale. If a sale is not involved, the transaction is not taxable. In addition to the specific transfer exemption granted under K.S.A. 79-3603(o) as amended by L. 1987, Ch. 182, Sec. 108 and amendments, the following are also exempted:

(1) A gift is presumed when the transferee is the spouse, mother, father, brother, sister, child, grandmother or grandfather of the transferor and tax is not due if money is not exchanged for the vehicle. However, if money is exchanged for the vehicle, the transfer is taxable.

The trading or exchanging of a motor vehicle between persons in a close family relationship is presumed to be a mutual exchange of gifts and tax is not due if money is not exchanged. However, if money is given in addition to trading the vehicle, the transfer is regarded as a taxable sale.

(2) The transfer by a donor to a donee shall not be taxable if given without any consideration and with an intention on the part of the donor that the transfer is a gift. When the parties are not in a close family relationship as set out above, the transferee claiming the transfer is a gift shall provide proof of this claim to the satisfaction of the county treasurer or director of taxation.

(3) A transfer to effect a change of name on the title when there is no actual change in ownership is not a taxable transfer. However, the transfer of a motor vehicle or trailer from a corporation to an individual is a taxable transfer.

(4) A transfer to an heir or legatee by will or pursuant to the inheritance or intestacy laws of this state is not a taxable transfer. A certified copy of the probate court order making the distribution shall be filed with the director of taxation or county treasurer.

(5) A transfer to a winner of a drawing or raffle is deemed to be a gift to the winner and is not a taxable transfer. However, the person who purchased the vehicle and transferred it to the winner is subject to the tax. When either the donor or recipient of the gift applies for the first registration in Kansas, sales tax shall be paid.

(6) When a vehicle is transferred to the holder of an encumbrance as a result of repossession under the terms of a written agreement entered into at the time of original purchase by the purchaser and encumbrance holder, the transfer is not taxable. However, the subsequent sale of the vehicle by the encumbrance holder is taxable.

(f) The following transfers are sales, and are subject to sales tax: (1) When one person pays cash or some other consideration in addition to the vehicle exchanged, that person shall pay sales tax on the cash fair market value of the other consideration. In such a trade, sales tax is not due from the person who traded vehicles but did not pay any cash or any other consideration.

Each person claiming a sales tax deduction for trading a vehicle shall file an affidavit with the director of taxation or the county treasurer containing information the director of taxation may require.

When the stated cash or other consideration is not indicative of, and bears no reasonable relationship to, the actual difference between the fair market value of the vehicle traded and the fair market value of the vehicle received by the purchaser, the director of taxation or the county treasurer shall compute the tax on the actual difference between the fair market value of the vehicles.

(2) The purchase of a vehicle which the owner intends to give to another is taxable, even though tax is not due on the subsequent transfer from the donor to the donee.

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(3) A transfer of a vehicle from a partner to the partnership or from a partnership to a partner is a taxable transfer. This type of transfer is presumed to be made in consideration of an increased interest in the partnership or for services rendered the partnership or for other value passing between the parties.

(4) If a donor gives a donee a gift of cash or other property for the purpose of purchasing a vehicle, the donee shall be liable for the tax upon purchasing the vehicle.

(5) The transfer of a vehicle which is subject to an encumbrance in exchange for the assumption by the transferee of the obligation to pay all or any part of the encumbrance is a taxable transfer. When the parties deal at arms' length, the tax base is the amount actually paid to the transferor by the transferee plus the amount of the encumbrance assumed by the transferee. When the parties are not at arms' length and the amount of the encumbrance or the price paid does not truly reflect the value of the vehicle or the interest in the vehicle which has been transferred, the tax base shall be the fair market value of the vehicle or that portion which represents the interest transferred.

(6) When a vehicle is purchased because a vehicle has been destroyed by accident, fire, theft or otherwise, the purchase of the replacement vehicle is not exempt from tax. Each purchase of a vehicle is taxable whether purchased by the owner of the destroyed vehicle or by an insurance company which is obligated to replace the destroyed vehicle.

(7) A transfer of a vehicle from a corporation to an officer, shareholder, boardmember or employee is a taxable transfer and is presumed to be made in consideration for services rendered the corporation or for other value passing between the parties.

(g) Each transferee claiming an exemption shall file an affidavit with the director of taxation or the county treasurer stating the name, address, and telephone number of the transferor; the name, address, and telephone number of the transferee; the make, year, and style of the motor vehicle or trailer; and other information as the director of taxation may require. The affidavit shall contain facts in detail sufficient to clearly bring the transferee within the exemption claimed.

The director of taxation shall not accept affidavits of exemption which are not correct in both substance and form in lieu of the tax.

The county treasurer shall collect the tax if any doubt exists as to the validity of the exemption claim. Any taxpayer may file a claim with the director of taxation for a refund if the taxpayer believes the tax has been erroneously collected.

(h) Any person who makes a false affidavit under this regulation shall be subject to the penalties of perjury and shall be prosecuted to the full extent of the law. The director of taxation shall request the attorney general of the state of Kansas as well as any county attorney to assist in the prosecution. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, 8-153, 79-3604; effective, E-70-33, July 1, 1970;

effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1987.)

**92-19-30a. Motor vehicles or trailers.** Sales tax shall be imposed on the total selling price of each motor vehicle or trailer to the ultimate user or consumer. The total selling price includes all tangible personal property mounted, installed, applied or otherwise attached or affixed to the motor vehicle or trailer. For sales tax purposes, tangible personal property is not separable from the motor vehicle or trailer to which it is mounted, installed, applied or otherwise attached or affixed.

When calculating sales tax on the retail sale of a motor vehicle or trailer, the retailer shall not exclude or deduct for the tangible personal property, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately charged or segregated on the same contract or invoice. Any charge attributed to the tangible personal property mounted, installed, applied or otherwise attached or affixed to a motor vehicle or trailer cannot be separately billed or segregated on an invoice or contract in order to qualify for an isolated or occasional sale exemption. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602.)

**92-19-31.** (Authorized by K.S.A. 79-3618; implementing K.S.A. 1981 Supp. 79-3603, 79-3606; modified, L. 1979, Ch. 349, May 1, 1979; amended, E-82-26, Dec. 16, 1981; amended May 1, 1982; revoked May 1, 1988.)

**92-19-32. Used farm machinery and equipment; repair, replacement parts, and maintenance service.**

(a) Sales of used farm machinery and equipment, repair and replacement parts and services performed in the repair and maintenance of such machinery and equipment shall qualify for the exemption contained in K.S.A. 79-3606(u) as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1 and amendments, if the following three requirements are met: (1) The purchaser is a farmer or rancher; (2) the property purchased, repaired, or serviced is second hand or used farm or ranch machinery or equipment, repair or replacement parts for farm or ranch machinery or equipment; and (3) the property purchased, repaired or serviced will be used exclusively in farming or ranching.

(b) Definitions. (1) "Farm machinery and equipment" shall mean machinery and equipment purchased by a farmer or rancher which is used or second hand when purchased, and which is ordinary and necessary for the growing or raising of agricultural products. Farm machinery and equipment shall not include disposable supplies, buildings, building materials, silos, fence, fencing materials, land, all terrain vehicles, passenger motor vehicles, trucks, truck tractors, trailers, semitrailers, and pole trailers, other than a farm trailer.

(2) "Farmer or rancher" shall mean a person who:  
(A) owns, leases, or sharecrops real property used for farming or ranching; and  
(B) is engaged in the business of farming or ranching on such real property.

(3) "Farming or ranching" shall mean engaging in activity which is ordinary and necessary for the growing or raising of agricultural products. Farming or ranching shall not include any activity occurring after the harvesting of crops or after the time immediately preceding slaughter of livestock.

(4) "Sale of used farm machinery and equipment" shall mean the sale of farm machinery and equipment other than the original retail sale or lease of the farm machinery and equipment, or, in a lease transaction, transactions other than those in which title to the machinery or equipment remains with the lessor. The machinery or equipment must be used or second hand when sold, and includes only sales to a person other than the original consumer or user, and leases when title to the machinery and equipment was not retained by the lessor in the original lease transaction. A dealer or retailer shall not be regarded as the original user or consumer of the property unless the dealer or retailer has paid sales or compensating tax on the purchase price of the property.

(5) "Repair and replacement parts" shall mean those parts which replace an existing part, or which are necessary to maintain the working condition of a piece of farm machinery or equipment. (Authorized by K.S.A. 79-3618, K.S.A. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective, E-80-2, Jan. 18, 1979; effective May 1, 1979; amended May 1, 1988.)

**92-19-40. Intrastate telephone and telegraph services; sales for noncommercial use.** (a) Each sale of a telephone or telegraph service which is classified and billed for commercial use by the retailer providing the service shall be taxed. Each sale of an intrastate telephone and telegraph service for noncommercial use, other than noncommercial intrastate long-distance telephone service, is not taxable. Exempt telephone service includes ordinary exchange services, extra listings, joint-user service, telephone access charges, installation and repair service. Each sale, lease or rental of telephones, equipment and facilities and tangible personal property furnished in connection with, supplemental to, or associated with telephone usage shall be subject to sales tax.

(b) As used in this regulation, "residential premises" shall have the meaning ascribed to it in K.A.R. 92-19-38 and amendments, and "long distance service" means message toll services, but does not include private line or foreign exchange services. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective, E-80-26, Dec. 12, 1979; effective May 1, 1980; amended May 1, 1988.)

**92-19-41.** (Authorized by K.S.A. 79-3618; implementing K.S.A. 79-3603 as amended by L. 1986, Ch. 386, Sec. 1; effective, E-81-1, Jan. 10, 1980; effective May 1, 1980; amended May 1, 1987; revoked May 1, 1988.)

**92-19-46. Selling price.** (a) Selling price is the total consideration given in each transaction, whether in the form of money, rights, property, promise or

anything of value, or by exchange or barter. The key element in imposing sales tax on a transaction is not based on what a transaction may be called or termed, but on the operation of the transaction. The term selling price includes the following:

(1) The total monetary value of the consideration of all those things which in fact are, or are promised to be paid by the consumer to a seller in the consummation and complete performance of a retail sale, whether or not the seller receives any benefit from the consideration;

(2) the total cost to the consumer without any deduction or exclusion for the cost of the property or service sold, labor or service used or expended, materials used, losses, overhead or any other costs or expenses, or profit, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately billed or segregated on the same bill; and

(3) all transactions in which a person secures for a consideration, the use of tangible personal property or services and includes transactions which may be termed royalties or licenses.

(b) Any discounts allowed and credited by the retailer are excludable from the selling price. However, all transportation, freight, handling, drayage or other similar charges are to be included in the selling price, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether the charges are separately billed or segregated on the same bill. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**92-19-47. "Retailer."** (a) "Retailer" means any person regularly engaged in the business of selling tangible personal property at retail to the final user or consumer, and not for resale. The principal nature of the seller's business operation is immaterial in making the determination of whether a person is a retailer. The controlling factors are:

(1) whether the sale is to the final user or consumer; and

(2) whether the transaction is a sale of tangible personal property or service which is subject to sales tax.

(b) Sales tax is imposed on retail transactions not exempted by law. Any person generally providing a service which is not taxable is deemed to be a retailer when the person engages in the sale of tangible personal property or taxable services at retail to the final user or consumer and which are not for resale purposes.

(c) "Regularly engaged in the business" means the periodic, habitual or recurring sale of tangible personal property at retail or services subject to sales tax. Any person is deemed to be a retailer if the person sells tangible personal property at retail or provides taxable services in the normal course of its business operations, notwithstanding the facts that the sales may be few or infrequent, or that retail sales may comprise a small portion of the total gross receipts. If any person acquires tangible personal property for the

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purpose of resale, the person acquiring the property is deemed to be a retailer and shall collect sales tax on the gross receipts received from the retail sale thereof. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**92-19-49. Refunds and credits.** (a) Each claim for refund, credit or amended return resulting in a refund or credit shall not be allowed if filed after three years from the date the payment of the tax was due.

(b) When the director of taxation imposes a jeopardy assessment, no return shall be accepted as an amendment to the assessment after three years from the date the jeopardy assessment was imposed.

(c) Any retailer may make a claim for a refund or credit. A claim for refund or credit by a consumer or user shall not be allowed unless the consumer or user had initially paid the tax directly to the department.

(d) Each retailer shall submit proof in support of each claim for refund or credit which clearly establishes that the claimant has previously paid the tax. Proof shall consist of cancelled paid invoices; contracts, bills, and other evidences of the transaction showing that the claimant billed the consumer the tax, received payment and paid the tax to the state.

(e) Each retailer shall make a claim for refund or credit in writing. Oral claims shall not be honored by the director. Each claim shall state with specificity the basis of the claim and shall include sufficient documentation to substantiate the claim.

(f) Each claim resulting in a credit to be applied on the next tax reporting period shall not be used by the retailer until the director has approved the claim and sent written confirmation to the retailer. Each retailer shall attach the written confirmation to the tax return on which the credit is applied and file the return on or before the due date of that return. A confirmed credit may only be used to the extent that it offsets any taxes due for that reporting period. The balance of a credit may be carried forward on later returns until fully used.

(g) If tax for which a retailer is claiming a refund has been erroneously paid by a consumer or user, a refund to the retailer shall not be authorized until the retailer submits to the department proof of refund to the consumer or user. Proof of refund to the consumer or user shall be in the form of a cancelled check payable to the consumer or user, or an irrevocable credit memo issued by the retailer to the consumer or user to be used against future purchases. The department shall not be liable to any retailer for any amount refunded by the retailer to the consumer or user which exceeds the amount approved by the director.

(h) Interest shall not be paid on any sales or compensating taxes, penalties or interest refunded or credited. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 79-3609, K.S.A. 1986 Supp. 79-3607, K.S.A. 1986 Supp. 79-3610 as amended by L. 1987, Ch. 391, Sec. 1; effective May 1, 1988.)

**92-19-50. Third Party Lessors.** (a) Each purchase of tangible personal property by a person engaged in the business of renting or leasing such tangible per-

sonal property to the final user or consumer shall be exempt from sales tax for resale purposes when the lessor is registered as a retailer with the department of revenue.

Sales tax shall be imposed on the total amount of each lease payment which the lessee is obligated under the contract to pay the lessor for the continued use of the tangible personal property. There is no deduction or exclusion from the lease price for insurance, taxes, service or maintenance contracts, handling charges, administration charges, late fees, repair or service charges, or any other charges, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, or whether separately billed or segregated on the same bill.

(b) When a lessee contracts with a third party lessor to purchase and lease back to the original purchaser tangible personal property after the purchaser has received the billing and paid the vendor on the initial transaction, both the original purchase by the lessee and the subsequent lease payments made by the lessee shall be taxable. No deductions, exclusions, credits or refunds for sales tax previously paid on the original sale shall be allowed. Both transactions are treated by the department as separate retail sales subject to sales tax and neither transaction qualifies for an exemption. This section does not apply to transactions described in K.A.R. 92-19-55(k) and amendments thereto. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**92-19-51. Gratuities, Service Charges and Minimum Charges.** (a) Each cover charge or minimum charge entitling the customer to receive entertainment, recreation, amusement, or food, meals or drinks furnished by any place where food, meals or drinks are regularly sold to the public, whether listed separately on a bill or collected as an admission fee or fixed charge shall be subject to sales tax.

(b) Each retailer shall include in the total selling price of the food, meals or drinks subject to sales tax, any amounts designated as a service charge which are added to the price of food, meals or drinks, even if the charges are made in lieu of tips and are paid over by the retailer in whole or in part to the retailer's employees.

(c) Cash gratuities or gratuities added by the consumer to a bill which are turned over in full to the employee, and gratuities given directly to an employee by a consumer and not pursuant to an arrangement made with the retailer shall not be subject to sales tax.

(d) Each retailer shall include in the total selling price of the food, meals or drink subject to sales tax, any gratuities which are mandatory in order for a consumer to receive food, meals, drinks or service, even though a portion or all of the mandatory gratuities collected may be paid over by the retailer to the retailer's employees.

(e) Each retailer shall include in the total selling price of food, meals or drinks subject to sales tax, any gratuities which are required by the retailer to be turned over either in whole or in part by the employ-

ees and which are credited by the retailer as a part of the minimum wage of the employees pursuant to federal or state laws, even though a portion or all of the gratuities collected may be paid over by the retailer to the retailer's employees. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**92-19-52. Agency Relationships; direct purchases.**

(a) Unless specifically authorized by the sales tax act, an agency relationship between a purchaser and its principal shall not be recognized by the department of revenue for sales tax exemption purposes.

(b) To qualify as a direct purchase under K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1 and amendments, any bill, invoice, contract or other evidence of the transaction shall be made out in the name of the entity which qualifies for an exemption under the act, and the payment shall be made on that entity's check, warrant or voucher.

(c) Each sale of tangible personal property or taxable service made to and paid for by an agent, employee or other representative shall be taxable, even though the same purchase would have been exempt from sales tax had the principal or employer directly purchased the tangible personal property or service. Any contractual arrangement or understanding between an agent, employee or other representative and a principal or employer shall not be recognized by the department. Each retailer shall charge and collect the sales tax on the total selling price of tangible personal property or service even though the agent, employee, or other representative:

(1) Is on official business on behalf of the principal or employer;

(2) is on a per diem from the principal or employer;

(3) is on an expense account or will otherwise be reimbursed by the principal or employer; or

(4) has or will receive monies, credits or other assets from the principal or employer to pay for the transaction. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-53. Consumed in Production.** (a) In order for purchases of tangible personal property to qualify for exemption under K.S.A. 1986 Supp. 79-3606(n) as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1 and amendments, the following requirements must be met:

(1) The tangible personal property must be essential or necessary to the process;

(2) the tangible personal property must be used in the actual process;

(3) the tangible personal property must be immediately consumed or dissipated in the process;

(4) the tangible personal property must be used in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail in the regular course of business; and

(5) the tangible personal property cannot be reusable for such purposes. The identity of the buyer, seller or item purchased is immaterial. Whether the purchase qualifies for exemption is determined by how the item is used in the production or processing activity. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each transaction shall be separately measured against the statutes and regulations to determine the taxability of the transaction.

(b) For the purposes of determining whether tangible personal property is consumed in the providing of services, the term "service" refers only to taxable services enumerated under the sales tax act. Each person providing a nontaxable service shall pay sales tax on all articles of tangible personal property and all services purchased by the person to provide the nontaxable service, and may not claim an exemption from sales tax.

(c) "Used in the actual process" means the use of the tangible personal property used shall:

(1) Be integral and essential to the production or processing activity;

(2) occur at the location where the production or processing activity is carried on; and

(3) occur during the production activity.

The fact that a particular item of tangible personal property may be considered important to a production process does not, of itself, mean that the tangible personal property is used in the actual process. The following uses of tangible personal property do not qualify for exemption from sales tax as consumed in production: shipping, testing, repairing, servicing, maintaining, cleaning the equipment and the physical plant, and storing. Tangible personal property used in the administration of the business and wholesale, commercial or retail facilities or buildings do not qualify for exemption from sales tax as consumed in production.

(d) "Immediately consumed or dissipated" means that tangible personal property shall be consumed or destroyed both economically and physically in a time reasonably requisite in the production or processing activity. The fact that tangible personal property may be used for only one production or processing activity and then discarded, or that tangible personal property is rendered obsolete or worthless in a short time is not the determining factor. Purchases of tangible personal property used in a repetitive function to produce articles of tangible personal property designed to be sold to consumers and not immediately consumed or dissipated are subject to sales tax. Tangible personal property that is specifically produced to perform a specific job for a specific consumer and has no other value other than as scrap, may qualify for exemption from sales tax as consumed in production, if the purchased property meets the other requirements under the exemption. Tangible personal property which breaks, depreciates, wears out or becomes obsolete, albeit in a short time span, does not qualify for exemption from sales tax as consumed in production.

(e) Natural gas, electricity, heat and water con-

(continued)



sumed by machinery and equipment actually used to produce, manufacture, process, mine, drill, refine or compound tangible personal property, provide taxable services or irrigate crops for resale in the regular course of business, qualify for exemption as consumed in production.

(f) All purchases of tangible personal property by contractors, subcontractors, or repairmen for incorporation into any structure or for use in altering, servicing, repairing or maintaining personal property or personal property that has been affixed to real property are subject to sales tax unless specifically exempted by K.S.A. 1986 Supp. 79-3606(d), (e) as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1.

Contractors, subcontractors, repairmen, and consumers shall not purchase materials exempt from sales tax as consumed in the production of services whether or not the project is original construction. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-54. Ingredient or Component Part.** (a) For purchases of tangible personal property to qualify for exemption under K.S.A. 1986 Supp. 79-3606(m) as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1 and amendments, the following requirements must be met:

(1) The tangible personal property shall be essential or necessary to the tangible personal property or service produced, manufactured or compounded;

(2) the tangible personal property shall be actually used in or on the tangible personal property or service produced, manufactured or compounded;

(3) the tangible personal property shall become an integral and material part of the tangible personal property or service produced, manufactured or compounded; and

(4) the tangible personal property must become an ingredient or compound part of tangible personal property or service for ultimate sale at retail.

The identity of the buyer, seller or the item is immaterial. Whether the purchase qualifies for exemption shall be determined by how the item is used in the production or processing activity. An item may be taxable for one use and exempt for another use, even though purchased by the same consumer. Each transaction shall be separately measured against the statutes and regulations to determine the taxability of the transaction.

(b) For the purpose of determining whether tangible personal property is an ingredient or component part of a service, the term "service" refers only to taxable services enumerated under the sales tax act. Each person providing a nontaxable service shall pay sales tax on all articles of tangible personal property and services purchased to provide the nontaxable service, and may not claim an exemption from sales tax.

(c) "Integral and material" means:

(1) The physical incorporation of two or more parts or elements by chemical or mechanical process in a manufacturing, production or compounding process, the result of which renders a third item or product separate and distinct from the constituent parts or elements; or

(2) an attachment or part that is so necessary and essential to the final product that, if omitted, would render the final product valueless for its intended purpose.

Except as provided in paragraph (d), tangible personal property that is important to the production process but does not become an integral and material or physical part of the tangible personal property for sale at retail is not exempt from sales tax.

(d) Each container, wrapper or other shipping or handling material actually accompanying the product sold is not subject to sales tax.

(e) Each retailer purchasing a container or other shipping or handling material for consumption which is not for resale as described in paragraph (d) is subject to sales tax. Each purchase by a retailer of a container or other shipping or handling material in which title remains with the retailer when the tangible personal property contained therein is sold by the retailer, or where the container or other shipping or handling materials are to be returned to the retailer by the consumer of the tangible personal property, is subject to sales tax.

(f) Each purchase of a container, wrapper or other shipping or handling material by a retailer using the container, wrapper or other handling material to provide nontaxable services is deemed to be consumed by the service provider and is subject to tax. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-55. Leases and rentals.** (a) Sales tax shall be imposed on the total gross receipts received from the rental or leasing of tangible personal property for use in Kansas.

(b) "Lease or rental" includes all transactions under which a person secures for a consideration the use of tangible personal property, and includes contracts which may be termed royalties or licenses. Except as provided in subsection (k), sales tax shall be imposed on the operation of the contract, regardless of what the transaction may be called or termed.

(c) Tangible personal property purchased exclusively for the purpose of leasing to the final user or consumer may be purchased without sales tax. Except as provided in subsection (k), the lessor shall collect sales tax on the total gross receipts received from the lessee. Purchases of tangible personal property by a person who uses the property part of the time and leases it out part of the time shall be taxable. Each person using and leasing tangible personal property in this manner shall collect sales tax on the gross receipts received from its leases of the tangible personal property, and no deduction, exclusion, credit or refund of

sales tax paid on the original purchase of the tangible personal property shall be allowed.

(d) Sales of repair parts and services, warranties, service and maintenance contracts to a lessor for repairs or services of tangible personal property held for lease by the lessor shall not be subject to sales tax. However, sales of repair parts and services, warranties, service and maintenance contracts to a lessee for repairs or services of leased tangible personal property shall be subject to sales tax.

(e) Except as provided in subsection (k), each lease-option transaction shall be subject to sales tax. Tax is imposed on the total gross receipts received on each lease payment, and on the option price if a purchase option is exercised by the lessee.

(f) Sales tax shall be imposed on the total amount of each lease payment which the lessee is obligated under the contract to pay to the lessor for continued use of the tangible personal property, with no deduction or exclusion from the lease price for insurance, taxes, service or maintenance contracts, handling charges, administration charges, late fees, repair or service charges, or any other charges regardless of how any contract, invoice or other evidence of the transaction is stated or computed and whether separately billed or segregated on the same bill.

(g) The rental or lease of tangible personal property is subject to sales tax even though the property is attached or affixed to real estate, unless the real estate is also subject to the lease. For the purpose of determining the taxability of a rental or lease transaction under this subsection, there is a presumption that the rental or lease of property which is considered "goods" pursuant to K.S.A. 84-2-107(2), and amendments is taxable.

(h) Each payment by a lessee to a lessor for the cancellation of a lease pursuant to the lease contract is subject to sales tax. The payments are considered as part of the final lease payment arising from the original lease, since the payments effectively decrease the term of the lease and thereby increase the lease payments for the actual period the property is used by the lessee.

(i) When a retailer enters into a transaction where the retailer furnishes both the tangible personal property and an operator, and the retailer contracts with the customer to use the leased property to perform the job, and is responsible for the completion of the job, the transaction is deemed to be a service and not a lease of tangible personal property. Conversely, each retailer furnishing tangible personal property without an operator is not deemed to be providing a service, but is instead leasing tangible personal property.

(j) Each retailer leasing tangible personal property who also furnishes services incidental or extrinsic to the lease of the property is deemed to be leasing tangible personal property and is not providing services.

(k) Any transaction which is in the form of a lease, but is treated as a sale for federal income tax purposes, shall be treated as an installment sale for the purpose of applying sales tax.

Any transaction or series of transactions which is in the form of a lease, but is treated as a loan or financing transaction for federal income tax purposes, shall be treated in a similar manner for sales tax purposes. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1, effective May 1, 1988.)

**92-19-56. Coins, bullion, stamps, antiques, collectables, commemoratives, and similar items.** (a) Each sale of coins, bullion, stamps, antiques, collectables, commemoratives and other similar items is subject to sales tax even though purchased as an investment. It is immaterial that a gain, benefit or other advantage may not be realized until the resale of the item.

(b) Each exchange of currency or coin for other currency or coin at face value is not a transfer subject to sales tax. Each exchange of currency or coin at the current exchange rate is not a transfer subject to sales tax. However, when currency or coin, although acceptable as legal tender, is purchased at rates not reflecting face value as currency or coin, or when the precious metal content of a coin determines its true value, the purchase is subject to sales tax.

(c) The seller's principal line of business is immaterial when determining the taxability of transactions under this section. Each bank, savings and loan or other thrift institution, pawn shop, coin shop, collector, dealer or other person is a retailer under the sales tax act when selling coins, bullion, stamps, antiques, collectables, commemoratives and other similar items at retail to the final user or consumer. Each retailer shall collect sales tax on the total gross receipts received from the sale of coins, bullion, stamps, antiques, collectables, commemoratives and other similar items.

(d) Each sale of a commodity contract for gold, silver and other similar items is not subject to sales tax. However, each sale of bullion and other similar property which is physically transferred in Kansas to the consumer or the consumer's agent or employee is subject to sales tax.

(e) Each person purporting to hold coins, bullion, stamps, collectables, commemoratives and other similar items for resale in the regular course of business shall prove that the person actively engages in the business as a seller of such items. Relevant evidence that a person is a retailer of these items may include:

- (1) the number, scope and character of the person's purchases and sales;
- (2) evidence of the person's continuing efforts to advertise and sell such items;
- (3) evidence that the person holds themselves out to the public as a retailer of such items at an identified place of business;
- (4) the manner in which income from transactions in such items is reported by that person for federal and state income tax purposes; and

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(5) whether a local business license has been issued to that person to engage in retail sales of such items. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-57. Sales tax on motor fuels, special fuels, liquefied petroleum and other fuels.** (a) Each sale of motor fuel, special fuel and other similar fuels shall be exempt from sales tax if the Kansas excise tax has been imposed, and the excise tax is not refundable. However, each sale of motor fuel, special fuel and other similar fuels shall be subject to sales tax if no Kansas excise tax has been imposed, unless specifically exempt under the sales tax act.

(b) Except as provided in paragraph (a), each sale of motor fuel, special fuel and other similar fuels for use in cooling, refrigerating or heating for nonresidential or non-agricultural purposes is subject to sales tax. Fuel used to power refrigeration units on trucks and trailers shall be subject to sales tax.

(c) Except as provided in paragraph (a), each sale of motor fuel, special fuel and other similar fuels for use in aircraft, other than purchases of such fuels by persons licensed as interstate common carriers, shall be subject to sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-58. Revenue Rulings.** (a) A revenue ruling is a statement of the department of revenue issued to the general public, and is of general application. A revenue ruling interprets the statute and regulation to which the ruling relates and is ordinarily issued in response to newly enacted legislation, recent court decisions and areas of sales tax interpretation and application which affect a large number of taxpayers.

(b) A revenue ruling is general in nature, and is not issued to address a specified set of facts. A revenue ruling shall be measured against each transaction separately and the facts of each transaction shall determine the sales tax consequences to which the ruling applies.

(c) A revenue ruling shall cease to be valid when any one or all of the following occur:

(1) The statute or regulation to which the ruling applies is changed in any pertinent part by the Kansas Legislature;

(2) a pertinent change in the interpretation of the statute or regulation is made by a court decision;

(3) the regulation or interpretation is changed in any pertinent part by a department regulation or revenue ruling, whether the change is accomplished by means of a new regulation or revenue ruling or by means of a revision of an existing regulation or revenue ruling; or,

(4) the department rescinds an outstanding ruling issued prior to any given specified date by issuing a general bulletin or notice in the Kansas register. (Authorized by and implementing K.S.A. 79-3618; effective May 1, 1988.)

**92-19-59. Private letter rulings.** (a) A private letter

ruling is a statement of the director of taxation or the director's authorized agent issued to an individual taxpayer and is of limited application. A private letter ruling interprets the statute and regulation to which the ruling relates. A private letter ruling is ordinarily issued in response to a request for clarification of the tax statute and regulation relating to a specified set of circumstances affecting the payment of, accounting for, or exemption from sales tax.

(b) A taxpayer may not rely upon a verbal opinion from the department of revenue. Only a written private letter ruling shall bind the department. Each taxpayer desiring a private letter ruling from the department shall request a ruling from the department in writing. The request shall state with specificity the circumstances and facts relating to the issue for which the ruling is sought. If insufficient facts are presented with a taxpayer's request for a ruling, a private letter ruling shall not be issued by the department.

(c) A private letter ruling is not for general publication and shall not be relied upon or cited as precedent by any person other than the person to whom the ruling is issued.

(d) Each private letter ruling shall cease to be valid when any one of the following occur:

(1) The statute or regulation to which the ruling applies is changed in any pertinent part by the Kansas legislature;

(2) a pertinent change in the interpretation of the statute or regulation is made by a court decision;

(3) the regulation or interpretation is changed in any pertinent part by a department regulation or revenue ruling, whether the change is accomplished by means of a new regulation or revenue ruling or by means of a revision of an existing regulation or revenue ruling; or

(4) the department rescinds an outstanding opinion issued prior to any given specified date by issuing a general bulletin or notice in the Kansas register. (Authorized by and implementing K.S.A. 79-3618; effective May 1, 1988.)

**92-19-61. Presumption of taxability on retail sales.**

(a) Each retail sale is presumed to be taxable. There is a presumption that sales tax is not charged to the consumer unless a retailer's contract, invoice, bill or other evidence of the transaction;

(1) clearly states the sales tax as a separately charged item; or

(2) clearly bears a legend which states that all applicable sales taxes are included in the selling price.

(b) When the department establishes that a transaction was a retail sale to a final user or consumer, the retailer shall have the burden of showing that:

(1) the sales tax was charged to the consumer and properly remitted to the state; or

(2) the transaction was exempt from sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 79-3604; effective May 1, 1988.)

**92-19-62. Warranties, service and maintenance contracts.** (a) Each warranty included in the selling



price of tangible personal property which is not charged to the consumer separately from the tangible personal property is subject to sales tax.

(b) Each charge made by a retailer separate and apart from the selling price of the tangible personal property for an optional warranty, extended warranty, service contract, maintenance contract and other similar instruments is subject to sales tax. Each retailer shall collect sales tax on the total charge to the consumer for the contract.

(c) Each service rendered by a retailer, including supplying parts and services, without charge to the consumer under a warranty, maintenance or service contract is not subject to sales tax on the amount of the reimbursement received from the warrantor, whether reimbursement is in the form of money, credit or the replacement of parts used to perform the repair work. However, any charge such as a deductible or similar charge which the consumer is obligated to pay under the warranty, maintenance or service contract is fully taxable, and each retailer shall collect sales tax on the total charge paid by the consumer.

(d) If a retailer does not perform repair services under a warranty, maintenance or service contract, but instead has a third party perform the repairs, the third party's gross receipts received from that retailer are not subject to sales tax. The third party shall secure an exemption certificate from the retailer which states:

(1) that the service performed by the third party was pursuant to a warranty, maintenance or service contract;

(2) that the retailer collected from the consumer sales tax on the total selling price of the warranty, maintenance or service contract; and

(3) the retailer's sales tax registration number.

If a retailer has collected a deductible or similar charge from the consumer, the retailer shall include the amount in the retailer's taxable gross receipts, even though a third party may actually perform the service under the warranty, maintenance or service contract.

(e) Each retailer gratuitously providing parts, services or both to a consumer, is deemed to be the consumer of any materials, parts and third party services used. In this instance, each retailer shall pay sales tax to any third party service provider, report the cost of materials and parts on the retailer's sales tax return, and pay the appropriate sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108, effective May 1, 1988.)

**92-19-63. Limitations.** The tax imposed under the sales tax act shall be assessed within three years from the date the return is filed. However, if any person obligated to file a return for taxes imposed under the sales tax act fails to file a return for any reason, the tax may be assessed at any time. A levy or other proceeding to enforce the collection of the tax, penalty and interest may also be commenced at any time. (Authorized by K.S.A. 79-3618, implementing K.S.A. 79-3609; effective May 1, 1988.)

**92-19-64. Corporate officer liability.** (a) Any per-

son having control or supervision of or supervising employees having control or supervision of the collection, filing of returns, accounting, or payment of sales tax of a corporation shall be personally liable for the tax, penalty and interest thereon, if the corporation fails to collect the tax, file returns, pay the tax or attempts in any manner to evade or defeat the tax.

(b) The liability of each officer, director, shareholder or employee for a corporation's failure to collect the tax, file returns or pay any liability due survives the dissolution of the corporation.

(c) Evidence of personal or individual responsibility for the collection or payment of taxes, filing returns, control, receipt, custody or disposal of funds may include any one or more of the following:

(1) Signatory on any tax registration form;

(2) signatory on any tax return;

(3) authorization to sign tax registration forms or tax returns;

(4) authorization to draw on corporate funds;

(5) authorization to pledge corporate assets as collateral to receive loans, advances or lines of credit from thrift institutions on behalf of the corporation;

(6) authorization to bind the corporation to contracts for sales or purchases in day to day business operations; or,

(7) authorization to directly supervise employees who are authorized to perform any one or all of the above.

(d) Each corporation registered with Kansas for sales or compensating tax shall furnish annually a list of all officers and directors of the corporation to the director of taxation. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3643; effective May 1, 1988.)

**92-19-65. Medical equipment and supplies.** (a) "Medical supplies" means tangible personal property specifically designed for and exclusively used in the cure, treatment or diagnosis of an injury, illness or other malady of the human body, and consumed in a single usage. Medical supplies do not include tangible personal property designed or customarily used for human habitation purposes, or as a means for generally maintaining a quality of life not directly related to the cure, treatment or diagnosis of an injury, illness or other malady of the human body.

(b) "Medical equipment" means equipment specifically designed for and exclusively used in the cure, treatment or diagnosis of an injury, illness or other malady of the human body. Medical equipment does not include equipment designed or customarily used for human habitation purposes, or as a means for generally maintaining a quality of life not directly related to the cure, treatment or diagnosis of an injury, illness or other malady of the human body, even though the equipment may be used to assist in providing certain services. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 929, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-66. Contractors, subcontractors and repair-**  
(continued)

men; purchases of material. (a) Sales of building material or other property to contractors, subcontractors or repairmen for use by them in building, constructing, erecting, equipping, furnishing, repairing, servicing, altering, maintaining, enlarging, reconstructing or remodeling shall be taxable. Material used by a contractor, subcontractor or repairman for a project under original construction shall be subject to sales tax. Each contractor, subcontractor or repairman is deemed to be the final user or consumer of material used by the contractor, subcontractor, and repairman in construction projects. Each contractor, subcontractor or repairman shall not give, and each retailer shall not accept, a resale exemption certificate to purchase material without sales tax.

(b) Each contractor, subcontractor or repairman shall be responsible for the payment of sales tax on all materials and supplies purchased for use by the contractor, subcontractor or repairman in erecting structures for others, or for building on, or otherwise improving, altering or repairing real or personal property of others.

(c) Each retailer whose principal line of business is the retail selling of tangible personal property to the final user or consumer, but who also performs contractor services, may purchase material exempt from sales tax for resale purposes. When the retailer engages in a construction project as a contractor and removes material from inventory to perform the project, the retailer shall report and pay the proper sales tax on the cost of the material on the retailer's sales tax return.

(d) The taxing event shall be deemed to occur at the time a contractor purchases material, or when a retailer who is also a contractor removes material from inventory to perform a construction project. Therefore, bulk purchases of all material by persons who are contractors only, and all material removed from inventory by a retailer to perform a construction project shall be subject to sales tax at the time of purchase or at the time the material is removed from inventory, even though the material may be used in a construction project outside of Kansas. No deduction, exclusion, refund or credit for sales tax shall be allowed when a contractor purchases material in Kansas, or when a retailer who is also a contractor removes material from inventory as a sale in interstate commerce, even though the material may be used in a construction project outside of Kansas. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**99-19-66a. Project Exemptions.** (a) Project exemption certificates are only issued by the department of revenue. (1) Only entities specifically designated by statute may petition the department for a project exemption certificate for a construction project. Each project exemption certificate shall be issued directly to the petitioning entity instead of the contractor. Upon approval from the department, the petitioning entity shall give the contractor the project exemption certificate.

(2) Each contractor, subcontractor, or repairman may use a project exemption certificate to purchase material for use in a qualifying project without tax. Each supplier selling materials to contractors under this exemption shall execute invoices bearing the certificate number. Each project exemption certificate shall be valid from the date of issuance from the department. A certificate may not be used for any project other than the project denoted on the certificate.

(b) (1) If an entity qualifies for a project exemption, but fails to secure a project exemption certificate from the department, all contractors, subcontractors or repairmen purchasing materials for use in a construction project for that entity shall pay sales tax on the total cost of the materials, even though the entity for whom the project is being performed could directly purchase the same materials without sales tax.

(2) Leases of construction equipment by a contractor, subcontractor or repairman, and the purchase of fuel, form lumber, and other materials used in an exempt construction project, shall be exempt from sales tax. Each contractor, subcontractor or repairman shall issue a copy of the project exemption certificate to each lessor and supplier. If a project exemption certificate has not been secured by the entity for whom the project is being performed, contractors, subcontractors and repairmen shall pay sales tax on the lease of equipment and purchase of materials, even though the entity for whom the project is being performed could directly lease or purchase the same items without sales tax.

No exemption shall be allowed for the purchase of tools, machinery or equipment by a contractor. Each lease agreement shall also bear the certificate number.

(c) Project exemption certificates shall be prospective in nature. A project exemption certificate shall not be granted after a construction project is completed to secure a deduction, exclusion, credit or refund of sales tax previously paid on purchases of materials by contractors, subcontractors or repairmen used in a construction project.

(d) Upon completion of an exempt project, each contractor shall furnish a sworn statement to the exempt entity on forms supplied by the director that all purchases made under the certificate were entitled to exemption under the act.

(e) Any material purchased under a project exemption certificate which has not been incorporated into the exempt project, or has not been returned to the supplier for credit, shall be subject to sales tax. Each contractor shall remit sales tax on the material directly to the department on or before the twenty-fifth day of the month in which it is discovered that the material will not be used in the exempt project. (Authorized by 79-3618; implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-66b. Labor services.** (a) Each contractor, subcontractor and repairman shall be responsible for collecting and remitting sales tax on taxable services

performed for others, including taxable services performed for other contractors. Each contractor, subcontractor or repairman shall not purchase or sell services exempt from sales tax under a resale exemption certificate.

(b) The taxable base for all contracts involving the application or installation of tangible personal property shall be the difference between the contract price and the cost of material, supplies and payments to subcontractors, including sales or compensating tax paid by the contractor on the materials, supplies and subcontractor charges purchased by the contractor to complete the contract.

(c) Each contractor, subcontractor or repairman who does not separately state the amount of sales tax for services performed in their contract, bid estimates, customer billings or other evidence of the transaction shall state in the document that all applicable sales taxes are included in the selling price. If the statement does not appear in the contract, bid estimate, billing or other evidence of the transaction, it shall be presumed that the sales tax was not charged to the consumer. Each retailer shall carry the burden of proving that the sales tax was charged to the consumer and properly remitted to the state.

(d) The service of installing or applying tangible personal property in connection with the original construction, which is the first or initial construction of a new building or facility, shall not be subject to sales tax. The erection of a building or facility on a site previously occupied by a building or facility which has been demolished, razed or dismantled shall be considered to be original construction if the building or facility is totally new, regardless of whether the old foundation was also demolished.

(e) The service of installing or applying tangible personal property for the addition of an entire room or floor to the exterior of an existing building or facility shall not be subject to sales tax. Any replacement, remodeling, restoration, repair, renovation or reconstruction done in the interior of an existing building or facility necessary to the construction of an entire room or floor added to the exterior of an existing building or facility shall be considered to be original construction and not subject to sales tax when:

(1) Except for the addition of the entire room or floor to the exterior of the building or facility, the work performed inside the existing building or facility would not be necessary;

(2) the work being done in the existing building or facility is necessary to support the addition of the new room or floor being added to the exterior of the building, facility, or the machinery contained therein; or

(3) the support to the entire room or floor which is being added to the exterior of the existing building or facility is the direct causal factor of the construction being performed to the interior of the existing building or facility

If none of the three requirements can be met, the services performed to the interior of the existing building or facility shall be subject to sales tax, and the cost of services rendered in connection with the entire

project shall be allocated between the addition of the new room or floor and the services performed to the interior of the existing building or facility.

Sales tax shall be collected and remitted for that portion of services allocated to those services performed to the interior of the existing building or facility.

(f) Services of installing or applying tangible personal property to complete unfinished portions of newly constructed buildings, facilities, shopping centers and malls as space within the building, facility, center or mall is leased or sold to the first or initial tenant of that space shall not be subject to sales tax. Services performed to install or apply tangible personal property for the completion of an unfinished portion of an existing building or facility shall not be taxable when:

(1) The service being rendered was called for in the original blue print, building plan or building specification at the time original construction of the building or facility was started, including any change orders issued during the original construction of the building or facility;

(2) the completion of the unfinished portion of the building or facility is within a time reasonably requisite to the original construction of the building or facility;

(3) the service rendered would have been performed at the time of the original construction of the building or facility, except for circumstances beyond the owner's control. Those circumstances shall not include instances in which the project is essentially completed and usable for the purposes intended, but the owner merely fell short of funds, or when the owner, after taking possession or occupancy of the building or facility, contracts for additional services; and

(4) the owner or occupant is the first or initial owner or occupant of the building or facility.

(g) Sales tax shall not be imposed on the service of installing or applying tangible personal property for the purpose of restoring, reconstructing, or replacing a building or facility damaged or destroyed by fire, flood, windstorm, hailstorm, rainstorm, snowstorm, lightning, explosion, or earthquake. This exemption shall not apply to restoration, reconstruction or replacement of a building or facility due to normal deterioration resulting from the continuous exposure to these elements, or the obsolescence of the building or facility. Each retailer performing a service under this exemption shall secure an affidavit from the owner of the building or facility stating that the building or facility was damaged or destroyed by one or more of the above mentioned causes. Each retailer shall retain the affidavit in the retailer's records for three years. The affidavit shall be in substantially the following form:

State of Kansas, County of \_\_\_\_\_  
 ss. \_\_\_\_\_, of lawful  
 age, being first duly sworn, deposes, and states: \_\_\_\_\_

(continued)

Subscribed in my presence and duly sworn to before me, this  
day of \_\_\_\_\_, 19\_\_\_\_.

Signature of Notary Public

(h) Each contractor, subcontractor or repairman shall collect and remit sales tax on the total selling price of the service of installing, applying, repairing, servicing, altering or maintaining tangible personal property which when installed or applied is not being held for sale in the regular course of business, and when the tangible personal property remains tangible personal property or has been, is or will be fastened, connected with, built into or otherwise becomes part of the estate. Services rendered in connection with the original construction of a building or facility as set forth herein shall not be subject to sales tax. Except as otherwise provided herein, services rendered under this section to remodel, reconstruct, rebuild, refabricate, and repair the interior or exterior of a building or facility shall be subject to sales tax.

(i) Services performed to dismantle, demolish, raze or destroy a building or facility or a portion of a building or facility shall be subject to sales tax. If the services are performed in connection with the original construction of a building or facility, and the building or facility is constructed on the same site, the service of dismantling, demolishing, razing or destroying the original building or facility shall not be subject to sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-66c. Purchase and lease of tools and equipment.** (a) Each contractor, subcontractor and repairman shall be considered the final user or consumer of all tools, equipment and machinery purchased to perform construction services. Sales of tools, equipment and machinery to contractors, subcontractors and repairmen to perform construction services shall be subject to sales tax. With the exception of leases of equipment and machinery by a contractor under a project exemption certificate, leases of tools, machinery and equipment by a contractor to perform construction services shall be subject to sales tax.

(b) Leases of tools, equipment and machinery by a contractor are not exempt from sales tax as an ingredient or component part of the services performed by the contractor, whether the services are taxable or exempt from the sales tax.

(c) Leases of tools, equipment and machinery by a contractor are not exempt from sales tax as consumed in the production of the service performed by the contractor, whether the services are taxable or exempt from the sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-66d. Factory built and manufactured homes.** (a) Each person manufacturing, constructing or assembling buildings or facilities, other than mobile homes as defined in K.S.A. 75-1226 and amendments, shall be considered a contractor and shall be the final user or consumer of all tangible personal property incorporated into the manufactured, constructed or

assembled building or facility. Contractors shall pay sales tax on all materials used to manufacture, construct or assemble the buildings or facility.

(b) The taxing event shall be deemed to occur at the time a contractor purchases materials or when a retailer who is also a contractor removes materials from inventory to construct or assemble a building or facility project. Bulk purchases of all materials by a contractor, and all materials removed from inventory by a retailer to construct or assemble a building or facility shall be subject to sales tax, even though the finished building or facility may be used in a construction project outside Kansas. No deduction, exclusion, refund or credit for sales tax shall be allowed when a contractor purchases material in Kansas, or when a retailer who is also a contractor removes material from inventory as a sale in interstate commerce.

(c) Labor services performed to manufacture, construct or assemble a building or facility in the factory shall be considered original construction, and are exempt from sales tax. Labor services performed to toe in and otherwise attach a manufactured, constructed or assembled building or facility shall be exempt from sales tax as the original construction of the building or facility. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3618, 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-67. Sales by corporations, businesses, organizations and associations organized not-for-profit.** (a) Each not-for-profit corporation, business, organization or association regularly engaged in the business of selling tangible personal property at retail or furnishing services or entertainment to the ultimate user or consumer, and not for resale, shall be a retailer as defined in K.S.A. 1986 Supp. 79-3602(d). Each retailer shall collect and remit sales tax on the total gross receipts received from all taxable retail sales of tangible personal property, services or entertainment.

(b) The principal line of business, activity, intention or function of the corporation, business, organization or association is not determinative of whether a person is a retailer. The ultimate use of funds is not determinative of whether the gross receipts received from retail sales of tangible personal property or services are subject to sales tax.

(c) "Regularly engaged in the business" means the periodic, habitual or recurring sale of tangible personal property or a taxable service at retail. A person is a retailer under the act if the person sells tangible personal property at retail or provides a taxable service in the normal course of its business operations, notwithstanding the fact that the sales may be few or infrequent, or that retail sales may comprise a small portion of the total gross income. When a person acquires tangible personal property for the purpose of resale, the person is a retailer and shall collect sales tax on the retail sale of the property, regardless of whether the person's principal line of business, function or intention involves retail sales of tangible personal property.

(d) Nonrecurring retail sales of tangible personal property or taxable services by a religious organization

are not subject to sales tax, whether or not any property sold was acquired for resale purposes. "Nonrecurring" means there must not be more than one sale of tangible personal property or taxable services within a twelve month period. "Religious organization" means a structured, nonprofit, collective association or society of individuals relating to or manifesting devotion to an acknowledged ultimate deity. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988.)

**92-19-68. Temporary service providers.** Each person engaged in the business of furnishing employees to provide taxable services to the consumer is a retailer as defined in K.S.A. 79-3602(d). Each person shall collect sales tax on the total cost paid by the consumer for taxable services rendered by the retailer's employees. The incidence of sales tax occurs on the transaction between the retailer and the consumer, regardless of how the employee is paid by the retailer. (Authorized by K.S.A. 179-3618, implementing K.S.A. 1986 Supp. 3602; effective May 1, 1988.)

**92-19-69. Caterers.** (a) Each person engaged in the business of catering is a retailer as defined in K.S.A. 1986 Supp. 79-3602(d). Each retailer shall collect sales tax on the total gross receipts received from the sale of food, meals and drinks; other than alcoholic liquor as defined in K.S.A. 41-102 as amended by L. 1987, Ch. 182, Sec. 1 and amendments, and cereal malt beverages as defined in K.S.A. 41-2701 as amended by L. 1987, Ch. 182, Sec. 97, and amendments, unless specifically exempt. Sales tax shall be imposed on the total selling price of the transaction without and deduction or exclusion for labor or services expended, skill, time spent, overhead and other expenses incurred by the caterer in producing the tangible personal property or profit thereon, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately billed or segregated on the same bill.

(b) Each amount designated as a service charge added to the price of food, meals or drinks, shall be a part of the selling price of the food, meals or drinks, and shall be included in the total selling price subject to sales tax, even though such charges are made in lieu of tips and are paid over by the retailer in whole or in part to the retailer's employees.

(c) The gross receipts received by a person holding a temporary permit as defined in K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60, from each sale of alcoholic liquor as defined in K.S.A. 41-102 as amended by L. 1987, Ch. 182, Sec. 1 and amendments, and cereal malt beverages as defined in K.S.A. 41-2701 as amended by L. 1987, Ch. 182, Sec. 97 and amendments, upon which no Kansas excise tax has been paid, shall be subject to sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-70. Computer software.** (a) Sales tax shall be imposed on the gross receipts received from the

sale of computer software. Computer software includes all software or computer programs, whether contained on tapes, discs, cards or other devices or materials which direct a computer or hardware to perform different functions, and includes customized software, canned software, operational software, application software, systems software and other forms of software or computer programs.

(b) Sales tax shall be imposed on the total cost to the consumer without any deduction or exclusion for the cost of:

- (1) The property or service sold;
- (2) labor or services used or expended, including:
  - (A) Program development, problem definition;
  - (B) analysis, design, coding, testing; and
  - (C) implementation, evaluation, maintenance and documentation;
- (3) materials used;
- (4) losses;
- (5) overhead or any other costs or expenses; or
- (6) profit, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately billed or segregated on the same bill.

(c) The principal line of business of the seller is not material when determining the taxability of sales of computer software. Each bank, savings and loan or other thrift institution, accounting firm, computer program developer, dealer and other person is deemed to be a retailer when selling computer software at retail to the final user or consumer. Each retailer shall collect sales tax on the gross receipts received from the retail sale of computer software. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602, K.S.A. 1986 Supp. 3603 as amended by L. 1987, Ch. 182, Sec. 108, K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1, effective May 1, 1988.)

**92-19-71. Mobile phone, cellular phone, beeper and similar services.** (a) Sales tax shall be imposed on the gross receipts received from cable, community antennae, subscriber radio and television services. A mobile phone, cellular phone, beeper or other similar services is deemed to be a subscriber radio service. The gross receipts received from mobile phone, cellular phone, beeper and other similar services are subject to sales tax.

(b) Sales tax shall be imposed on the total cost to the consumer without any deduction or exclusion for:

- (1) The cost of the property or service sold;
- (2) services used or expended;
- (3) materials used;
- (4) losses, overhead or any other cost of expense; or
- (5) profit, regardless of how any contract, invoice or other evidence of the transaction is stated or computed, and whether separately billed or segregated on the same bill.

(c) Sales tax applies to all amounts paid for a mobile phone, cellular phone, beeper or other similar service, regardless of whether there is actual consumption of the service.

(continued)



(d) Each charge for the use of equipment and facilities furnished in connection with, supplemental to or as an aid in the usage of a mobile phone, cellular phone, beeper or other similar tangible personal property shall be taxable.

(e) Each retailer shall collect sales tax on subscriber radio services which are resold to their customers. Each retailer furnishing a mobile phone, cellular phone or other similar service may purchase the service from the retailer's vendor exempt from sales tax for resale purposes by furnishing the vendor a Kansas resale exemption certificate.

(f) Each retail sale involving the use or furnishing of a mobile phone, cellular phone, beeper or other similar service shall be considered to have been consummated at the billing address of the subscriber as it appears in the retailer's records. Each retail lease of telecommunication and data processing equipment used in connection with a mobile phone, cellular phone, beeper or other similar service shall be considered to have been consummated at the billing address of the lessee as it appears in the retailer's records. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-72. Retail sales between related entities.** (a) Each interdepartmental transfer of tangible personal property and taxable services between various departments of a single legal entity shall not constitute a sale subject to sales tax.

(b) Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall be taxable, even though the entities:

- (1) Share common principals or ownership and operations;
- (2) share the same business location;
- (3) file consolidated income tax returns for federal and state income purposes; or
- (4) do not enjoy a profit or expense as a result of the transaction.

When a transaction would be subject to sales tax if the transaction were between two separately owned and operated entities, the commonality of the two entities is irrelevant, and sales tax is imposed on the transaction between the two related entities.

(c) "Separate legal entities" shall mean entities which are recognized as individual entities either in fact or at law. Each transfer of tangible personal property and taxable services between separate legal entities for use or consumption, and not for resale, shall include:

- (1) Transfers between individuals and partnerships;
- (2) transfers between individuals and corporations;
- (3) transfers between individuals and unincorporated associations;
- (4) transfers between partnerships and corporations;
- (5) transfers between partnerships and unincorporated associations;
- (6) transfers between partnerships;

(7) transfers between unincorporated associations and corporations; and

(8) transfers between corporations, whether between sister corporations or parent and subsidiary corporations. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3602; effective May 1, 1988).

**92-19-73. Membership fees and dues.** (a) Each public or private club, organization or business charging dues to members for the use of the facilities for recreation and entertainment shall collect sales tax on the gross receipts received from the dues.

(b) "Dues" means any charge which is a debt owed to the club, organization or business by an existing member or prospective member in order for the member or prospective member to enjoy the use of the facilities of the club, organization or business for recreation or entertainment, and shall include periodic or one time special assessments, initiation or entry fees.

(c) "Recreation and entertainment" means any activity which provides a diversion, amusement, sport or refreshment to the member and specifically includes health, fitness, exercise and athletic activities. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988).

**92-19-74. Accounting periods; monthly filing of returns.** Each retailer whose total tax liability exceeds \$1600.00 in any one calendar year shall file a sales tax return on or before the twenty-fifth day of every calendar month, regardless of the accounting method employed by the retailer. Because all accounting periods end within a calendar month, a sales tax return shall be filed no later than the twenty-fifth day of the month following the month in which the accounting period ends. If there is no calendar month in which two accounting periods end, the tax return for that month shall include all retail sales made during both of these accounting periods. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 3607; effective May 1, 1988).

**92-19-75. Educational institutions.** (a) "Educational institution" means an institution with enrolled students that provides an organized and diverse curricula of classes and courses. The curricula shall involve the systematic and structured teaching and learning processes that collectively make up the arts and sciences, the humanities, physical education and other subjects or fields of study commonly associated with a classroom environment. Classes shall be taught by certified or bona fide teachers or instructors in a centralized building or buildings that commonly comprise a school building or campus environment.

(b) To meet the definition of educational institution, an organization shall provide to its students a field of studies involving the whole course of training the moral, mental and physical faculties. The organization shall provide a variety of studies in various fields of interest. Merely providing a series of classes or instruction on one topic, vocation or skill shall not qualify that organization as an educational institution.

Any organization which merely imparts knowledge or information to the public in a general manner through tours, seminars, brochures, mailings, pamphlets, or other publications does not qualify as an educational institution. (Authorized by 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-76. Sales to political subdivisions of the state of Kansas.** (a) All direct purchases of tangible personal property and taxable services by a political subdivision of the state of Kansas shall be exempt from sales tax, unless otherwise provided by law.

(b) To qualify as a direct purchase, each bill, invoice, contract or other evidence of the transaction shall be made out in the name of the political subdivision which qualifies for an exemption under the act, and each payment shall be made on the check, warrant or voucher of that political subdivision.

(c) All sales of tangible personal property or taxable services made to and paid for by an agent, employee or other representative of a political subdivision shall be subject to sales tax, unless expressly authorized under a project exemption certificate issued by the department of revenue, even though the same purchase would have been exempt from sales tax had the political subdivision directly purchased the tangible personal property or service. Any contractual arrangement or understanding between an agent or employee and a political subdivision shall not be recognized by the department, and the retailer shall charge and collect the sales tax on the total selling price of tangible personal property or service, even though:

(1) The agent or employee may be on official business on behalf of the political subdivision;

(2) is on a per diem from the political subdivision;

(3) is on an expense account, allowance or shall otherwise be reimbursed by the political subdivision; or

(4) has or will receive monies, credits or other assets from the political subdivision to pay for the transaction.

(d) The exemption from sales tax for political subdivisions applies only to the extent the political subdivision is not engaged nor proposes to engage in the business of furnishing gas, water, electricity or heat to others and the tangible personal property or taxable services are used or proposed to be used in such business. When a political subdivision is engaged or proposes to engage in furnishing any of these four businesses, the political subdivision shall pay sales tax on all purchases of tangible personal property and taxable services used in these businesses. Nothing under this section of the act shall be construed to limit other exemptions which may be available to a political subdivision which furnishes gas, water, electricity or heat. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-77. Sales to The United States, its agencies and instrumentalities.** (a) All direct purchases made by

the United States, its agencies or instrumentalities for the use of the United States, its agencies or instrumentalities shall not be taxable except when the United States has provided by federal statute that a particular agency or instrumentality shall be subject to a state's tax laws.

(b) To qualify as a direct purchase, each bill, invoice, contract or other evidence of the transaction shall be made out in the name of the United States, its agency or instrumentality, and payment shall be made on a federal check, warrant or voucher.

(c) Sales of tangible personal property or taxable services made to and paid for by an agent, employee or other representative of the United States, its agencies or instrumentalities shall be taxable, even though the same purchase would have been exempt from sales tax had the United States, its agency or instrumentality directly purchased the tangible personal property or services. Contractual arrangements or understandings between an agent or employee and the United States, its agencies or instrumentalities shall not be recognized by the department, and the retailer shall charge and collect the sales tax on the total selling price of tangible personal property or services, even though the agent or employee:

(1) is on official business on behalf of the United States, its agencies or instrumentalities;

(2) is on a per diem;

(3) is on an expense account, allowance or shall otherwise be reimbursed by the United States, its agencies or instrumentalities; or

(4) has or shall receive monies, credits or other assets from the United States, its agencies or instrumentalities to pay for the transaction.

(d) All sales of tangible personal property and taxable services sold to national banks, federal savings and loans and federal credit unions shall be subject to Kansas sales tax. (Authorized by K.S.A. 79-3618, implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 292, Sec. 32, as further amended by L. 1987, Ch. 64, Sec. 1; effective May 1, 1988.)

**92-19-78. Interest and penalty.** (a) If any person fails to make a return, or to pay any tax within thirty days after notice from the director of taxation, a penalty equal to twenty-five percent of the amount of tax shall be added to the tax due.

(b) "Notice from the director of taxation" means a written notice from the director or an authorized agent or employee of the director, stating that a return has not been filed or the amount of tax has not been paid and the date the return should have been filed or the date the tax should have been paid under the provisions of the sales tax act. The notice shall be mailed to the taxpayer at the last known address as shown on the records of the director of taxation. (Authorized by K.S.A. 79-3618, implementing K.S.A. 79-3615; effective May 1, 1988.)

**92-19-79. Oil, gas and water wells.** (a) Sales of drilling materials or other property incorporated into an oil, gas or water well to contractors, subcontractors or repairmen for use by them in original construction

(continued)



projects including drilling, equipping, furnishing, repairing, servicing, altering, maintaining, enlarging or redrilling shall be subject to sales tax. Each contractor shall be considered the final user or consumer of materials used by them in the construction projects. A contractor, subcontractor or repairman shall not give, and retailers shall not accept, a resale exemption certificate to purchase the materials without sales tax.

(b) Each contractor, subcontractor or repairman shall be responsible for the payment of sales tax on all materials and supplies which are purchased for use by them in drilling, redrilling, or otherwise improving, altering or repairing oil, gas or water wells for others.

(c) Each contractor, subcontractor or repairman shall be responsible for collecting sales tax on taxable services performed for others, including taxable services performed for other contractors. A contractor, subcontractor or repairman shall not purchase or sell services exempt from sales tax under a resale exemption certificate.

(d) The taxable base for all contracts involving the application or installation of tangible personal property shall be the difference between the contract price and the cost of material, supplies and payments to subcontractors, including sales or compensating tax paid by the contractor on the materials, supplies and subcontractor charges purchased by the contractor to complete the contract.

(e) Contractors, subcontractors or repairmen who do not separately state the amount of sales tax for their services in the contract, bid estimate or customer billing shall include a statement in the document in substantially the following form: "All applicable sales taxes are included in the selling price." If the statement does not appear in the contract, bid estimate, billing or other evidence of the transaction, it shall be presumed that the sales tax was not charged to the consumer. If a statement does not appear on the document, the retailer shall carry the burden of proving that the sales tax was charged to the consumer and properly remitted to the state.

(f) The service of installing or applying tangible personal property in connection with original construction that is the first or initial construction of a new oil, gas or water well shall not be subject to sales tax. "Original construction" of an oil, gas or water well means all services performed by a contractor through the date of completion of the well. Any service performed in or on oil, gas or water wells other than as set forth herein shall be subject to sales tax. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3606 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

**92-19-80. Advertising agencies; related businesses.** (a) Services which consist of consultation and development of advertising campaigns and placement of advertisements with the media without the transfer of tangible personal property to the client are not subject to Kansas sales or compensating tax as found in K.S.A. 79-3701 et seq. and amendments thereto. Each purchase of tangible personal property and taxable services by an advertising firm in performing services

is deemed to be a purchase at retail. Each advertising firm shall pay sales tax on purchases made from all product and service providers. Any advertising project which is cancelled or abandoned prior to production or placement of the advertising campaign shall be subject to this regulation.

(b) When an advertising firm contracts with a third party to provide products or services such as illustrations, artwork, typography, or photo retouching, and the advertising firm uses these products or services in consulting, developing or placing an advertisement with the media, the advertising firm shall pay sales tax on the products or services sold by the third party.

(c) When an advertising firm purchases material for the purpose of creating an advertisement, and the material is turned over to the client at no additional charge, the transfer shall be incidental to the advertising firm's services and shall not be subject to sales tax. If the material retained by an advertising firm after completion of the contract is transferred to the client for an additional charge, the receipts shall be subject to sales tax and the advertising firm shall not claim a credit for tax paid on purchases of material used to create the advertisement.

(d) Each sale of a service of altering, repairing, servicing or maintaining existing advertisements or other tangible personal property for the final user or consumer shall be subject to sales tax. The resale exemption does not apply to purchases of taxable services under the Kansas sales tax act.

(e) Tangible personal property sold by an advertising firm to the ultimate user or consumer shall be subject to sales tax. Sales tax shall be based on the total selling price of tangible personal property sold to the final user or consumer, regardless of the retailer's mode of billing the client.

Any advertising firm may purchase property for resale to a client without payment of sales tax. If an advertising firm resells property to a client without payment of sales tax, the firm shall issue to the firm's vendor a resale exemption certificate with the advertising firm's sales tax registration number reflected on the exemption certificate. Only persons or firms with sales tax registration numbers may properly purchase tangible personal property without sales tax for resale purposes. The resale exemption applies only to purchases of tangible personal property. The resale exemption cannot be used to purchase otherwise taxable services. When a resale exemption certificate is given for the purchase of tangible personal property, the advertising firm shall collect tax from the client on the total selling price of the property including any value added to the property by the advertising firm's services, and without any deduction for fees, commissions or other expenses of the advertising firm.

(f) Each sale of advertising space in publications or air time on radio or television shall not be subject to sales tax.

(g) Media placement of radio and television commercials shall not be subject to sales tax. Each advertising firm producing or creating a radio or television advertisement shall pay sales tax on all purchases and leases of tangible personal property and purchases of

taxable services used to produce or create a radio or television advertisement. Any advertising project which is cancelled or abandoned prior to the production or media placement of the radio or television advertisement shall be subject to this subsection. For purposes of sales and compensating tax, an advertising firm shall not act as an agent for a client when the advertising firm purchases tangible personal property and taxable services for use in creating or producing radio or television advertisement.

(h) The creation or production of advertising or promotionals embodied in the form of film, tape, negative, video or other media which are not placed with broadcast media shall be subject to sales tax when the property is sold and delivered to the final user or consumer in Kansas. Any advertising firm may purchase without tax the raw film stock and other physical component parts of property actually transferred to the client. Sales tax shall be collected on the total selling price of the finished product, including any value added by the advertising firm's services, and with no deduction for fees, commissions or other expenses of the advertising firm.

(i) Each firm shall collect sales tax on the total charge to the consumer when the advertising firm performs post-production services on a finished film, tape, negative, video or other media. Each advertising firm may purchase raw film, tape or other media without tax for resale when the film or tape is converted to other media; provided, however, that the service or material is actually incorporated into the product, delivered and billed to the client. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; 1986 Supp. K.S.A. 79-3606 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988.)

#### Article 20.—COMPENSATING TAX

**92-20-11. Provisions for registration of vendee, user, or other person maintaining inventory in Kansas for use out of state or for an exempt purpose; filing of return; payment of tax.** (a) When any vendee, user, or other person subject to the provisions of the compensating tax act maintains an inventory of tangible personal property in Kansas which may be subsequently used outside of the state of Kansas or used for an exempt purpose within this state, the vendee, user, or other person may apply to the director of taxation to remit any compensating tax due on all purchases of tangible personal property. Each vendee, user, or other person shall remit compensating tax to the department of revenue on forms provided by the director of taxation.

(b) When authority has been granted to the vendee, user, or other person to remit compensating tax each vendee, user, or other person shall register with the director of taxation and shall, on or before the 25th day following the end of the reporting period according to K.S.A. 79-3706 and amendments, file a return with the director of taxation. The return shall show the total purchase price of the tangible personal property and the property used by the vendee, user or other person during the preceding reporting period. Each vendee,

user, or other person shall remit the amount of tax due with each return.

(c) Each vendee, user, or other person granted permission to register under this regulation shall file the following statement with the registered dealer from whom the vendee, user, or other person is purchasing the tangible personal property:

"In compliance with regulations pertaining to the Kansas compensating tax law promulgated by the director of taxation, tax remittance due on purchases by us of tangible personal property will be made directly to the director of taxation. This authority granted under permit number \_\_\_\_\_

Purchaser."

(d) Each registered dealer shall keep on file the above statement and use it as authority for deducting the amount of the sales from the registered dealer's total gross receipts from Kansas purchasers to arrive at the registered dealer's net taxable sales.

(e) Direct pay permits shall not be used to purchase exempt from sales tax any taxable service performed by others for the user or consumer who holds a direct pay permit. If the holder of a direct pay permit purchases tangible personal property for the holder's use and not for resale, and the retailer charges the user or consumer Kansas tax, the permit holder shall pay the retailer the tax. Each permit holder shall not purchase the property without tax under the holder's permit number. Use of direct pay permits other than as expressly authorized by this regulation is prohibited.

(Authorized by K.S.A. 79-3707; implementing K.S.A. 79-3702, 79-3704, K.S.A. 1986 Supp. 79-3703; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-20-13. Property formerly used in another state.** When property purchased in another state and used outside the state of Kansas is later brought into the state of Kansas for use, storage or consumption, it will be presumed that compensating or tax shall apply unless the purchaser conclusively establishes the following conditions:

(1) When purchased, the property was intended for bona fide use outside the state of Kansas;

(2) the first actual use of the property was outside the state of Kansas; and

(3) the first actual use of the property was substantial and constituted the primary use for which the property was purchased.

Each purchaser has the burden of proving these facts to the satisfaction of the director of taxation. (Authorized by and implementing K.S.A. 79-3702, K.S.A. 1986 Supp. 79-3703, 79-3704; effective, E-70-33, July 1, 1970; effective, E-71-8, Jan. 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

#### Article 21.—LOCAL RETAILERS' SALES TAX

**92-21-6. Application of local sales tax.** Local sales tax applies in any case in which state sales tax applies if the sale is consummated as provided by state statutes or regulations in a county or city having a local

(continued)

sales tax. Local sales tax applies to certain enumerated sales that are not subject to state sales tax including sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use. (Authorized by K.S.A. 1986 Supp. 12-189 as amended by Ch. 63, Sec. 2; implementing K.S.A. 12-189a as amended by L. 1987, Ch. 63, Sec. 2, K.S.A. 1986 Supp. 12-191; effective, E-71-21, July 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-21-8. Delivery only—application of local sales tax.** Local sales tax does not apply to sales of tangible personal property shipped from a point outside of the local taxing jurisdiction to a purchaser inside the local taxing jurisdiction, or to the retailer's agent in the local taxing jurisdiction if none of the elements of sale other than delivery takes place in the local taxing jurisdiction. Unless otherwise provided for in the local retailer's sales tax act or rules and regulations, retailers with a fixed business location in Kansas shall collect the local sales tax at their business location on retail sales or leases of tangible personal property even though delivery of the tangible personal property may be made in another local taxing jurisdiction. (Authorized by K.S.A. 12-189 as amended by L. 1987, Ch. 63, Sec. 2; implementing K.S.A. 12-189 as amended by L. 1987, Ch. 63, Sec. 2, K.S.A. 1986 Supp. 12-191; effective, E-71-21, July 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

**92-21-10. Place of business—out-of-state retailers.** For local sales tax purposes, when an out-of-state retailer does not have a place of business in Kansas but maintains a warehouse stock in Kansas, the warehouse is regarded as the place of sale as to all items shipped from the warehouse. If the out-of-state retailer does not maintain an office or warehouse stock in Kansas, the place of business for local sales tax purposes shall be presumed to be the place where the sale is made. Unless otherwise provided in the local retailer's sales tax act or rules and regulations, if an out-of-state retailer does not maintain a place of business in Kansas, warehouse stock in Kansas sell and deliver from a vehicle in Kansas or have other fixed business locations in Kansas, then no local sales tax is due on the sale or rental of tangible personal property into Kansas. (Authorized by K.S.A. 79-3618, K.S.A. 1971 Supp. 79-4425, 79-4426, K.S.A. 12-189 as amended by L. 1987, Ch. 63, Sec. 2; implementing K.S.A. 12-189 as amended by L. 1987, Ch. 63, Sec. 2, K.S.A. 1986 Supp. 12-191; effective, E-71-21, July 1, 1971; effective Jan. 1, 1972, amended May 1, 1988.)

**92-21-14. Place of business—sales from vehicle.** When a retailer makes actual sales or deliveries from a vehicle in which a stock of goods is being carried for sale, the retailer's place of business is the place where the sales and deliveries are made. The vehicle carrying the stock of goods for sale is deemed to be a portable place of business. This regulation does not apply to deliveries made from a vehicle by a retailer on a regularly maintained route or for previously accepted orders. (Authorized by K.S.A. 12-189 as

amended by L. 1987, Ch. 63, Sec. 2; implementing K.S.A. 12-189 as amended by L. 1987, Ch. 63, Sec. 2, K.S.A. 1986 Supp. 12-191; effective, E-71-21, July 1, 1971; effective Jan. 1, 1972; amended May 1, 1988.)

#### Article 24.—RETAIL LIQUOR EXCISE TAX

**92-24-9. Definitions.** As used in this article these terms shall have the following meanings. (a) Licensee means a holder of a class A or class B license, drinking establishment license, or caterer license issued by the director of alcoholic beverage control.

(b) "Director" means the director of taxation or the duly authorized designee of the director of taxation.

(c) "Retail liquor excise tax" means the tax imposed by K.S.A. 79-41a02, and amendments thereto.

(d) "Source record" means:

(1) A dated customer service check or ticket;

(2) a dated cash register tape, if coded to reflect the required information; or

(3) an equivalent of the check, ticket or tape in a form approved by the director. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-10. Registration certificates; application; display; revocation.** (a) Application for a registration certificate shall be made upon a form furnished by the director. The application shall state the name of the applicant as specified on the applicant's license and the address at which the applicant proposes to engage in business. For a caterer, the address shall be the place where the principal place of business is located. Each application for a registration certificate shall be accompanied by a copy of the applicant's license. If the applicant owes any retail liquor excise tax, penalty or interest at the time of making application, payment shall be made before issuance of the registration certificate.

(b) A separate registration certificate shall be required for each license and the licensee shall conspicuously display the registration certificate on the premises. The licensee shall immediately report any change of location, name or form of ownership of the licensed establishment to the director.

(c) The registration certificate of any licensee may be revoked by the secretary for any violation of the provisions of this article or the provisions of K.S.A. 79-41a02 et seq. and amendments thereto after providing due notice and an opportunity for a hearing in accordance with K.A.R. 92-1-1 through 92-1-8 and amendments thereto. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119, 79-41a06, as amended by L. 1987, Ch. 182, Sec. 121; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-11. Application of tax.** (a) The retail liquor excise tax shall apply to the gross receipts derived from the sale of any ingredients for drinks containing alcoholic liquor, whether mixed by the licensee or sold separately. The tax shall also apply to charges that are incidental to charges for drinks containing alcoholic liquor including:

(1) service, corkage, cooling, and serving charges;

(2) fees or charges for the use of equipment owned by the licensee incidental to the serving of drinks containing alcoholic liquor; and

(3) gratuities, except gratuities which are voluntarily given by the consumer or are separately stated on a source record and are entirely distributed to employees of the licensee in a form other than wages, salaries or other compensation.

(b) When a single fee or charge is made for alcoholic liquor provided by a licensee in connection with room rental, soft drinks, water, and ice, the entire fee or charge, less the amount normally charged for the room rental, is taxable. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 1986 Supp. 79-41a01 as amended by Ch. 182, Sec. 119, K.S.A. 1986 Supp. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-13. Assumption of tax by licensee prohibited.** (a) A licensee shall not advertise, hold out or state to the public or to any consumer, directly or indirectly, that:

(1) The retail liquor excise tax, or any part of the tax, will be assumed or absorbed by the licensee;

(2) the tax will not be considered as an element in the price to the consumer; or

(3) the tax, or any part of the tax, will be refunded if it is added to the price to the consumer.

(b) The tax may be included in the stated drink price only if the licensee conspicuously posts a sign provided by the director on the licensed premises stating that drink prices include retail liquor excise tax. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-15. Records required.** (a) Each licensee shall keep records and books of all sales subject to retail liquor excise tax, together with invoices, bills of lading, sales records, copies of bills of sale, source records, daily summaries and other pertinent papers and documents. The records shall show:

(1) The amount charged consumers for drinks containing alcoholic liquor and the amount charged consumers for all other items;

(2) purchases;

(3) breakage, spillage and mistakes; and

(4) liquor removed from inventory for:

(A) Use in preparation of food; and

(B) consumption by the licensee or the licensee's employees.

(b) Each licensee shall make the books, records, other papers and documents available for inspection by the secretary of revenue or the secretary's authorized representative for a period of three years from the last day of the calendar year or of the fiscal year of the licensee, whichever comes later, to which they pertain. The licensee shall maintain the books, records and other documents on the licensed premises unless written approval is received from both the director and the director of alcoholic beverage control to maintain them at another location. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-16. Source record requirements.** (a) Each licensee shall record on a source record the following information:

(1) Each individual serving of a drink containing alcoholic liquor, or the unit of serving used if the drink is not served as an individual separate serving, and the price charged for the drink;

(2) identification of each individual separate serving or other unit served as to the kind of drink; and

(3) the date of the transaction.

The licensee shall record the information in a clear manner. The licensee may use a system of symbols or code, if the meaning is printed on the source record or on another document maintained on the licensed premises.

(b) For the purpose of subsection (a)(3), drinks containing alcoholic liquor sold after 12:00 midnight and before 2:00 a.m. shall be deemed to have been sold on the preceding day.

(c) Source records shall be maintained in sequence by date. (Authorized by K.S.A. Supp. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-17. Daily summary.** Each licensee shall prepare a daily summary of all information required to be recorded on source records, including the sale or service of drinks containing alcoholic liquor. The daily summary shall also show the number of servings, and the kind of drink. Proper identifying symbols or codes may be used in preparing the daily summary. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-18. Licensee's inventory; sales slips.** A licensee shall not possess in inventory on the licensed

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premises any alcoholic liquor not covered by a sales slip provided by the retailer or wholesaler in accordance with the requirements of K.A.R. 14-3-35 and amendments thereto. Each sales slip shall be maintained by the licensee for the period prescribed by K.A.R. 92-24-15 and amendments thereto, and shall be available and subject to inspection in accordance with the provisions of K.A.R. 92-24-15 and amendments thereto. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-19. Price listing statements.** Each licensee shall keep a price listing statement listing the current, normal retail selling price charged for each drink containing alcoholic liquor served by the licensee. The statement shall list the price for each individual serving and for any other unit of serving served by the licensee. Whenever any price listing statement is updated by the licensee, the outdated price listing statement shall have recorded on it the period of time for which it was effective. The licensee shall maintain the outdated price listing statement for the period prescribed by K.A.R. 92-24-15 and amendments thereto, and the price listing statement shall be available and subject to inspection in accordance with the provisions of K.A.R. 92-24-15 and amendments thereto. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-20.** (Authorized by K.S.A. 1982 Supp. 79-41a03; implementing K.S.A. 1982 Supp. 79-41a02, 79-41a03; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; revoked, T-88-58, Dec. 16, 1987; revoked May 1, 1988.)

**92-24-21. Report of alcoholic liquor lost through theft or disaster.** Each licensee shall prepare a written report for the director setting out the number and size of containers and the brand, proof, age and category of alcoholic liquor lost through theft or disaster. A theft of alcoholic liquor shall be reported to the proper police or sheriff's department and shall be substantiated by the report of the police or sheriff's department. A disaster causing a loss of alcoholic liquor shall be reported to the director and shall be substantiated by an affidavit of an investigative employee of the department of revenue. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-22. Determination of tax liability; presump-**

**tion of taxable disposition.** (a) When examining the tax account of any licensee, the correct amount of retail liquor excise tax shall be determined by the director on the basis of returns filed with the director, or upon any records or information which are available or which are obtained from the licensee or any retailer who furnished alcoholic liquor to the licensee.

(b) If the director finds that the licensee has failed to maintain or make available adequate records required by K.A.R. 92-24-15 through 92-24-21 and amendments thereto, or by K.S.A. 41-2601 *et seq.* and amendments thereto, the correct amount of the tax may be determined from any available source or records. The tax liability of the licensee may be estimated by using any available record for any period for which the licensee has failed to maintain records or file a return.

(c) In determining the tax liability of any licensee, it shall be presumed that the disposition of all alcoholic liquor purchased by the licensee is taxable unless the contrary is established. The burden of proving the contrary shall be upon the licensee and shall be established through authentic records.

(d) When retail liquor excise tax is not separately specified upon the source records of the licensee, tax liability shall be determined upon the total gross receipts derived from the sale of alcoholic liquor. Deductions for tax included within stated drink prices shall not be allowed unless the licensee has posted a sign in compliance with the provisions of K.A.R. 92-24-13 and amendments thereto. (Authorized by K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; implementing K.S.A. 79-41a02, as amended by L. 1987, Ch. 182, Sec. 118, 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-23. Bond.** (a) Each applicant making application for a new license or for renewal of an existing license shall post or have posted with the department of revenue a bond in an amount equal to three months' average retail liquor excise tax liability or \$1,000, whichever is greater, at the time of the application. New applicants who have no previous tax experience may estimate their expected retail liquor excise tax liability projected over a 12 month period and submit a bond in an amount equal to 25% of the projected tax liability or \$1,000, whichever is greater. A certificate of registration shall not be issued until the bond requirement is satisfied.

(b) Bond requirements may be satisfied through surety bonds purchased from a corporate surety, escrow bond agreements or posting of cash bonds.

(c) The secretary of revenue may at any time require additional bond if the existing bond is not sufficient to satisfy the three months' average liability of the club licensee. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

**92-24-24. Duty of club licensees discontinuing**



business. Each licensee discontinuing business is required to notify the director, return its retail liquor excise tax registration certificate for cancellation and preserve all business records within this state for three years or until the director issues a receipt indicating that the taxes reported have been paid. (Authorized by and implementing K.S.A. 79-41a03, as amended by L. 1987, Ch. 182, Sec. 119; effective, T-83-30, Oct. 25, 1982; effective May 1, 1983; amended, T-88-58, Dec. 16, 1987; amended May 1, 1988.)

#### Article 26.—AGRICULTURAL ETHYL ALCOHOL PRODUCER INCENTIVE

**92-26-1. Definitions.** As used in this article these terms shall have the following meanings: (a) "Agricultural commodities" shall mean all materials used in the production of agricultural ethyl alcohol including grains and other starch products, sugar based crops, fruits or fruit products, forage crops and crop residue.

(b) "Wine gallon" means 231 cubic inches measured at 60 degrees.

(c) "Quarter or quarterly" means a period of time consistent with the calendar periods of Jan. 1-March 31, April 1-June 30, July 1-Sept. 30, and Oct. 1-Dec. 31.

(d) "Director" shall mean the director of taxation of the department of revenue.

(e) "Principal place of business and facility" means a plant or still located in the state of Kansas which produces or has the capacity to produce ethyl alcohol.

(f) "Produce or produced" means the process of manufacturing agricultural ethyl alcohol.

(g) "Spirits" means an inflammable liquid produced by distillation. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

**92-26-2. Applications; contents.** (a) Each person eligible to receive funds from the Kansas qualified agricultural ethyl alcohol producer incentive fund shall file an application with the director of taxation on forms furnished by the director which shall contain the following information:

(1) The name of the person, firm or corporation applying for the incentive;

(2) if the applicant is a corporation, the name and address of each officer;

(3) if the applicant is a partnership, the name and address of each partner;

(4) if the applicant is an individual owner, the name of the owner;

(5) the location and address of each plant producing ethyl alcohol;

(6) the principal mailing address of the applicant;

(7) the applicant's alcohol, tobacco and firearms permit number;

(8) the agricultural commodities to be used in the production of agricultural ethyl alcohol; and

(9) such other information as the director shall require.

(b) Each application shall be completed and mailed to the director of taxation. The applicant shall receive a formal letter of acceptance when the application is

approved. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

#### **92-26-3. Alcohol blender requirements; licenses.**

(a) Each person purchasing agricultural ethyl alcohol from a qualified agricultural ethyl alcohol producer for the purpose of blending alcohol in the state of Kansas shall have a valid manufacturer's license issued by the Kansas department of revenue.

(b) In order to qualify for the Kansas qualified agricultural ethyl alcohol incentive, each Kansas qualified agricultural ethyl alcohol producer exporting ethyl alcohol out-of-state shall sell agricultural ethyl alcohol only to persons authorized to blend alcohol in the state, province or country where the blender is located. (Authorized by L. 1987, Ch. 388, Sec. 4; implementing L. 1987, Ch. 388, Sec. 4, K.S.A. 79-3403; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

#### **92-26-4. Filing of quarterly reports, deadline.**

(a) Each ethyl alcohol producer eligible to receive incentive funds shall file a Kansas qualified agricultural ethyl alcohol producer's report with the director of taxation within 30 days from the last day of each quarter. Each producer incentive claim shall not be processed until 30 days from the last day of the quarter.

When the number of agricultural ethyl alcohol gallons sold by a producer to a qualified alcohol blender exceeds 3,125,000 gallons, the incentive per gallon shall be reduced pro-rata so as not to exceed the current balance of the agricultural ethyl alcohol producer incentive fund. Any producer not filing a report within 30 days from the last day of the quarter shall be barred from seeking payment from the agricultural ethyl alcohol producer's fund for that quarter.

(b) The report shall be on forms furnished by the director and shall contain the following information:

(1) The beginning inventory of denatured alcohol;

(2) the amount of alcohol produced and denaturant added;

(3) the amount of agricultural ethyl alcohol sold to qualified blenders;

(4) the amount of denatured alcohol sold to other than qualified blenders;

(5) the amount of denatured alcohol sold or used for miscellaneous purposes, including denatured alcohol which has been lost, destroyed or stolen; and

(6) such other information as the director shall require.

Each ethyl alcohol producer filing a quarterly report shall furnish all information required by the director before receiving the funds. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

**92-26-5. Record requirements, maintenance and retention.** (a) Each producer shall maintain records with respect to:

(1) The quantity of spirits produced;

(2) the quantity of spirits on-hand and received;

(continued)

(3) the quantities and types of materials added to render the spirits unfit for beverage use;

(4) the quantity of fuel alcohol manufactured;

(5) records of materials used to produce ethyl alcohol;

(6) all dispositions of spirits, including fuel alcohol.

(b) The records shall contain sufficient information to allow the director to determine the quantities of spirits produced, received, stored, or processed and to verify that all spirits have been lawfully disposed of or used. The producer may use records prepared for other commercial purposes if the records reflect the information required by paragraph (a) of this rule and regulation.

(c) Each producer shall retain the required records for a period of not less than three years. The records shall be maintained at the plant where production occurs and shall be available at all times during business hours of the day and be available for and subject to examination by the director or the director's duly authorized agent or employee. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

**92-26-6. Withdrawal of spirits and fuel alcohol; records required.** (a) Before spirits may be withdrawn from the premises of an alcohol fuel plant, the producer shall render the spirits unfit for beverage use as required by 27 C.F.R. § 19.996 and amendments thereto.

(b) For each shipment or other removal of fuel alcohol from the plant premises, the consignor shall prepare a commercial invoice, sales slip, or similar document. The consignor shall include in the document the date, the quantity of fuel alcohol removed, a description of the shipment, and the name and address of the consignee. The consignor shall retain a copy of the document as a record and shall also provide the consignee and the liquid fuel carrier a copy of the record. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

**92-26-7. Funds erroneously paid.** If the director of taxation determines from available reports and records that a producer has erroneously received moneys from the Kansas qualified agricultural ethyl alcohol producer incentive fund, the recipient, after receiving notification by the director, shall immediately refund to the director the amount erroneously paid. (Authorized by and implementing L. 1987, Ch. 388, Sec. 4; effective, T-88-34, Sept. 17, 1987; amended May 1, 1988.)

#### Article 51.—TITLES AND REGISTRATION

**92-51-41. Permanent registration of city and county vehicles.** (a) The fee for permanent registration of each motor vehicle, trailer or semitrailer owned by any city or county or by any agency or instrumentality of a city or county and used exclusively for governmental purposes shall be \$7.00.

(b) Each annual report filed with the division of

vehicles identifying vehicles required to be permanently registered shall be on a form or format approved by the director of vehicles.

(c) Each motor vehicle, trailer or semitrailer shall be registered by February 1, 1988. Refunds shall not be given for any unused portion of the vehicle's current registration period.

(d) Any city or county or any agency or instrumentality of a city or county owning a motor vehicle which is used as an unmarked law enforcement vehicle shall register the vehicle under a political or taxing subdivision status. (Authorized by and implementing L. 1987, Ch. 43, Sec. 1; effective, T-88-63, Dec. 30, 1987; amended May 1, 1988.)

#### Article 52.—MOTOR VEHICLE DRIVERS' LICENSES

**92-52-1. Vision standards for drivers.** Each driver's license examiner shall use the following vision standards for driver's license applicants:

(a) Each applicant testing 20/40 or better in at least one eye with or without corrective lens at the examination station shall meet the vision requirements. The driver's license examiner shall give each applicant failing to meet this test a vision form and refer the applicant to a vision specialist of the applicant's choice.

(b) Each applicant who has received a vision report from a vision specialist shall have 20/60 or better vision in at least one eye with or without corrective lens as determined by the vision specialist to be eligible to be issued a driver's license.

(c) The driver's license examiner shall require each individual with a reading of 20/60 in at least one eye with or without corrective lens to submit to a driver's test.

(d) Any applicant failing to meet any of the above standards may request an administrative review by the director of vehicles. (Authorized by and implementing K.S.A. 8-234b; effective Jan. 1, 1966; amended, E-71-9, Jan. 1, 1971; amended Jan. 1, 1972; amended May 1, 1979; amended, E-82-26, Dec. 16, 1981; amended May 1, 1982; amended May 1, 1987; effective, amended May 1, 1988.)

HARLEY T. DUNCAN  
Secretary of Revenue

Doc. No. 006346



(Published in the Kansas Register, April 14, 1988.)

HOUSE BILL No. 2814

AN ACT authorizing the state board of regents to sell or exchange certain real property in Saline county, Kansas; imposing conditions thereon; authorizing disposition of proceeds.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The state board of regents is hereby authorized and empowered, in its discretion, for and on behalf of the Kansas technical institute, to sell and convey or exchange and convey for other real estate of similar value all of the rights, title and interest in any part or parts or all of the following described real estate located in Saline county, Kansas: Block 2; block 7B; block 8A; block 9A and block 9C, except for the tract of land located in section 34, township 14 south, range 3 west of the sixth principal meridian in Saline county, Kansas, more particularly described as follows: Beginning at the northeast corner of block 9 of the Schilling subdivision of Saline county, Kansas; thence south 0 degrees 06 minutes 24 seconds east, a distance of 310.00 feet; thence south 89 degrees 53 minutes 36 seconds west, a distance of 360.00 feet; thence north 0 degrees 06 minutes 24 seconds west, a distance of 310.00 feet; thence north 89 degrees 53 minutes 36 seconds east, a distance of 360.00 feet to the point of beginning said tract containing 2.56 acres, more or less; and block 10 all of Schilling subdivision.

(b) Conveyance of such rights, title and interest in such real estate shall be in accordance with the procedures prescribed therefor by the state board of regents and shall be executed in the name of the state board of regents by its chairperson and executive officer. Any proceeds from sale of such real estate shall be deposited in the state treasury to the credit of an appropriate account of the restricted fees fund of Kansas technical institute. Such proceeds shall be applied to or utilized for the repair, remodeling, construction or reconstruction of institutional facilities on the campus of the Kansas technical institute or for the purchase of property adjacent thereto.

(c) No exchange and conveyance of real estate authorized by this section shall be made or accepted by the state board of regents until the deeds, titles and conveyances have been reviewed and approved by the attorney general.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 19, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE March 28, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 14, 1988.)

HOUSE BILL No. 2736

AN ACT relating to credit unions; concerning powers of central credit unions; amending K.S.A. 17-2214 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 17-2214 is hereby amended to read as follows: 17-2214. (a) A central credit union, located in the state of Kansas and under supervision of the administrator, in which all credit unions in Kansas are eligible for membership, may lend to each member no more than ~~twenty-five percent (25%)~~ 25% of its assets. ~~Provided, except that other credit unions, operating under the provisions of this act, may lend to each other only with the approval of the administrator, up to twenty-five percent (25%)~~ 25% of the shares, undivided earnings and reserves of the lending credit union.

(b) Subject to written policies adopted by its board of directors and approved by the administrator, a central credit union may:

- (1) Make loans to;
- (2) receive payments on shares, share certificates or investments in any other account of the central credit union from; or
- (3) invest its funds in shares, stock or obligations of, organizations established to provide operational and financial services associated with the routine operations of credit unions. Any investments in the capital stock of or loans to such organizations shall not exceed, in the aggregate, 2% of such credit union's shares and unimpaired capital.

Sec. 2. K.S.A. 17-2214 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 17, 1988.

HOUSE concurred in SENATE amendments March 25, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended March 23, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## HOUSE BILL No. 2696

AN ACT concerning municipalities; relating to the issuance of general obligation bonds for payment of the costs of asbestos control projects; amending K.S.A. 1987 Supp. 12-5401 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1987 Supp. 12-5401 is hereby amended to read as follows: 12-5401. (a) When the governing body of any municipality determines that friable asbestos-containing material exists is contained in any of its buildings and that it is necessary to provide for the removal or encapsulation of such material undertake an asbestos control project, the governing body may issue and sell general obligation bonds of the municipality for payment of the costs of such removal or encapsulation and the costs of any remodeling, replacement or other restoration necessitated by such removal or encapsulation project.

(b) No bonds shall be issued or sold under authority of this section until a resolution authorizing the issuance and sale of such bonds is adopted by the governing body and published once a week for two consecutive weeks in a newspaper having general circulation in the municipality. The resolution shall specify the purpose for which bonds are to be issued and the estimated amount thereof. After adoption of the resolution, the bonds may be issued and sold unless, within 30 days following the last publication of the resolution, a petition in opposition to issuance of the bonds, signed by not less than 10% of the qualified electors of the municipality, is filed with the governing body of the municipality. If a petition is filed, the bonds shall not be issued without the question of issuing the same having been submitted to and approved by a majority of the qualified electors of the municipality voting at an election which shall be called for that purpose or at the next general election. If a special election is called, the governing body shall give notice thereof in the manner prescribed in K.S.A. 10-120, and amendments thereto, and the election shall be held in accordance with the provisions of the general bond law. No action shall be brought in any court to contest the validity of any election held under this section, nor to contest any of the proceedings preliminary thereto, except within 90 days immediately following the certification of the results of the election.

(c) Bonds issued under authority of this section shall not be subject to any bonded indebtedness limitations nor shall the bonds be considered in determining the bonded indebtedness of any municipality. In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may, at the option of the governing body, be retired by tax levies made under K.S.A. 10-113, and amendments thereto.

(d) Prior to January 1, 1986, a municipality may request technical assistance from the secretary of health and environment in reviewing persons or business entities bidding on asbestos projects as defined by K.S.A. 65-5301 to determine if they are capable of complying with all applicable state or federal standards relating to asbestos projects.

(e) After January 1, 1986, No municipality shall accept a bid for the removal or encapsulation of friable asbestos-containing material from any person or business entity which does not hold a certificate or license issued by the secretary of health and environment and authorizing the person or business entity to engage in the removal or encapsulation of such material as provided by K.S.A. 65-5301 et seq. article 53 of chapter 65 of *Kansas Statutes Annotated*.

(f) The secretary of health and environment shall provide, upon request, technical assistance to municipalities in performing asbestos exposure assessments and in selecting appropriate asbestos abatement actions control projects.

(g) When (f) As used in this act section:

(1) "Municipality" means a municipality as defined by K.S.A. 10-1101, and amendments thereto;

(2) "governing body" means a governing body as defined by K.S.A. 10-1101, and amendments thereto; and

(3) "asbestos control project" means any activity which is necessary or incidental to the control of asbestos-containing material in buildings of municipalities and includes, but not by way of limitation, any activity undertaken for the removal or

encapsulation of asbestos-containing material, for any remodeling, renovation, replacement, rehabilitation or other restoration necessitated by such removal or encapsulation, for conducting inspections, reinspections and periodic surveillance of buildings, performing response actions, and developing, implementing and updating operations and maintenance programs and management plans;

(3) "friable asbestos-containing material" means any material containing more than 1% asbestos by weight which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.

(4) "asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, and actinolite; and

(5) "asbestos-containing material" means any material or product which contains more than 1% asbestos.

Sec. 2. K.S.A. 1987 Supp. 12-5401 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the *Kansas register*.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 9, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE March 23, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## SENATE BILL No. 500

AN ACT concerning elections; relating to voter registration; amending K.S.A. 25-2309c, 25-2316c and 25-3702 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 25-2309c is hereby amended to read as follows: 25-2309c. Unless otherwise specifically provided, whenever any notice or other official mailing is required to be mailed to a registered voter at the place of residence specified in the registration books, such notice shall be addressed to the current mailing address of that voter as it appears in the registration records and shall be sent by nonforwardable first class mail. If such mailing is returned by the post office as undeliverable and the voter is still a resident of the state of Kansas, the county election officer shall send by forwardable first-class mail a notice that it is necessary to reregister to vote. The notice also shall include voter registration materials if the voter is still a resident of the county of the original registration. The notice authorized by this section shall be on a form prescribed by the secretary of state.

Sec. 2. K.S.A. 25-2316c is hereby amended to read as follows: 25-2316c. (a) When a registered voter changes name by marriage, divorce or legal proceeding, such voter must reregister

in order to be eligible to vote, except that when a registered voter legally changes name during the period of 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change of name. *Upon receipt of an affidavit of change of name, the county election officer shall send to the address specified on the affidavit, by forwardable first-class mail, a notice that it is necessary to reregister to vote. The notice also shall include voter registration materials if the voter is still a resident of the county of original registration. The notice authorized by this subsection shall be on a form prescribed by the secretary of state.*

(b) When a registered voter changes residence, such voter must reregister in order to be eligible to vote, except that when a registered voter changes residence from one place in a precinct to another place within the same precinct during the period of 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change of residence. Whenever the county election officer receives from any election officer a notice of registration of a voter in a different place than that shown in the records of the county election officer, such officer shall remove the name of such voter from the registration book and party affiliation list.

(c) When a voter fails to vote at a general election at which members of the United States presidential electoral college are elected, such voter's name shall be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d). When a voter fails to vote at any other general election held on the Tuesday following the first Monday in November in an even-numbered year, such voter's name may be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d) if the county election officer determines that the removal of the names of voters who failed to vote in such election is necessary to the maintenance of accurate voter registration records.

(d) When a voter's name is subject to removal from the registration book and the party affiliation list as provided in subsection (c), the county election officer shall attempt to notify such voter by first-class mail at the mailing address specified in the registration book. Such notification shall advise that the registration books show that the person did not vote in the applicable November general election and that it is necessary to reregister if the residence of such person has changed. Such notification shall be mailed in an envelope or on a postcard which clearly indicates that it is not to be forwarded to another address. If such notification is not returned undelivered to the county election officer and no address correction which indicates that the voter has moved is received by the county election officer, the voter's name shall not be removed from the registration book or party affiliation list. If such notification is returned undelivered to the county election officer or if an address correction which indicates that the voter has moved is received by the county election officer, the county election officer shall check to verify that the mailing address on the notification is the same as that on the voter registration list. If it is determined that an error was made in addressing the notification, another notice shall be sent to the correct mailing address. If it is determined that no error was made in addressing the original notification or if the second notification is returned undelivered or an address correction is received therefor, the name of such person shall be stricken from the registration books.

(e) Except as otherwise provided by law, when a voter dies or is disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books. Whenever (1) an obituary notice appears in a newspaper having general circulation in the county reports the death of a registered voter, or (2) a registered voter requests in writing that such voter's name be removed from registration, or (3) a court of competent jurisdiction orders removal of the name of a registered voter from registration lists, or (4) the name of a registered voter appears on a list of deceased residents compiled by the secretary of health and environment as provided in K.S.A. 65-2422, and amendments thereto, or appears on a copy of a death certificate provided by the secretary

of health and environment, or (5) pursuant to K.S.A. 25-2316d, and amendments thereto, a registered voter fails to vote in two consecutive state general elections the county election officer shall remove from the registration books and the party affiliation lists in such officer's office the name of any person shown by such list or death certificate to be deceased. The county election officer shall not use or permit the use of such lists of deceased residents or copies for any other purpose than provided in this section.

(f) Election board judges are hereby authorized to administer oaths for the purpose of taking affidavits under this section. All such affidavits shall be made upon forms approved by the secretary of state. Every affidavit given under this section shall be returned to the county election officer with the registration books.

(g) Except as otherwise provided in this section, no person whose name has been removed from the registration books shall be entitled to vote until such person has registered again.

Sec. 3. K.S.A. 25-3702 is hereby amended to read as follows: 25-3702. Any such former precinct resident offering to vote in the precinct of ~~his~~ *such person's* former residence, before receiving a ballot shall make an affidavit in writing on a form to be prescribed by the secretary of state, sworn or affirmed before one of the election judges, stating the address or location of ~~his~~ former residence, the date of ~~his~~ removal therefrom, the address or location of ~~his~~ *such person's* new residence, and that ~~he~~ *such person* has not voted at such election. Such affidavit shall be delivered to the election judges and transmitted to the county election officer with the election returns and supplies. *Upon receipt of an affidavit of a former precinct resident, the county election officer shall send to the current address specified on the affidavit, by forwardable first-class mail, a notice that it is necessary to reregister to vote. The notice also shall include voter registration materials if the voter is still a resident of the county of the original registration. The notice authorized by this section shall be on a form prescribed by the secretary of state.*

Sec. 4. K.S.A. 25-2309c, 25-2316c and 25-3702 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 17, 1988.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE March 22, 1988.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Clerk of the House.*

APPROVED April 1, 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 1st day of April, 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## HOUSE BILL No. 2744

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.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 79-3228 is hereby amended to read as follows: 79-3228. (a) If any taxpayer, without intent to evade the tax imposed by this act, shall fail to file a return or pay the tax, if one is due, at the time required by or under the provisions of this act, but shall voluntarily file a correct return of income or pay the tax due within 60 days thereafter, there shall be added to the tax an additional amount equal to 10% of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(b) If any taxpayer fails voluntarily to file a return or pay the tax, if one is due, within 60 days after the time required by or under the provisions of this act, there shall be added to the tax an additional amount equal to 25% of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(c) If any taxpayer who has failed to file a return or has filed an incorrect or insufficient return, and after notice from the director refuses or neglects within 20 days to file a proper return, the director shall determine the income of such taxpayer according to the best available information and assess the tax together with a penalty of 50% of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment.

(d) Any person, who with fraudulent intent, fails to pay any tax or to make, render or sign any return, or to supply any information, within the time required by or under the provisions of this act, shall be assessed a penalty equal to the amount of the unpaid balance of tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was originally due to the date of payment. Such person shall also be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$1,000 or be imprisoned in the county jail not less than 30 days nor more than one year, or both such fine and imprisonment.

(e) Any person who willfully signs a fraudulent return shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a term not exceeding five years. The term "person" as used in this section includes any agent of the taxpayer, and officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

(f) Whenever, in the judgment of the ~~director~~ *secretary or the secretary's designee*, the failure of the taxpayer to comply with the provisions of subsections (a), (b) and (c) of this section, was due to reasonable causes, the ~~director~~ *secretary or the secretary's designee* may waive or reduce any of the penalties upon making a record of the reasons therefor.

(g) In case of a nonresident or any officer or employee of a corporation, the failure to do any act required by or under the provisions of this act shall be deemed an act committed in part at the office of the director.

(h) In the case of a nonresident individual, partnership or corporation, the failure to do any act required by or under the provision of this act shall prohibit such nonresident from being awarded any contract for construction, reconstruction or maintenance or for the sale of materials and supplies to the state of Kansas or any political subdivision thereof until such time as such nonresident has fully complied with this act.

Sec. 2. K.S.A. 79-3233a is hereby amended to read as follows: 79-3233a. (a) Any taxpayer, ~~his or her~~ *such taxpayer's* heirs, or legal representative may petition the ~~director of taxation~~ *secretary or the secretary's designee* to compromise delinquent income taxes of the taxpayer, including the penalties and interest thereon, in the event of the insolvency of the taxpayer. Such

petition shall set forth a sworn statement of the taxpayer's assets and liabilities and the ~~director~~ *secretary or the secretary's designee* may examine the petitioner under oath concerning the matter. The ~~director~~ *secretary or the secretary's designee* shall endorse on ~~said~~ *the* petition ~~his or her~~ *the* ~~secretary or the secretary's designee~~ findings and if ~~he or she~~ *the* ~~secretary or the secretary's designee~~ finds that the taxpayer is insolvent ~~he or she~~ *the* ~~secretary or the secretary's designee~~ shall determine the amount of the taxes, penalties, and interest ~~he or she~~ *the* ~~taxpayer~~ should reasonably be required to pay and shall enter an order reducing such taxes, penalties and interest in accordance therewith. Such order shall provide that such compromise shall be effective only if paid within ~~ten (10)~~ 10 days. If at any time within four (4) years following the entry of such order the ~~director~~ *secretary or the secretary's designee* finds that the petition is fraudulent, the matter may be reopened by the ~~director~~ *secretary or the secretary's designee*, and the taxpayer shall be subject to liability for taxes, interest and penalties to the same extent as if such compromise had not been made.

(b) For the purpose of this section a taxpayer is insolvent when ~~his or her~~ *such taxpayer's* assets at a fair market value are not sufficient to pay liabilities. The secretary of revenue shall adopt rules and regulations to implement the administration of this act to provide for qualifications or tests to be applied in determining the insolvency of a taxpayer. Such qualifications or tests shall be consistent with the definition in the first sentence of this subsection.

(c) This section shall apply to income taxes which are delinquent at the time this act takes effect and any penalties and interest incidental thereto as well as the income taxes which become delinquent thereafter and the penalties and interest incidental thereto.

(d) This section shall be construed as a part of and supplemental to the Kansas income tax act.

Sec. 3. K.S.A. 79-3235 is hereby amended to read as follows: 79-3235. If any tax imposed by this act or any portion of such tax is not paid within 60 days after it becomes due, the ~~director~~ *secretary or the secretary's designee* shall issue a warrant under the ~~director's~~ *secretary's or the secretary's designee's* hand and official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of the taxpayer found within the sheriff's county for the payment of the amount thereof, with the added penalties, interest and the cost of executing the warrant and to return the warrant to the ~~director~~ *secretary or the secretary's designee* and pay to the ~~director~~ *secretary or the secretary's designee* the money collected by virtue of it not more than 60 days from the date of the warrant. The sheriff, within five days after the receipt of the warrant, shall file with the clerk of the district court of the county a copy thereof, and thereupon the clerk shall either enter in the appearance docket the name of the taxpayer mentioned in the warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for either entry. The amount of such warrant so docketed shall thereupon become a lien upon the title to and interest in the real property of the taxpayer against whom it is issued. The sheriff shall proceed in the same manner and with the same effect as prescribed by law with respect to executions issued against property upon judgments of a court of record and shall be entitled to the same fees for services to be collected in the same manner.

The court in which the warrant is docketed shall have jurisdiction over all subsequent proceedings as fully as though a judgment had been rendered in the court. In the discretion of the ~~director~~ *secretary or the secretary's designee* a warrant of like terms, force and effect may be issued and directed to any officer or employee of the ~~director~~ *secretary*, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, and the subsequent proceedings thereunder shall be the same as provided where the warrant is issued directly to the sheriff. The taxpayer shall have the right to redeem the real estate within a period of 18 months from the date of such sale. If a warrant is returned, unsatisfied in full, the ~~director~~ *secretary or the secretary's designee* shall have the same

(Published in the *Kansas Register*, April 14, 1988.)

## HOUSE BILL No. 2774

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.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1987 Supp. 12-4516 is hereby amended to read as follows: 12-4516. (a) Except as provided in subsection (b), any person who has been convicted of a violation of a city ordinance of this state may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person:

- (1) Satisfied the sentence imposed; or
- (2) was discharged from probation, parole or a suspended sentence.

(b) No person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, parole, conditional release or a suspended sentence, if such person was convicted of the violation of a city ordinance which would also constitute:

- (1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto;
- (2) a violation of K.S.A. 8-1567 and amendments thereto;
- (3) driving while the privilege to operate a motor vehicle on the public highways of this state has been cancelled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto;

(4) perjury resulting from a violation of K.S.A. 8-261a and amendments thereto;

(5) a violation of the provisions of the fifth clause of K.S.A. 8-142 and amendments thereto, relating to fraudulent applications;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604 and amendments thereto; or

(8) a violation of the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage.

(c) When a petition for expungement is filed, the court shall set a date for a hearing thereon and shall give notice thereof to the prosecuting attorney. The petition shall state: (1) The defendant's full name; (2) the full name of the defendant at the time of arrest and conviction, if different than the defendant's current name; (3) the defendant's sex, race, and date of birth; (4) the crime for which the defendant was convicted; (5) the date of the defendant's conviction; and (6) the identity of the convicting court. A municipal court may prescribe a fee to be charged as costs for a person petitioning for an order of expungement pursuant to this section. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas ~~adult authority~~ parole board.

(d) At the hearing on the petition, the court shall order the petitioner's conviction expunged if the court finds *that*:

(1) ~~That~~ The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) ~~that~~ the circumstances and behavior of the petitioner warrant the expungement; and

(3) ~~that~~ the expungement is consistent with the public welfare.

(e) When the court has ordered a conviction expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the federal bureau of investigation, the Kansas bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. After the order of expungement

(continued)

remedies to enforce the claim for taxes as if the state of Kansas had recovered judgment against the taxpayer for the amount of the tax. No law exempting any goods and chattels, lands and tenements from forced sale under execution shall apply to a levy and sale under any such warrant or upon any execution issued upon any judgment rendered in any action for income taxes. The ~~director~~ secretary or the secretary's designee shall have the right at any time after a warrant has been returned unsatisfied or satisfied only in part, to issue alias warrants until the full amount of the tax is collected.

New Sec. 4. (a) Any taxpayer or legal representative of any taxpayer may petition the secretary or secretary's designee for a pay plan whereby the taxpayer may pay an outstanding tax liability, including interest and penalty, on the installment method. The taxpayer shall submit to the secretary or secretary's designee a financial statement which verifies the taxpayer's inability to submit payment in full.

(b) The secretary or secretary's designee shall determine whether a pay plan is warranted by the taxpayer's financial condition and shall determine the length and conditions for such plan. If a taxpayer fails to comply with the terms of a pay plan established by the secretary or secretary's designee under this act, all tax, interest and penalty which is due shall be immediately collectible.

(c) The secretary shall adopt rules and regulations to administer and implement this act including the establishment of criteria governing the length and terms of such plans.

Sec. 5. K.S.A. 79-3228, 79-3233a and 79-3235 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 25, 1988.

HOUSE concurred in SENATE amendments March 25, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended March 23, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)



is entered, the petitioner shall be treated as not having been convicted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the conviction occurred if asked about previous convictions (A) in any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; with a criminal justice agency, as defined by K.S.A. 22-4701 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services; (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state; or (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; or (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed; and

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged.

(f) Whenever a person is convicted of an ordinance violation, pleads guilty and pays a fine for such a violation or is placed on parole or probation or is given granted a suspended sentence for such a violation, the person shall be informed of the ability to expunge the conviction.

(g) Subject to the disclosures required pursuant to subsection (e), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose conviction of an offense has been expunged under this statute may state that such person has never been convicted of such offense.

(h) Whenever the record of any conviction has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a criminal justice agency, private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense; or

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged; or

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; or

(9) the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission.

Sec. 2. K.S.A. 1987 Supp. 21-4619 is hereby amended to read as follows: 21-4619. (a) Except as provided in subsections (b) and (c), any person convicted in this state of a traffic infraction, misdemeanor or a class D or E felony may petition the convicting court for the expungement of such conviction if three or more years have elapsed since the person: (1) Satisfied the sentence imposed; or (2) was discharged from probation, a community correctional services program, parole, conditional release or a suspended sentence.

(b) Except as provided in subsection (c), no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, conditional release or a suspended sentence, if such person was convicted of a class A, B or C felony or:

(1) Vehicular homicide, as defined by K.S.A. 21-3405 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(2) a violation of K.S.A. 8-1567 and amendments thereto, or a violation of any law of another state, which declares to be unlawful the acts prohibited by that statute;

(3) driving while the privilege to operate a motor vehicle on the public highways of this state has been cancelled, suspended or revoked, as prohibited by K.S.A. 8-262 and amendments thereto or as prohibited by any law of another state which is in substantial conformity with that statute;

(4) perjury resulting from a violation of K.S.A. 8-261a and amendments thereto or resulting from the violation of a law of another state which is in substantial conformity with that statute;

(5) violating the provisions of the fifth clause of K.S.A. 8-142 and amendments thereto, relating to fraudulent applications or violating the provisions of a law of another state which is in substantial conformity with that statute;

(6) any crime punishable as a felony wherein a motor vehicle was used in the perpetration of such crime;

(7) failing to stop at the scene of an accident and perform the duties required by K.S.A. 8-1602, 8-1603 or 8-1604, and amendments thereto, or required by a law of another state which is in substantial conformity with those statutes; or

(8) violating the provisions of K.S.A. 40-3104 and amendments thereto, relating to motor vehicle liability insurance coverage.

(c) There shall be no expungement of convictions for the following offenses: (1) Indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto; (2) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto; (3) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto; (4) enticement of a child as defined in K.S.A. 21-3509 and amendments thereto; (5) indecent solicitation of a child as defined in K.S.A. 21-3510 and amendments thereto; (6) aggravated indecent solicitation of a child as defined in K.S.A. 21-3511 and amendments thereto; (7) sexual exploitation of a child as defined in K.S.A. 21-3516 and amendments thereto; (8) aggravated incest as defined in K.S.A. 21-3603 and amendments thereto; (9) endangering a child as defined in K.S.A. 21-3608 and amendments thereto; or (10) abuse of a child as defined in K.S.A. 21-3609 and amendments thereto.

(d) When a petition for expungement is filed, the court shall set a date for a hearing thereon and shall give notice thereof to the prosecuting attorney. The petition shall state: (1) The defendant's full name; (2) the full name of the defendant at the time

of arrest and conviction, if different than the defendant's current name; (3) the defendant's sex, race and date of birth; (4) the crime for which the defendant was convicted; (5) the date of the defendant's conviction; and (6) the identity of the convicting court. There shall be no docket fee for filing a petition pursuant to this section. All petitions for expungement shall be docketed in the original criminal action. Any person who may have relevant information about the petitioner may testify at the hearing. The court may inquire into the background of the petitioner and shall have access to any reports or records relating to the petitioner that are on file with the secretary of corrections or the Kansas adult authority parole board.

(e) At the hearing on the petition, the court shall order the petitioner's conviction expunged if the court finds that:

(1) The petitioner has not been convicted of a felony in the past two years and no proceeding involving any such crime is presently pending or being instituted against the petitioner;

(2) the circumstances and behavior of the petitioner warrant the expungement; and

(3) the expungement is consistent with the public welfare.

(f) When the court has ordered a conviction expunged, the order of expungement shall state the information required to be contained in the petition. The clerk of the court shall send a certified copy of the order of expungement to the federal bureau of investigation, the Kansas bureau of investigation, the secretary of corrections and any other criminal justice agency which may have a record of the conviction. After the order of expungement is entered, the petitioner shall be treated as not having been convicted of the crime, except that:

(1) Upon conviction for any subsequent crime, the conviction that was expunged may be considered as a prior conviction in determining the sentence to be imposed;

(2) the petitioner shall disclose that the conviction occurred if asked about previous convictions (A) in any application for employment as a detective with a private detective agency, as defined by K.S.A. 75-7b01 and amendments thereto; as security personnel with a private patrol operator, as defined by K.S.A. 75-7b01 and amendments thereto; with a criminal justice agency, as defined by K.S.A. 22-4701 and amendments thereto; or with an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services; (B) in any application for admission, or for an order of reinstatement, to the practice of law in this state; ~~or~~ (C) to aid in determining the petitioner's qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery or; (D) to aid in determining the petitioner's qualifications for executive director of the Kansas racing commission, for employment with the commission or for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission, or to aid in determining qualifications for licensure or renewal of licensure by the commission;

(3) the court, in the order of expungement, may specify other circumstances under which the conviction is to be disclosed;

(4) the conviction may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction of the type expunged; and

(5) upon commitment to the custody of the secretary of corrections, any previously expunged record in the possession of the secretary of corrections may be reinstated and the expungement disregarded, and the record continued for the purpose of the new commitment.

(g) Whenever a person is convicted of a crime, pleads guilty and pays a fine for a crime ~~or~~, is placed on parole or probation ~~or~~, is assigned to a community correctional services program, is ~~given~~ granted a suspended sentence or is released on conditional release, the person shall be informed of the ability to expunge the conviction.

(h) Subject to the disclosures required pursuant to subsection (f), in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose conviction of a crime has been expunged under this statute may state that such person has never been convicted of such crime,

but the expungement of a felony conviction does not relieve an individual of complying with any state or federal law relating to the use or possession of firearms by persons convicted of a felony.

(i) Whenever the record of any conviction has been expunged under the provisions of this section or under the provisions of any other existing or former statute, the custodian of the records of arrest, conviction and incarceration relating to that crime shall not disclose the existence of such records, except when requested by:

(1) The person whose record was expunged;

(2) a criminal justice agency, private detective agency or a private patrol operator, and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such agency or operator by the person whose record has been expunged;

(3) a court, upon a showing of a subsequent conviction of the person whose record has been expunged;

(4) the secretary of social and rehabilitation services, or a designee of the secretary, for the purpose of obtaining information relating to employment in an institution, as defined in K.S.A. 76-12a01 and amendments thereto, of the department of social and rehabilitation services of any person whose record has been expunged;

(5) a person entitled to such information pursuant to the terms of the expungement order;

(6) a prosecuting attorney, and such request is accompanied by a statement that the request is being made in conjunction with a prosecution of an offense that requires a prior conviction as one of the elements of such offense;

(7) the supreme court, the clerk or disciplinary administrator thereof, the state board for admission of attorneys or the state board for discipline of attorneys, and the request is accompanied by a statement that the request is being made in conjunction with an application for admission, or for an order of reinstatement, to the practice of law in this state by the person whose record has been expunged; ~~or~~

(8) the Kansas lottery, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for employment with the Kansas lottery or for work in sensitive areas within the Kansas lottery as deemed appropriate by the executive director of the Kansas lottery; or

(9) ~~the governor or the Kansas racing commission, or a designee of the commission, and the request is accompanied by a statement that the request is being made to aid in determining qualifications for executive director of the commission, for employment with the commission, for work in sensitive areas in parimutuel racing as deemed appropriate by the executive director of the commission or for licensure, renewal of licensure or continued licensure by the commission.~~

Sec. 3. K.S.A. 1987 Supp. 74-8804 is hereby amended to read as follows: 74-8804. (a) The commission and its designated employees may observe and inspect all racetrack facilities operated by licensees, including but not limited to all machines, equipment and facilities used for parimutuel wagering, whether or not race meetings are being conducted at the time.

(b) Commission members and hearing officers designated by the commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was in aid of a civil action in the district court.

(c) The commission may examine, or cause to be examined by any agent or representative designated by the commission, any books, papers, records or memoranda of any licensee for the purpose of ascertaining compliance with any provision of this act or any rule and regulation adopted hereunder.

(d) The commission may issue subpoenas to compel access to or for the production of any books, papers, records or memoranda in the custody or control of any licensee or officer, member, employee or agent of any licensee, or to compel the appearance of any licensee or officer, member, employee or agent of any licensee, for the purpose of ascertaining compliance with any of the provisions of this act or any rule and regulation adopted hereunder. Subpoenas issued pursuant to this subsection may be

(continued)



served upon individuals and corporations in the same manner provided in K.S.A. 60-304 and amendments thereto for the service of process by any officer authorized to serve subpoenas in civil actions or by the commission or an agent or representative designated by the commission. In the case of the refusal of any person to comply with any such subpoena, the executive director may make application to the district court of any county where such books, papers, records, memoranda or person is located for an order to comply.

(e) The commission shall allocate equitably race meeting dates, racing days and hours to all organization licensees and assign such dates and hours so as to minimize conflicting dates and hours within the same geographic market area.

(f) The commission shall have the authority, after notice and an opportunity for hearing in accordance with rules and regulations adopted by the commission, to exclude, or cause to be expelled, from any race meeting or racetrack facility, any person:

(1) Who has violated the provisions of this act or any rule and regulation or order of the commission;

(2) who has been convicted of violating the racing or gambling laws of this or any other state or of the United States; or

(3) whose presence, in the opinion of the commission, reflects adversely on the honesty and integrity of horse or greyhound racing or interferes with the orderly conduct of a race meeting.

(g) The commission shall review and approve all proposed construction and major renovations to racetrack facilities owned or leased by licensees.

(h) The commission may suspend a horse or greyhound from participation in races if such horse or greyhound has been involved in any violation of the provisions of this act or any rule and regulation or order of the commission.

(i) The commission, within 72 hours after any action taken by a steward or racing judge and upon appeal by any interested party or upon its own initiative, may overrule any decision of a steward or racing judge, other than a decision regarding disqualifications for interference during the running of a race, if the preponderance of evidence indicates that:

(1) The steward or racing judge mistakenly interpreted the law;

(2) new evidence of a convincing nature is produced; or

(3) the best interests of racing and the state may be better served.

A decision of the commission to overrule any decision of a steward or racing judge shall not change the distribution of parimutuel pools to the holders of winning tickets. A decision of the commission which would affect the distribution of purses in any race shall not result in a change in that distribution unless a written claim is submitted to the commission within 48 hours after completion of the contested race by one of the owners or trainers of a horse or greyhound which participated in such race and a preponderance of evidence clearly indicates to the commission that one or more of the grounds for protest, as provided for in rules and regulations of the commission, has been substantiated.

(j) The commission, after notice and a hearing in accordance with rules and regulations adopted by the commission, may impose a civil fine not exceeding \$250 for each violation of any provision of this act, or any rule and regulation of the commission, for which no other penalty is provided.

(k) The commission shall adopt rules and regulations specifying and regulating:

(1) Those drugs and medications which may be administered, and possessed for administration, to a horse or greyhound within the confines of a racetrack facility; and

(2) that equipment for administering drugs or medications to horses or greyhounds which may be possessed within the confines of a racetrack facility.

(l) The commission may adopt rules and regulations providing for the testing of any licensees of the commission, and any officers, directors and employees thereof, to determine whether they are users of any controlled substances.

(m) The commission may require fingerprinting of all persons necessary to verify qualification for any license issued

pursuant to this act. The commission shall submit such fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation for the purposes of verifying the identity of such persons and obtaining records of criminal arrests and convictions.

(n) *The commission may receive from the Kansas bureau of investigation or other criminal justice agencies such criminal history record information (including arrest and nonconviction data), criminal intelligence information and information relating to criminal and background investigations as necessary for the purpose of determining qualifications of licensees of and applicants for licensure by the commission. Disclosure or use of any such information received by the commission, or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any license issued under this act. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the commission in a hearing held pursuant to this act.*

(o) *The commission, in accordance with K.S.A. 75-4319 and amendments thereto, may recess for a closed or executive meeting to receive and discuss information received by the commission pursuant to subsection (n) and to negotiate with licensees of or applicants for licensure by the commission regarding any such information.*

(p) The commission shall adopt such rules and regulations as necessary to implement and enforce the provisions of this act.

Sec. 4. K.S.A. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to this act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

(1) Personnel matters of non-elected personnel;

(2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;

(4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;

(5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person; and

(6) preliminary discussions relating to the acquisition of real property; and

(7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 1987 Supp. 74-8804 and amendments thereto.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.

Sec. 5. K.S.A. 75-4319 and K.S.A. 1987 Supp. 12-4516, 21-4619, 21-4619a and 74-8804 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 25, 1988.

HOUSE concurred in SENATE amendments March 24, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE as amended March 16, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

SUBSTITUTE FOR HOUSE BILL No. 2639

AN ACT concerning the regulation of emergency medical services; abolishing the bureau of emergency medical services; creating the emergency medical services board; transferring certain powers and duties; authorizing certain municipalities to establish, operate and maintain emergency medical services and ambulance services and providing for the regulation thereof; authorizing the levy of taxes therefor; providing for the regulation of persons engaged in emergency medical service and ambulance service activities; making certain acts unlawful and providing penalties for violations; repealing K.S.A. 19-262, 19-263, 19-263a, 19-263b, 19-3623b, 19-3633, 19-3634, 19-3635, 19-3636, 19-3636a, 65-4302 to 65-4306, inclusive, 65-4307 to 65-4309, inclusive, 65-4314 to 65-4316, inclusive, 65-4318 to 65-4320, inclusive, 65-4322, 65-4323, 65-4326 to 65-4331, inclusive, 74-2126 to 74-2132, inclusive, 80-1423, 80-1424, 80-1426 to 80-1428, inclusive, and K.S.A. 1987 Supp. 19-261, 19-3632, 65-4301, 65-4306a, 65-4306b, 65-4306c, 65-4306d, 65-4317, 65-4321, 65-4324, 65-4325, 65-4325a, 65-4339 to 65-4348, inclusive, and 80-1425.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) The bureau of emergency medical services established pursuant to K.S.A. 74-2127, and amendments thereto, is hereby abolished and all of the powers, duties and functions of such bureau are transferred to and conferred and imposed upon the emergency medical services board established pursuant to section 2. Except as provided by this act, all powers, duties and functions of the university of Kansas relating to emergency medical services are transferred to and conferred and imposed upon the emergency medical services board established pursuant to section 2.

(b) The position of the director of the bureau of emergency medical services appointed pursuant to K.S.A. 74-2127, and amendments thereto, is hereby abolished and all of the powers, duties and functions of the director of emergency medical services are transferred to and conferred and imposed upon the emergency medical services board or the administrator thereof as provided by this act. The director shall continue to carry out the duties of that position until an administrator is appointed and qualified pursuant to this act.

(c) The emergency medical services council established under K.S.A. 65-4316, and amendments thereto, is hereby abolished and all of the powers, duties and functions of the council are transferred to and conferred and imposed upon the emergency medical services board.

Sec. 2. (a) There is hereby established the emergency medical services board. The office of the emergency medical services board shall be located in the city of Topeka, Kansas.

(b) The emergency medical services board shall be composed of 13 members appointed by the governor. Of such members:

(1) One shall be a member of the Kansas medical society who is actively involved in emergency medical services;

(2) two shall be county commissioners of counties making a levy for ambulance service, at least one of whom shall be from a county having a population of less than 15,000;

(3) four shall be legislators to be selected from recommendations submitted by the president of the senate, minority leader of the senate, the speaker of the house of representatives and the minority leader of the house of representatives;

(4) one shall be an instructor-coordinator;

(5) one shall be a hospital administrator actively involved in emergency medical services;

(6) one shall be a member of a firefighting unit which provides emergency medical service; and

(7) three shall be attendants who are actively involved in emergency medical service. Not more than one of such members shall represent the same classification of attendants. At least one of such members shall be from a volunteer emergency medical service.

All members of the board shall be residents of the state of Kansas. Appointments to the board shall be made with due consideration that representation of the various geographical areas of the state is ensured. The governor may remove any member of the board upon recommendation of the board.

(c) Of the members first appointed to the board, four shall be appointed for terms of one year, three for terms of two years,

three for terms of three years and three for terms of four years. Thereafter, members shall be appointed for terms of four years and until their successors are appointed and qualified. In the case of a vacancy in the membership of the board, the vacancy shall be filled for the unexpired term.

(d) The board shall meet at least six times annually and at least once each quarter and at the call of the chairperson or at the request of the administrator of the emergency medical services board or of any six members of the board. At the first meeting of the board after January 1 each year, the members shall elect a chairperson and a vice-chairperson who shall serve for a term of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. Members of the board attending meetings of the board or attending a subcommittee meeting thereof authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) Members of the emergency medical services council appointed pursuant to K.S.A. 65-4316, and amendments thereto, shall continue to serve until the members of the emergency medical services board are appointed and qualified pursuant to this section.

(f) Except as otherwise provided by law, all vouchers for expenditures and all payrolls of the emergency medical services board shall be approved by the emergency medical services board or a person designated by the board.

(g) The first person appointed by the governor to the board shall call the first meeting of the board and shall serve as temporary chairperson of the board until a chairperson and vice-chairperson are elected by the board at such meeting.

Sec. 3. The chief administrative officer of the emergency medical services board shall be the administrator of the emergency medical services board. The emergency medical services board shall appoint the administrator. The administrator shall be in the unclassified service under the Kansas civil service act and shall serve at the pleasure of the board. The administrator shall administer the duties and responsibilities of the emergency medical services board as directed by the board. The administrator shall appoint other officers and employees as may be necessary to carry out the functions of the emergency medical services board. All such officers and employees shall be within the classified service under the Kansas civil service act.

Sec. 4. (a) Except as provided in this act, the emergency medical services board established by section 2 shall be the successor in every way to the powers, duties and functions of the bureau of emergency medical services established by K.S.A. 74-2127, and amendments thereto, in which the same were vested prior to the effective date of this act.

(continued)

(b) Except as provided in this act, the administrator of the emergency medical services board appointed pursuant to section 3 shall be the successor in every way to the powers, duties and functions of the director of the bureau of emergency medical services established by K.S.A. 74-2127, and amendments thereto, in which the same were vested prior to the effective date of this act.

(c) Whenever the bureau of emergency medical services or emergency medical services council or words of like effect are referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the emergency medical services board established by section 2. Whenever the director of the bureau of emergency medical services or words of like effect are referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the emergency medical services board.

(d) All orders and directives of the emergency medical services council which relate to emergency medical services and which were adopted under K.S.A. 65-4314 to 65-4331, inclusive, and amendments thereto, in existence immediately prior to the effective date of this act shall continue to be effective and shall be deemed to be the orders or directives of the emergency medical services board, until revised, amended, repealed or nullified pursuant to law.

All rules and regulations of the emergency medical services council which relate to emergency medical services and which were adopted under K.S.A. 65-4314 to 65-4331, inclusive, and amendments thereto, in existence immediately prior to the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations of the emergency medical services board, until revised, amended, repealed or nullified pursuant to law.

Sec. 5. (a) Except as provided by this act, the emergency medical services board established by section 2 shall be the successor to the powers, duties and functions of the University of Kansas school of medicine relating to (1) approval of emergency medical services training and (2) emergency medical training program approvals in which the same were vested prior to the effective date of this act.

(b) The emergency medical services board shall succeed to all records which were used for or pertain to the performance of the powers, duties and functions transferred to the board pursuant to subsection (a). Any conflict as to the proper disposition of records arising under this section shall be resolved by the governor, whose decision shall be final.

(c) The board shall succeed to the unexpended balance of any fee fund money relating to the powers, duties and functions transferred to the board pursuant to subsection (a). Any conflict as to the proper disposition of such money shall be resolved by the governor, whose decision shall be final.

Sec. 6. Officers and employees who were engaged immediately prior to the effective date of this act in the performance of powers, duties and functions, which are transferred pursuant to the provisions of this act, and who, in the opinion of the emergency medical services board, are necessary to perform the powers, duties and functions of the board shall become officers and employees of the board. Any such officer or employee shall retain all retirement benefits, including the right to retain active participation in the retirement system which the officer or employee belonged to on the effective date of this act, and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolishment of personnel in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

Sec. 7. Whenever any conflict arises as to the disposition of any power, duty or function as a result of any/abolishment or transfer made by this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

Sec. 8. The emergency medical services board shall succeed to all property and records which were used for, or pertain to, the

performance of the powers, duties and functions transferred to the board pursuant to section 1. The unexpended balances of any appropriations for the bureau of emergency medical services, abolished by this act, shall be transferred to the emergency medical services board to be used by the board to carry out the powers, duties and functions transferred by this act. Any conflict as to the proper disposition of property or records or the unexpended balance of any appropriation arising under this section shall be determined by the governor, and the decision of the governor shall be final.

Sec. 9. No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against the bureau of emergency medical services abolished by this act, or by or against any officer or employee of such bureau in the official capacity of such officer or employee or in relation to the discharge of official duties of such officer or employee, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of such state agency or any officer or employee affected.

Sec. 10. (a) The board shall adopt any rules and regulations necessary for the regulation of ambulance services. Such rules and regulations shall include: (1) A classification of the different types of ambulance services; (2) requirements as to equipment necessary for ambulances and rescue vehicles; (3) qualifications and training of attendants, instructor-coordinators and first responders; (4) requirements for the licensure and renewal of licensure for ambulances and rescue vehicles; (5) records and equipment to be maintained by operators and attendants and (6) such other matters as the board deems necessary to implement and administer the provisions of this act.

(b) Vehicles in use as emergency ambulances on July 1, 1975, may continue to be used for this purpose as long as the owner or lessee of such vehicle as of July 1, 1977, continues to own or lease such vehicle.

Sec. 11. The emergency medical services board shall:

(a) Adopt any rules and regulations necessary to carry out the provisions of this act;

(b) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;

(c) conduct hearings for all regulatory matters concerning emergency medical services and first responders certified pursuant to this act;

(d) submit a budget to the legislature for the operation of the board;

(e) develop a state plan for the delivery of emergency medical services;

(f) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;

(g) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the administrator;

(h) approve all training programs for ambulance attendants;

(i) approve methods of examination of applicants for initial attendants' certificates and prescribe examination fees by rules and regulations;

(j) develop the criteria for and approve a course of instruction for instructor-coordinators;

(k) conduct or contract for the provision of instruction of instructor-coordinators;

(l) certify instructor-coordinators;

(m) appoint a medical consultant for the board. Such person shall be a person licensed to practice medicine and surgery and shall be active in the field of emergency medical services; and

(n) approve all training programs for certified first responders.

Sec. 12. As used in this act: (a) "Administrator" means the administrator of the emergency medical services board.

(b) "Ambulance" means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared and equipped for use in transporting and providing emergency care for individuals who are ill, injured or otherwise disabled, including any specially constructed and equipped

motor vehicle, airplane or helicopter which is capable of providing life support services for extended periods of time.

(c) "Ambulance service" means any organization operated for the purpose of transporting sick, injured, disabled or otherwise incapacitated persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency care in transit.

(d) "Attendant" means a crash injury management technician, an emergency medical technician, an emergency medical technician-intermediate, an emergency medical technician-defibrillator or a mobile intensive care technician whose primary function is ministering to the needs of persons requiring emergency medical services.

(e) "Board" means the emergency medical services board established pursuant to section 2.

(f) "Crash injury management technician" means any person who has successfully completed a course of training, approved by the board, in preliminary emergency medical care.

(g) "Emergency medical service" means a service which provides for the effective and coordinated delivery of such emergency care as may be required by an emergency, including services provided by first responders and transportation of individuals by ground or air ambulances and the performance of authorized emergency care by a person licensed to practice medicine and surgery, a licensed professional nurse, a registered physician's assistant, a crash injury management technician, an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator or a mobile intensive care technician.

(h) "Emergency medical technician" means any person who has successfully completed a course of training, approved by the board, in preliminary emergency medical care.

(i) "Emergency medical technician-defibrillator" means any person, currently certified as an emergency medical technician or emergency medical technician-intermediate, who has successfully completed a training program in cardiac defibrillation approved by the board.

(j) "Emergency medical technician-intermediate" means any person, currently certified as an emergency medical technician, who, after not less than one year's certification as an emergency medical technician, has successfully completed a course of training approved by the board which includes training in venipuncture for blood sampling and administration of intravenous fluids and advanced patient assessment.

(k) "First responder" means a person who has successfully completed a course of training in preliminary emergency care, who holds a valid first responder certificate under this act and who provides services to individuals in need of emergency medical care that assist in stabilization or improvement of such individual's condition until personnel with a higher level of training arrive at the scene and assume responsibility for the individual.

(l) "Instructor-coordinator" means any person who has successfully completed a course of training, approved by the board, to instruct attendants.

(m) "Local component medical society" means a county medical society or a multicounty medical society.

(n) "Medical adviser" means a person licensed to practice medicine and surgery.

(o) "Mobile intensive care technician" means any person who has successfully completed a course of training, approved by the board, in emergency cardiac and noncardiac care in a training program.

(p) "Municipality" means any city, county, township, fire district or ambulance service district.

(q) "Operator" means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

(r) "Person" means an individual, a partnership, an association, a joint-stock company or a corporation.

Sec. 13. (a) The governing body of any municipality may establish, operate and maintain an emergency medical service or ambulance service as provided in this act as a municipal function and may contract with any person, other municipality or board of a county hospital for the purpose of furnishing emergency med-

ical services or ambulance services within or without the boundaries of the municipality upon such terms and conditions and for such compensation as may be agreed upon which shall be payable from the general fund of such municipality or from a special fund for which a tax is levied under the provisions of this act.

(b) The governing body of the municipality may make an annual tax levy of not to exceed three mills upon all of the taxable tangible property within such municipality for the establishment, operation and maintenance of an emergency medical service or ambulance service under this act and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto. Such tax levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to or within the limitations upon the levy of taxes imposed by K.S.A. 79-5001 to 79-5037, inclusive, and amendments thereto.

(c) No tax shall be levied under the provisions of subsection (b) until the governing body of the municipality adopts an ordinance or resolution authorizing the levy of such tax. Such ordinance or resolution shall be published once each week for three consecutive weeks in the official newspaper of the municipality. If within 60 days following the last publication of such ordinance or resolution, a petition in opposition to the levy of such tax, signed by a number of the qualified electors of such municipality equal to not less than 5% of the electors of such municipality who voted for the office of secretary of state at the last general election, is filed with the county election officer of the county in which such municipality is located, the question of whether the levy shall be made shall be submitted to the electors of the municipality at the next primary or general election within such municipality, or if such primary or general election does not take place within 60 days after the date the petition was filed, the question may be submitted at a special election called and held therefor. If no petition has been filed and the time prescribed for filing the petition expires prior to August 1 in any year, or if the petition was filed and a majority of the electors voting on the question of levying the tax vote in favor thereof at an election held prior to August 1 in any year, the governing body of the municipality may levy in that year and in each succeeding year in the amount specified in the ordinance or resolution, but not exceeding three mills. If no petition has been filed and the time prescribed for filing the petition expires after September 30 in any year, or if the petition was filed and a majority of the electors voting on the question of levying the tax vote in favor thereof at an election held after September 30 in any year, the governing body of the municipality may levy in the next succeeding year and in each succeeding year thereafter the amount specified in the ordinance or resolution, but not exceeding three mills.

(d) In the case of a county, the board of county commissioners shall not provide ambulance service under the provisions of this act in any part of the county which receives ambulance service, but the county shall reimburse any taxing district which on the effective date of this act provides ambulance services to such district with its proportionate share of the county general fund or special tax levy fund budgeted for ambulance services within the county. Such reimbursement shall be based on the amount that the assessed tangible taxable valuation of the taxing district bears to the total taxable tangible valuation of the county, but in no event shall such taxing district receive from the county more than the district's cost of furnishing such ambulance services. Any taxing district establishing ambulance service in any part of a county under the provisions of this act on or after the effective date of this act shall not be entitled to receive reimbursement pursuant to this subsection until a final order of the emergency medical services board ordering such reimbursement is issued following the furnishing of notice and an opportunity for a hearing to the interested parties. No order for reimbursement shall be issued unless the emergency medical service board finds that such establishment shall enhance or improve ambulance service provided to the residents of such taxing district as determined in accordance with criteria established by rules and regulations adopted by the board.

(continued)

Sec. 14. The governing body of any municipality may establish, operate and maintain a centralized emergency service communication system as a municipal function, within or without the boundaries of the municipality, for the purpose of furnishing those services required to establish, operate and maintain an emergency medical service or ambulance service, and such emergency communication system may include a county or city fire dispatch communication service for the purpose of providing a common communication network for all fire-fighting facilities, equipment and personnel. Such emergency communication system may provide for coordinated communication between all law enforcement agencies, ambulances, ambulance services and dispatchers, emergency receiving centers, fire dispatcher services, fire departments, health care institutions, medical practitioners, motor vehicle repair and towing services, and such other persons and service agencies as may be required.

Sec. 15. The governing body of any municipality is hereby authorized to continue, in accordance with the provisions of this act, operation of any emergency medical service or ambulance service or centralized emergency service communications system previously established, operated and maintained, or continue any contract with any person, other municipality or board of a county hospital for the furnishing of emergency medical services or ambulance service previously executed, pursuant to the authority of any statute repealed by this act. Such governing body is hereby authorized to continue to levy under authority of this section any tax for the operation and maintenance of such services or contracts previously authorized and levied pursuant to any statute repealed by this act in any amount not exceeding the amount specified in the ordinance or resolution providing for the levy in such municipality under such repealed statute. No increase in the amount of the tax previously authorized for the operation and maintenance of such services or contracts shall be levied until the governing body of such municipality adopts a new ordinance or resolution which authorizes such increase and is subject to referendum in accordance with the provisions of subsection (c) of section 13.

Sec. 16. In addition to other powers set forth in this act, the governing body of any municipality operating an emergency medical service or ambulance service shall have the power:

- (a) To acquire by gift, bequest, purchase or lease from public or private sources, and to plan, construct, operate and maintain the services, equipment and facilities which are incidental or necessary to the establishment, operation and maintenance of an emergency medical service or ambulance service;
- (b) to enter into contracts including, but not limited to, the power to enter into contracts for the construction, operation, management, maintenance and supervision of emergency medical services or ambulance services with any person or governmental entity;
- (c) to make application for and to receive any contributions, moneys or properties from the state or federal government or any agency thereof or from any other public or private source;
- (d) to contract or otherwise agree to combine or coordinate its activities, facilities and personnel with those of any person or governmental entity for the purpose of furnishing the emergency medical services or ambulance services within or without the municipality;
- (e) to establish and collect any charges to be made for emergency medical services or ambulance services within or without the municipality and to provide for an audit of the records of the emergency medical services operation or ambulance services; and
- (f) to perform all other necessary and incidental functions necessary to accomplish the purposes of this act.

Sec. 17. If the governing body of a municipality establishes an emergency medical service or ambulance service as provided in this act, it shall establish a minimum set of standards for the operation of such service, for its facilities and equipment, and for the qualifications and training of personnel.

Sec. 18. Whenever the board of county commissioners of any county which is furnishing ambulance services within the county under the authority of this act shall determine that such service can best be provided by the creation of an ambulance

service taxing district, such board shall by resolution create and establish such district and define the boundaries thereof. The boundaries of such district shall include the territory receiving ambulance service provided by the county on the date of the adoption of the resolution creating such district. The board of county commissioners shall be the governing body of the district and shall have the authority, powers and duties granted to boards of county commissioners under the authority of this act, except that all costs incurred by the governing body of the district in providing ambulance services in such district shall be paid from the proceeds of the tax levies of the district hereinafter authorized. The provisions of this act shall govern the operation of ambulances providing services within districts established under the provisions of this section. The governing body of each ambulance service taxing district is hereby authorized to levy an annual tax upon all taxable tangible property in such district in accordance with the provisions of section 13. The county treasurer shall receive and have custody of all of the funds of the district and shall expend the same upon the order of the governing body of the district as provided by law.

Sec. 19. Notwithstanding any other provision of law, mobile intensive care technicians may perform any of the following:

- (a) Render rescue, first-aid and resuscitation services.
- (b) During training at a medical care facility and while caring for patients in a medical care facility administer parenteral medications under the direct supervision of a person licensed to practice medicine and surgery or a registered professional nurse.
- (c) Perform cardiopulmonary resuscitation and defibrillation in a pulseless, nonbreathing patient.
- (d) When voice contact or a telemetered electrocardiogram is monitored by a person licensed to practice medicine and surgery or a registered professional nurse where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, and upon order of such person or such nurse do any of the following:
  - (1) Perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions.
  - (2) Perform gastric suction by intubation.
  - (3) Perform endotracheal intubation.
  - (4) Administer parenteral injections of any of the following classes of drugs:
    - (A) Antiarrhythmic agents.
    - (B) Vagolytic agents.
    - (C) Chronotropic agents.
    - (D) Analgesic agents.
    - (E) Alkalinizing agents.
    - (F) Vasopressor agents.
  - (5) Administer such other medications or procedures as may be deemed necessary by such an ordering person.
- (e) Perform, during an emergency, those activities specified in subsection (d) before contacting the person licensed to practice medicine and surgery or authorized registered professional nurse when specifically authorized to perform such activities by written protocols approved by the local component medical society.

Sec. 20. Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate:

- (a) May perform any of the activities described by section 21 which an emergency medical technician may perform;
- (b) when approved by the local component medical society and where voice contact by radio or telephone is monitored by a person licensed to practice medicine and surgery or a registered professional nurse, where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, upon order of such person or such nurse may perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions; or
- (c) when under the direct supervision of a mobile intensive care technician who is functioning under the provisions of sub-



section (e) of section 19 may perform the functions authorized under subsection (b) of this section.

Sec. 21. Notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any of the following:

- (a) Patient assessment and vital signs;
- (b) airway maintenance to include use of:
  - (1) Oropharyngeal and nasopharyngeal airways;
  - (2) esophageal obturator airways with or without gastric suction device; and
- (3) oxygen demand valves.
- (c) Oxygen therapy;
- (d) oropharyngeal suctioning;
- (e) cardiopulmonary resuscitation procedures;
- (f) control accessible bleeding;
- (g) application of pneumatic anti-shock garment;
- (h) management of outpatient medical emergencies;
- (i) extrication of patients and lifting and moving techniques;
- (j) management of musculoskeletal and soft tissue injuries to include dressing and bandaging wounds or the splinting of fractures, dislocations, sprains or strains;
- (k) use of backboards to immobilize the spine; or
- (l) monitor peripheral intravenous line delivering intravenous fluids during interfacility transport with the following restrictions:

(1) The patient is noncritical and deemed stable by the transferring physician and the physician approves the transfer by an emergency medical technician;

(2) no medications or nutrients have been added to the intravenous fluids;

(3) the emergency medical technician may monitor and maintain the flow of intravenous fluid and shut off the flow except that by voice contact with a person licensed to practice medicine and surgery or a registered professional nurse when authorized by a person licensed to practice medicine and surgery the intravenous line may be discontinued.

Sec. 22. Notwithstanding any other provision of law to the contrary, a crash injury management technician may perform any of the following:

- (a) Initial scene management;
- (b) patient assessment and vital signs;
- (c) airway maintenance to include:
  - (1) Oropharyngeal airways;
  - (2) oropharyngeal suctioning; or
  - (3) use of bag valve mask.
- (d) Oxygen therapy;
- (e) provide cardiopulmonary resuscitation procedures;
- (f) control accessible bleeding;
- (g) application of pneumatic anti-shock trousers;
- (h) management of outpatient medical emergencies;
- (i) extrication of patients and lifting and moving techniques;
- (j) management of musculoskeletal and soft tissue injuries to include dressing and bandaging wounds and the splinting of fractures, dislocations, sprains or strains; or
- (k) use of backboards to immobilize the spine.

Sec. 23. Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator:

(a) May perform any of the activities described by section 21 which an emergency medical technician may perform;

(b) when approved by the local component medical society and where voice contact by radio or telephone is monitored by a person licensed to practice medicine and surgery or a registered professional nurse, where authorized by a person licensed to practice medicine and surgery, and direct communication is maintained, upon order of such person or such nurse, may perform electrocardiographic monitoring and defibrillation; or

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the person licensed to practice medicine and surgery or authorized registered professional nurse when specifically authorized to perform such activities by written protocols approved by the local component medical society.

Sec. 24. (a) No person licensed to practice medicine and surgery or registered professional nurse, who gives emergency

instructions to a mobile intensive care technician or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a person licensed to practice medicine and surgery or a registered professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician or emergency medical technician-intermediate rendering such emergency care.

(c) No person certified as an instructor-coordinator shall be liable for any civil damages which may result from such instructor-coordinator's course of instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator.

(d) No medical adviser who reviews, approves and monitors the activities of attendants shall be liable for any civil damages as a result of such review, approval or monitoring, except such damages which may result from gross negligence in such review, approval or monitoring.

Sec. 25. It shall be unlawful for any person or municipality to operate an ambulance service within this state without obtaining a permit pursuant to this act.

Sec. 26. (a) Except as provided in subsection (b), each emergency medical service shall have a medical adviser appointed by the operator of the service to review, approve and monitor the activities of the attendants. The board may approve an alternative procedure for medical oversight if no medical adviser is available.

(b) Each emergency medical service which employs an emergency medical technician-defibrillator shall have a medical adviser appointed by the operator of the service to review, approve and monitor the activities of the emergency medical technician-defibrillator.

Sec. 27. (a) Application for a permit to operate an ambulance service shall be made to the emergency medical services board by the operator of the ambulance service upon forms provided by the administrator and shall be accompanied by a permit fee which shall be a base amount plus an amount for each vehicle used by such operator in such operator's ambulance service and which shall be fixed by rules and regulations of the board to cover all or any part of the cost of regulation of ambulance services.

(b) The application shall state the name of the operator, the names of the attendants of such ambulance service, the primary territory for which the permit is sought, the type of service offered, the location and physical description of the facility whereby calls for service will be received, the facility wherein vehicles are to be garaged, a description of vehicles and other equipment to be used by the service and such other information as the board may require.

(c) Nothing in this act shall be construed as granting an exclusive territorial right to operate an ambulance service. Upon change of ownership of an ambulance service the permit issued to such service shall expire 60 days after the change of ownership.

(d) The permit fee in effect immediately prior to the effective date of this act shall continue in effect until the board adopts rules and regulations fixing a different fee under subsection (a).

Sec. 28. A permit shall not be issued to an operator unless the board finds the ambulance service is or will be staffed and equipped in accordance with the rules and regulations promulgated by the board pursuant to section 10. If the board determines that an applicant is not qualified, such applicant shall be notified of the denial of such application with a statement of the reasons for such denial. The applicant may reapply upon submission of evidence that the disqualifying factor alleged by the board has been corrected. No fee shall be required for the first

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reapplication made if it is submitted to the board within one year of the date of the denial of the application.

A permit to operate an ambulance service shall be valid for the calendar year for which it is issued and may be renewed upon payment of a permit in the amount pursuant to section 27. At least once each month, all fees received pursuant to the provisions of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Each such deposit shall be credited to the state general fund.

Sec. 29. (a) Application for an attendant's certificate shall be made to the emergency medical services board upon forms provided by the administrator. The board may grant an attendant's certificate to an applicant who: (1) Has made application within one year after successfully completing the appropriate course of instruction for the classification of attendant's certificate for which application has been made; (2) has passed an examination prescribed by the board; and (3) has paid a fee for the classification of attendant's certificate for which application has been made as prescribed by rule and regulation of the board.

(b) An attendant applying for a crash injury management technician's certificate shall have successfully completed a course of training, approved by the board, in preliminary emergency medical care. An attendant applying for an emergency medical technician's certificate shall have successfully completed a course of training, approved by the board, in preliminary emergency medical care. An attendant applying for a mobile intensive care technician's certificate shall have successfully completed a course of training, approved by the board, which shall include, but not be limited to, didactic and clinical experience in a cardiac care unit and in an emergency vehicle unit. An attendant applying for an emergency medical technician-intermediate certificate shall have been certified as an emergency medical technician for not less than one year and, after certification as an emergency medical technician for at least one year, shall have successfully completed a course of training, approved by the board, which shall include training in venipuncture for blood sampling and administration of intravenous fluids and advanced patient assessment. An attendant applying for an emergency medical technician-defibrillator certificate shall have been certified as an emergency medical technician for not less than one year and, after certification as an emergency medical technician for at least one year, shall have completed a training program approved by the emergency medical services board. Any program of instruction or training offered by the armed forces of the United States or in a jurisdiction other than Kansas, which program is at least equivalent to the program approved by the board for the class of attendant's certificate applied for, shall be granted reciprocity by the board for purposes of satisfying the requirements of subsection (a)(1) of this section.

(c) An attendant's certificate shall be valid through December 31 of the year following the date of its initial issuance and may be renewed thereafter for a period of one year for each renewal for a fee as prescribed by rule and regulation of the board upon presentation of satisfactory proof that the attendant has successfully completed continuing education in emergency medical care as provided in this subsection. Attendants shall complete not less than eight hours of continuing education as prescribed and approved by the emergency medical services board for each full calendar year that has elapsed since the certification or the last renewal thereof. If a certificate is not renewed within 30 days after its expiration such certificate shall be void.

(d) The emergency medical services board may issue a temporary certificate to any person who has not qualified for an attendant's certificate under subsection (a) when:

- (1) The operator for whom such person serves as an attendant requests a temporary certificate for that person; and
- (2) such person meets or exceeds minimum training prescribed by the board by rules and regulations.

A temporary certificate shall be effective for one year from the date of its issuance or until the person has qualified as an attendant under subsection (a), whichever comes first. A tempo-

rary certificate shall not be renewed and shall be valid only while an attendant works for the operator requesting the temporary certificate.

(e) At least once each month all fees received pursuant to the provisions of this section shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(f) If, within two years of the date of expiration of an attendant's certificate, such person applies for renewal of the certificate, the board may grant a certificate to such applicant without such applicant completing a course of instruction specified in subsection (b) if the applicant has passed an examination prescribed by the board and has paid a fee prescribed by rule and regulation of the board.

Sec. 30. The board may inquire into the operation of ambulance services and the conduct of attendants, and may conduct periodic inspections of facilities, communications services, materials and equipment at any time without notice. The board may issue subpoenas to compel an operator holding a permit to make access to or for the production of records regarding services performed and to furnish such other information as the board may require to carry out the provisions of this act to the same extent and subject to the same limitations as would apply if the subpoenas were issued or served in aid of a civil action in the district court. A copy of such records shall be kept in the operator's files for a period of not less than three years. The board also may require operators to submit lists of personnel employed and to notify the board of any changes in personnel or in ownership of the ambulance service.

Sec. 31. Nothing in this act shall be construed to preclude any municipality from licensing and regulating ambulance services located within its jurisdiction, but any licensing requirements or regulations imposed by a municipality shall be in addition to and not in lieu of the provisions of this act and the rules and regulations promulgated thereunder.

Sec. 32. (a) An operator's permit may be denied, revoked or suspended by the board upon proof that such operator or any agent or employee thereof:

- (1) Has been guilty of misrepresentation in obtaining the permit or in the operation of the ambulance service;
- (2) has engaged or attempted to engage in, or represented themselves as entitled to perform, any ambulance service not authorized in the permit;
- (3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has shown themselves otherwise unable to provide adequate ambulance service;
- (4) has failed to keep and maintain the records required by the provisions of this act, or the rules and regulations promulgated thereunder, or has failed to make reports when and as required;
- (5) has knowingly operated faulty or unsafe equipment; or
- (6) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated thereunder.

(b) The board shall not revoke or suspend any operator's permit pursuant to this section without first conducting a hearing in accordance with the provisions of the administrative procedure act.

Sec. 33. (a) An attendant's or instructor-coordinator's certificate may be denied, revoked or suspended by the board upon proof that such attendant:

- (1) Has been guilty of misrepresentation in obtaining the certificate;
- (2) has engaged or attempted to engage in, or represented themselves as entitled to perform, any service not authorized in the certificate;
- (3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has shown themselves otherwise unable to provide adequate service;
- (4) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated thereunder;
- (5) has been convicted of a felony and, after investigation by

the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust;

(6) has demonstrated habitual intemperance or is addicted to the use of habit-forming drugs; or

(7) has engaged in unprofessional conduct, as defined by rules and regulations adopted under this act.

(b) The board shall not revoke or suspend any attendant's or instructor-coordinator's certificate pursuant to this section without first conducting a hearing in accordance with the provisions of the Kansas administrative procedure act.

Sec. 34. An operator's permit may be temporarily limited or restricted by the board, pending a hearing, upon receipt of a complaint indicating the public health, safety or welfare to be in imminent danger. If an inspection proves the complaint to be invalid, or that the cause therefor has been corrected, the limitation or restriction shall be terminated.

Proceedings under this section may be initiated by the board or by any person filing written charges with the board. The board shall not limit nor restrict any permit pursuant to this section without first conducting a hearing in accordance with the provisions of the Kansas administrative procedure act.

Sec. 35. (a) All ambulance services providing emergency care as defined by the rules and regulations adopted by the board shall offer service 24 hours per day every day of the year.

(b) Whenever an operator is required to have a permit, at least one person on each vehicle providing emergency medical service shall be an attendant certified as an emergency medical technician or a mobile intensive care technician, a person licensed to practice medicine and surgery, a registered physician's assistant or a registered professional nurse.

Sec. 36. (a) Nothing in this act shall be construed:

(1) To prevent the operation of a police emergency vehicle;

(2) to affect any statute or regulatory authority vested in the department of transportation concerning automotive equipment and safety requirements;

(3) to prohibit any privately owned vehicles and aircraft not ordinarily used in the ambulance service business from transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless;

(4) to prevent any vehicle from being pressed into service as an ambulance; or

(5) to prohibit any ambulance lawfully operating under the laws of a state adjoining Kansas from providing emergency transportation of a patient from a municipality not otherwise served by an ambulance service located in Kansas to a location within or outside the state of Kansas when the governing body of such municipality declares a hardship. The governing body or board shall notify the board 30 days prior to the initiation of such out-of-state service.

(b) Ambulances owned and operated by an agency of the United States government shall be exempt from the provisions of this act.

(c) Any ambulance based outside of this state receiving a patient within the state for transportation to a location within this state or receiving a patient within this state for emergency transportation to a location outside this state shall comply with the provisions of this act except when such ambulance is rendering service in the case of a major catastrophe, such ambulance is making a prearranged hospital-to-hospital transfer or except as otherwise provided by rules and regulations adopted by the board.

Sec. 37. Any person violating any provision of this act or any rule and regulation issued hereunder shall be deemed guilty of a class B misdemeanor.

Sec. 38. In order to provide adequate emergency medical care for the people of this state, the emergency medical services board is hereby authorized to establish, maintain and operate an emergency medical services communications system, subject to approval by the secretary of administration under K.S.A. 75-4709, and amendments thereto. The emergency medical services board shall establish communication centers, to be known as medical communications centers, in various locations in the state to be determined by the emergency medical services board, for

the purposes of receiving requests for emergency medical assistance and for coordinating the activities of ambulances with medical care facilities and other emergency public safety agencies. Subject to approval by the secretary of administration under K.S.A. 75-4709, and amendments thereto, the emergency medical services board may provide mobile radio units to ambulance services, as hereinafter provided, which will provide such ambulance services with direct communication to or from medical communication centers established for such purpose.

Sec. 39. For the purpose of establishing, operating and maintaining the emergency medical services communications system, the board may enter into contracts with any state agency, and any such agency is authorized to contract for such purpose with the board. The board also may enter into contracts or other agreements with any city, county, township, fire district or hospital district, or any person, firm or corporation for the establishment of an emergency medical services communications system or the establishment or operation of any part thereof including placement, operation and maintenance of equipment. In accordance with the authority of the secretary of administration under K.S.A. 75-4709, and amendments thereto, all contracts entered into by the board under this section shall be subject to approval by the secretary of administration.

Any contract or agreement for the placement or operation of equipment with any ambulance service shall provide that the person, firm, corporation or municipality operating such ambulance service shall maintain such equipment in accordance with terms and conditions established by the board. The contracts, agreements or contracts for the placement of equipment in medical communication centers shall provide that such equipment shall only be used for the purpose of operating the emergency medical services communications system and that the board or the board's designated agent may inspect such equipment at any time. Ownership of any such equipment shall remain with the state and any contracts for the placement of such equipment may be withdrawn or canceled at any time, at the option of the board and the secretary of administration under K.S.A. 75-4709, and amendments thereto.

Sec. 40. For the purposes of establishing, operating and maintaining an emergency medical services communications system, the emergency medical services board may accept any grant of money or property, including any federal moneys available therefor. Within the limits of appropriations available therefor and subject to approval by the secretary of administration under K.S.A. 75-4709, and amendments thereto, the emergency medical services board may acquire, in the name of the state, any equipment necessary for such communications system.

Sec. 41. (a) It shall be unlawful for any individual to represent oneself as a certified first responder unless such individual holds a valid certificate as a first responder under this act.

(b) Any violation of subsection (a) shall constitute a class B misdemeanor.

Sec. 42. (a) Application for a first responder's certificate shall be made to the emergency medical services board upon forms provided by the administrator. The board may grant a certificate to an applicant who: (1) Has made application within two years after successfully completing the appropriate course of instruction for the first responder as specified in subsection (b) if such course of instruction was completed prior to the effective date of this act or has made application within one year after successfully completing such course of instruction if such course of instruction was completed on or after the effective date of this act; (2) has passed an examination prescribed by the board; and (3) has paid a registration fee in an amount prescribed by rules and regulations of the board.

(b) An individual applying for a first responder's certificate shall have completed training in preliminary emergency medical care of not less than 45 clock hours in a course of instruction approved by the board.

(c) A first responder's certificate shall be valid through December 31 of the year following the date of its initial issuance and may be renewed thereafter for a period of one year for each renewal for a fee in an amount prescribed by rules and regula-

(continued)

tions of the board and upon presentation of satisfactory proof that the first responder has successfully completed continuing education in emergency medical care as provided in this subsection. First responders shall complete not less than eight hours of continuing education as prescribed and approved by the board for each full calendar year that has elapsed since the certification or the last renewal thereof. If a certificate is not renewed within 30 days after its expiration, such certificate shall be void.

(d) The administrator shall remit to the state treasurer at least monthly all fees received pursuant to the provisions of this act. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

(e) If an applicant for a certificate has within two years preceding the date of the application held a first responder's certificate, the board may grant a certificate to such applicant without such applicant completing a course of instruction specified in subsection (b) if the applicant has passed an examination prescribed by the board and has paid a registration fee in an amount prescribed by rules and regulations of the board.

Sec. 43. The board may inquire into the conduct of first responders. The board may require a first responder certified under this act to make records regarding services performed and to furnish such other information as the board may require to carry out the provisions of this act. A copy of such records shall be kept in the first responder's files for a period of not less than three years. The records shall be made available to the board upon request.

Sec. 44. A first responder may perform any of the following activities:

- (a) Initial scene management including, but not limited to, gaining access to the individual in need of emergency care, and only in life or limb threatening situations, the appropriate extrication, lifting and moving the individual;
- (b) cardiopulmonary resuscitation and airway management;
- (c) control of bleeding;
- (d) extremity splinting excluding traction splinting;
- (e) stabilization of the condition of the individual in need of emergency care;
- (f) oxygen therapy;
- (g) use of oropharyngeal airways;
- (h) use of bag valve masks; and
- (i) other techniques of preliminary care a first responder is trained to provide as approved by the board.

Sec. 45. Nothing in this act shall be construed: (a) To preclude any municipality from licensing or otherwise regulating first responders operating within its jurisdiction, but any licensing requirements or regulations imposed by a municipality shall be in addition to and not in lieu of the provisions of this act and the rules and regulations adopted pursuant to this act;

(b) to preclude any person certified as an attendant from providing emergency medical services to persons requiring such services; or

(c) to preclude any individual who is not a certified first responder from providing assistance during an emergency so long as such individual does not represent oneself to be a certified first responder.

Sec. 46. (a) A first responder's certificate may be denied, revoked, limited or suspended by the board upon proof that such first responder:

- (1) Has been guilty of misrepresentation in obtaining the certificate;
- (2) has engaged or attempted to engage in, or represented oneself as entitled to perform, any service not authorized in the certificate;
- (3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has shown oneself otherwise unable to provide adequate service;
- (4) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated thereunder;
- (5) has been convicted of a felony and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust;

(6) has demonstrated habitual intemperance or is addicted to the use of habit-forming drugs; or

(7) has engaged in unprofessional conduct.

(b) The board shall not revoke, limit or suspend any first responder's certificate pursuant to this section without first conducting a hearing in accordance with the provisions of the Kansas administrative procedure act. Proceedings under this section may be initiated by the board or by any person filing written charges with the board.

Sec. 47. No first responder who renders emergency care during an emergency shall be liable for civil damages as a result of rendering such emergency care, except for such damages which may result from gross negligence or from willful or wanton acts or omissions on the part of the first responder rendering such emergency care.

Sec. 48. K.S.A. 19-262, 19-263, 19-263a, 19-263b, 19-3623b, 19-3633, 19-3634, 19-3635, 19-3636, 19-3636a, 65-4302 to 65-4306, inclusive, 65-4307 to 65-4309, inclusive, 65-4314 to 65-4316, inclusive, 65-4318 to 65-4320, inclusive, 65-4322, 65-4323, 65-4326 to 65-4331, inclusive, 74-2126 to 74-2132, inclusive, 80-1423, 80-1424, 80-1426 to 80-1428, inclusive, and K.S.A. 1987 Supp. 19-261, 19-3632, 65-4301, 65-4306a, 65-4306b, 65-4306c, 65-4306d, 65-4317, 65-4321, 65-4324, 65-4325, 65-4325a, 65-4339 to 65-4348, inclusive, and 80-1425 are hereby repealed.

Sec. 49. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 10, 1988.

HOUSE adopted Conference Committee Report March 30, 1988.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE as amended March 23, 1988.

SENATE adopted Conference Committee Report March 30, 1988.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 7, 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 7th day of April, 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## SENATE BILL No. 709

AN ACT relating to public wholesale water supply districts; authorizing a district to issue refunding general obligation bonds; amending K.S.A. 1987 Supp. 19-3557 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1987 Supp. 19-3557 is hereby amended to read as follows: 19-3557. (a) The governing body of a public wholesale water supply district No. 4 created pursuant to K.S.A. 19-3545 *et seq.* and amendments thereto may issue general obligation bonds of the district to finance the cost of acquisition, construction, reconstruction, alteration, repair, improvement, extension or enlargement of the district. All general obligation bonds of the district shall be authorized, issued, registered and sold in the manner provided by the general bond law and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 10-1009 and amendments thereto. The authorized and outstanding bonded indebtedness of the district shall not exceed 20% of the assessed value of all taxable tangible property located within the district, as certified to the county clerk on the preceding August 25.

No bonds may be issued under this subsection until the question of issuing such bonds has been submitted to and approved by a majority of the qualified electors of the district voting at an election called thereon. Such election shall be called and held in the manner provided by the general bond law. If a majority of the voters provided on the question vote in favor thereof, the bonds may be issued.

(b) The governing body of public wholesale water supply district No. 4 may issue, from time to time, general obligation bonds, in the manner prescribed by K.S.A. 10-427, *et seq.* and amendments thereto, to refund any previous issue or part thereof of its outstanding revenue bonds, including the principal amount thereof and all accrued outstanding interest thereon, if such revenue bonds are callable in accordance with their terms or the holders thereof are willing to surrender them to the district. Such general obligation bonds shall not be issued until a resolution adopted by the governing body of the district stating the purpose for which such bonds are to be issued, the total amount of the bonds proposed to be issued, and the total cost to the district of the refunding project, is published once each week for two consecutive weeks in the official newspaper of such district. After publication, such bonds may be issued unless a petition requesting an election on the proposition, signed by electors equal in number to not less than 5% of the electors of the district who voted for the office of secretary of state at the last preceding general election of such office, is filed with the clerk of such district within 20 days following the last publication of such resolution. If such a petition is filed, the governing body of the district shall submit the proposition to the voters at an election called for such purpose and held within 90 days after the last publication of the resolution and no bonds shall be issued under this subsection unless such proposition shall receive the approval of a majority of the votes cast thereon. Such election shall be called and held in the manner provided by the general bond law.

(c) The governing body of public wholesale water supply district No. 4 shall have the power to levy a tax against all taxable, tangible property in the district for the purpose of paying any bonds, and the interest thereon, issued pursuant to this section. Any bonds issued pursuant to this section shall not be included in computing the total bonded indebtedness of any city or county located within such water supply district.

Sec. 2. K.S.A. 1987 Supp. 19-3557 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 22, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

Passed the HOUSE March 31, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Clerk of the House.

APPROVED April 8, 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 April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## HOUSE BILL No. 2770

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.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1987 Supp. 8-198 is hereby amended to read as follows: 8-198. (a) A nonhighway vehicle shall not be required to be registered in this state, as provided in K.S.A. 8-135 and amendments thereto, but nothing in this section shall be construed as abrogating, limiting or otherwise affecting the provisions of K.S.A. 8-142 and amendments thereto, which make it unlawful for any person to operate or knowingly permit the operation in this state of a vehicle required to be registered in this state.

(b) Upon the sale or transfer of any nonhighway vehicle, the purchaser thereof shall obtain a nonhighway certificate of title in the following manner:

(1) If the transferor is a vehicle dealer, as defined in K.S.A. 8-2401 and amendments thereto, and a certificate of title has not been issued for such vehicle under this section or under the provisions of K.S.A. 8-135 and amendments thereto, such transferor shall make application for and assign a nonhighway certificate of title to the purchaser of such nonhighway vehicle in the same manner and under the same conditions prescribed by K.S.A. 8-135 and amendments thereto for the application for and assignment of a certificate of title thereunder. Upon the assignment thereof, the purchaser shall make application for a new nonhighway certificate of title, as provided in subsection (c).

(2) Except as provided in subsection (b) of K.S.A. 8-199 and amendments thereto, if a certificate of title has been issued for any such vehicle under the provisions of K.S.A. 8-135 and amendments thereto, the owner of such nonhighway vehicle may surrender such certificate of title to the division of vehicles and make application to the division for a nonhighway certificate of title, or the owner may obtain from the county treasurer's office a form prescribed by the division of vehicles and, upon proper execution thereof, may assign the nonhighway certificate of title or the regular certificate of title with such form attached to the purchaser of the nonhighway vehicle. Upon receipt of the nonhighway certificate of title or the regular certificate of title with such form attached, the purchaser shall make application for a new nonhighway certificate of title as provided in subsection (c).

(3) If the transferor is not a vehicle dealer, as defined in K.S.A. 8-2401 and amendments thereto, and a certificate of title has not been issued for the vehicle under this section or a certificate of title was not required under K.S.A. 8-135 and amendments thereto, the transferor shall make application to the division for a nonhighway certificate of title as provided in this section, except that in addition thereto, the division shall require

(continued)

a bill of sale or such transferor's affidavit, with at least one other corroborating affidavit, that such transferor is the owner of such nonhighway vehicle. If the division is satisfied that the transferor is the owner, the division shall issue a nonhighway certificate of title for such vehicle, and the transferor shall assign the same to the purchaser, who shall make application for a new nonhighway certificate of title, as provided in subsection (c).

(c) Every purchaser of a nonhighway vehicle, whether assigned a nonhighway certificate of title or a regular certificate of title with the form specified in part (2) of subsection (b) attached, shall make application to the county treasurer of the county in which such person resides for a new nonhighway certificate of title in the same manner and under the same conditions as for an application for a certificate of title under K.S.A. 8-135 and amendments thereto. Such application shall be in the form prescribed by the director of vehicles and shall contain substantially the same provisions as required for an application under subsection (c)(1) of K.S.A. 8-135 and amendments thereto. In addition, such application shall provide a place for the applicant to certify that the vehicle for which the application for a nonhighway certificate of title is made is a nonhighway vehicle, and other provisions the director deems necessary. Each application for a nonhighway certificate of title shall be accompanied by a fee of ~~\$3.50~~ \$9.00 until January 1, 1990 and \$3.50 thereafter, and if the application is not made to the county treasurer within the time prescribed by K.S.A. 8-135 and amendments thereto for making application for a certificate of title thereunder, an additional fee of \$2.

(d) A nonhighway certificate of title shall be in form and color as prescribed by the director of vehicles. A nonhighway certificate of title shall indicate clearly and distinctly on its face that it is issued for a nonhighway vehicle. A nonhighway certificate of title shall contain substantially the same information as required on a certificate of title issued under K.S.A. 8-135 and amendments thereto, and other information the director deems necessary.

(e) A nonhighway certificate of title may be transferred in the same manner and under the same conditions as prescribed by K.S.A. 8-135 and amendments thereto for the transfer of a certificate of title, except as otherwise provided in this section. A nonhighway certificate of title may be assigned and transferred only while the vehicle remains a nonhighway vehicle. Upon transfer or sale of a nonhighway vehicle which has been rebuilt or restored or is otherwise in a condition which will allow the registration of such vehicle, the owner shall assign the nonhighway certificate of title to the purchaser, and the purchaser shall obtain a certificate of title and register such vehicle as provided in K.S.A. 8-135 and amendments thereto. No regular certificate of title shall be issued for a vehicle for which there has theretofore been issued a nonhighway certificate of title until there has been compliance with K.S.A. 1984 Supp. 8-116a.

(f) If a nonhighway vehicle, for which a nonhighway certificate of title has been issued, is destroyed, dismantled or sold as junk, the owner immediately shall surrender to the division the original or assigned nonhighway certificate of title, with the word "salvage" written across its face, and no certificate of title of any type shall be issued nor any registration allowed again for such vehicle.

(g) The owner of a vehicle which has been assembled, reconstructed, reconstituted or restored or otherwise placed in an operable condition may make application to the county treasurer for a permit to operate such vehicle on the highways of this state over the most direct route from the place such nonhighway vehicle is located to a specified location named on the permit and to return to the original location. No such permit shall be issued for any vehicle unless the owner has motor vehicle liability insurance coverage or an approved self-insurance plan under K.S.A. 40-3104 and amendments thereto. Such permit shall be on a form furnished by the director of vehicles and shall state the date the vehicle is to be taken to the other location, the name of the insurer, as defined in K.S.A. 40-3103 and amendments thereto, and the policy number (or a statement that the vehicle is included in a self-insurance plan approved by the commissioner of insurance), a statement attesting to the correct-

ness of the information concerning financial security, the vehicle identification number and a description of the vehicle. Such permit shall be signed by the owner of the vehicle. Permits issued under this subsection (g) shall be prepared in triplicate. One copy shall be carried in the vehicle for which it is issued and shall be displayed so that it is visible from the rear of the vehicle. The second copy shall be retained by the county treasurer, and the third copy shall be forwarded by the county treasurer to the division of vehicles. The fee for such permit shall be \$1 which shall be retained by the county treasurer, who shall annually forward 25% of all such fees collected to the division of vehicles to reimburse the division for administrative expenses, and shall deposit the remainder in a special fund for expenses of issuing such permits.

(h) A nonhighway vehicle for which a nonhighway certificate of title has been issued pursuant to this section shall not be deemed a motor vehicle for the purposes of K.S.A. 40-3101 to 40-3121, inclusive, and amendments thereto except when such vehicle is being operated pursuant to subsection (g). Any person who knowingly makes a false statement concerning financial security in obtaining a permit pursuant to subsection (g), or who fails to obtain a permit when required by law to do so is guilty of a class C misdemeanor.

Sec. 2. K.S.A. 1987 Supp. 8-198 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body February 24, 1988.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE March 30, 1988.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 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 April, 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)



(Published in the *Kansas Register*, April 14, 1988.)

## SUBSTITUTE FOR SENATE BILL No. 448

AN ACT concerning the Kansas wheat commission; relating to the mill levy assessment; amending K.S.A. 2-2609 and 2-2610 and K.S.A. 1987 Supp. 2-2608 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 1987 Supp. 2-2608 is hereby amended to read as follows: 2-2608. (a) There is hereby levied an ~~excise tax of four mills per bushel~~ assessment upon wheat marketed through commercial channels in the state of Kansas. *On and after June 1, 1988, the commission shall set the assessment at a rate of not more than 10 mills per bushel. The commission shall not change the assessment rate, either to increase or reduce, more than once a year.* The ~~tax~~ assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. *Under the provisions of this act, no wheat shall be subject to the assessment more than once.* The administrator shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon payment of such ~~excise tax~~ assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such ~~tax~~ assessment, *except a refund shall not be issued unless the amount of the refund is \$5 or more.* Within one year after any and all sales during such period the grower may upon submission of a request therefor to the administrator, obtain a such refund in the amount of the ~~tax or taxes~~ assessment deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the ~~tax or taxes~~ assessment which need not be verified.

(b) The commission shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended in the administration of this act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such act. In the case of a lien holder who is a first purchaser as defined herein, the ~~tax~~ assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the wheat is pledged or mortgaged. The ~~tax~~ assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such wheat. The ~~tax~~ assessment shall be deducted and paid as herein provided whether such wheat is stored in this or any other state.

(c) Any wheat acquired by a grower as defined in K.S.A. 2-2602, and amendments thereto, under the provisions of any federal payment-in-kind (PIK) program, shall be subject to the provisions of this section.

Sec. 2. K.S.A. 2-2609 is hereby amended to read as follows: 2-2609. (a) The ~~tax~~ assessment hereby imposed shall on or before the ~~twentieth~~ 20th day of the calendar month following the date of settlement be paid by the purchaser to the administrator. The administrator shall issue a receipt to the purchaser therefor and shall remit all moneys received in payment of such ~~tax~~ assessment to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. ~~Twenty percent (20%)~~ *The amount prescribed by K.S.A. 1987 Supp. 75-3170a, and amendments thereto,* of each such deposit shall be credited to the state general fund and the balance shall be credited to the Kansas wheat commission fund. Whenever refunds are made from the wheat commission fund, the amounts credited to the state general fund from subsequent deposits in the state treasury pursuant to this section shall be reduced by amounts which equal ~~twenty percent (20%)~~ *the amount prescribed by K.S.A. 1987 Supp. 75-3170a, and amendments thereto* of such refunds.

(b) All money credited to the wheat commission fund shall be expended in the administration of this act, and for the payment of claims based upon obligations incurred in the performance of the activities and functions set forth in this act, and for no other purpose.

(c) All expenditures from the Kansas wheat commission fund shall be made in accordance with appropriation acts upon war-

rants of the director of accounts and reports issued pursuant to vouchers approved by the administrator or by the chairperson of the Kansas wheat commission or by a person or persons designated by ~~said~~ such administrator or chairperson.

Sec. 3. K.S.A. 2-2610 is hereby amended to read as follows: 2-2610. If the ~~tax~~ assessment is not deducted and paid to the administrator as provided in K.S.A. 2-2610, *and amendments thereto,* or within ~~ten (10)~~ 10 days thereafter, ~~said~~ such lien may within one ~~(1)~~ year after the expiration of ~~said ten (10) day~~ such 10-day period be foreclosed by action in any court having jurisdiction in the county in which such wheat was grown, or sold, or in which such wheat may be found, or in which such wheat shall have been commingled with other wheat.

Sec. 4. K.S.A. 2-2609 and 2-2610 and K.S.A. 1987 Supp. 2-2608 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after June 1, 1988, and its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body February 17, 1988.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

Passed the HOUSE March 30, 1988.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Clerk of the House.*

APPROVED April 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 April, 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

(Published in the *Kansas Register*, April 14, 1988.)

## HOUSE BILL No. 2699

AN ACT relating to historic preservation and the protection of historic property; defining certain terms; relating to notice required to be given the state historic preservation office; amending K.S.A. 75-2716 and K.S.A. 1987 Supp. 75-2724 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 75-2716 is hereby amended to read as follows: 75-2716. As used in this act, unless the context otherwise requires:

(a) "Historic preservation" means the study, identification, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of ~~this~~ the state of Kansas, its communities or the nation.

(b) "Historic property" means any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of the state of Kansas, its communities or the nation.

(c) "Project" includes: (1) Activities directly undertaken by the state or any political subdivision of the state, or any instrumentality thereof;

(2) activities undertaken by a person which are supported in whole or in part through grants, subsidies, loans or other forms of financial assistance from the state or any political subdivision of the state, or any instrumentality thereof; and

(continued)



(3) activities involving the issuance of a lease, permit, license, certificate or other entitlement for use, to any person by the state or any political subdivision of the state, or any instrumentality thereof.

(d) "State or any political subdivision of the state" means the state of Kansas, any office, department, agency, authority, bureau, commission, board, institution, hospital, college or university of the state, or any county, township, city, school district, special district, regional agency, redevelopment agency or any other political subdivision of the state.

(e) "Person" means any individual, firm, association, organization, partnership, business, trust, corporation or company.

Sec. 2. K.S.A. 1987 Supp. 75-2724 is hereby amended to read as follows: 75-2724. The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property until the state historic preservation officer has been given notice, as provided herein, and an opportunity to investigate and comment upon the proposed project. *Notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, is located within 500 feet of the boundaries of a historic property located within the corporate limits of a city, or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county. Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section regardless of the proximity of any proposed project to the boundaries of a historic property.* The state historic preservation officer shall may solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. If the state historic preservation officer determines, with or without having been given notice of the proposed project, that such proposed project will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property, such project shall not proceed until: (a) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use and (b) five days' notice of such determination has been given, by certified mail, to the state historic preservation officer.

Any person aggrieved by the determination of the governor pursuant to this section may seek review of such determination in accordance with the act for judicial review and civil enforcement of agency actions. Any person aggrieved by the determination of a governing body pursuant to this section may seek review of such determination in accordance with K.S.A. 60-2101 and amendments thereto.

The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer's approval of such project.

Sec. 3. K.S.A. 75-2716 and K.S.A. 1987 Supp. 75-2724 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 9, 1988.

JAMES D. BRADEN  
Speaker of the House.  
GENEVA SEWARD  
Chief Clerk of the House.

Passed the SENATE March 29, 1988.

ROBERT V. TALKINGTON  
President of the Senate.  
LU KENNEY  
Secretary of the Senate.

APPROVED April 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 April, 1988.

BILL GRAVES  
Secretary of State.

(SEAL)

(Published in the Kansas Register, April 14, 1988.)

HOUSE BILL No. 3064

AN ACT relating to motor carriers; concerning the issuance of securities; amending K.S.A. 66-125 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 66-125 is hereby amended to read as follows: 66-125. (a) A public utility or common carrier may issue stocks, certificates, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, when necessary for the acquisition of property, for the purpose of carrying out its corporate powers, the construction, completion, extension or improvements of its facilities, or for the improvements or maintenance of its service, or for the discharge or lawful refunding of its obligations, or for such other purposes as may be authorized by law. Prior to any such issuance, except an issuance which requires a registration statement to be filed with the securities and exchange commission, there shall be secured from the commission a certificate stating the amount, character, purposes and terms on which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. If the issuance requires a registration statement to be filed with the securities and exchange commission, the public utility or common carrier shall file with the state corporation commission a copy of the information filed with the securities and exchange commission.

(b) The proceedings for obtaining such certificate from the commission and the conditions of its being issued shall be as follows:

(1) In case the stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued for money only, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer of the company having knowledge of the facts, showing:

- (1) (A) The amount and character of the proposed stocks, certificates, bonds, notes or other evidences of indebtedness;
- (2) (B) the general purposes for which they are to be issued;
- (3) (C) the terms on which they are to be issued;
- (4) (D) the total assets and liabilities of the public utility or common carrier; and

(5) (E) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(2) In case stocks, certificates, bonds, notes or other evidences of indebtedness are to be issued partly or wholly for property or services or other consideration than money, the public utility or common carrier shall file with the commission a statement, signed and verified by the president or other chief officer having knowledge of the facts, showing:

- (1) (A) The amount and character of the stocks, certificates,

bonds, notes or other evidences of indebtedness proposed to be issued;

(2) (B) the general purposes for which they are to be issued;

(3) (C) a general description and an estimated value of the property or services for which they are to be issued;

(4) (D) the terms on which they are to be issued or exchanged;

(5) (E) the amount of money, if any, to be received for the same in addition to such property, services or other consideration;

(6) (F) the total assets and liabilities of the public utility or common carrier; and

(7) (G) that the capital sought to be secured by the issuance of such stocks, certificates, bonds, notes or other evidences of indebtedness is necessary and required for such purposes and will be used therefor.

(c) The commission may also require the public utility or common carrier to furnish such further statements of facts as may be reasonable and pertinent to the inquiry, and shall have full power to ascertain the truth of all statements made by such common carrier or public utility. Upon full compliance by the applicant with the provisions of this section the commission shall forthwith issue a certificate stating the amount, character, purposes and terms upon which such stocks, certificates, bonds, notes or other evidences of indebtedness are proposed to be issued, as set out in the application for such certificate. Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which shall be issued by such public utility or common carrier contrary to the provisions of this act shall be void, *except as provided in subsection (d).*

(d) *The provisions of this section shall not apply to motor carriers, as defined in K.S.A. 66-1,108, and amendments thereto. Any issue of stocks, certificates, bonds, notes or other evidences of indebtedness not payable within one year, which were issued by a motor carrier prior to the effective date of this act without obtaining a certificate from the commission shall be deemed valid.*

Sec. 2. K.S.A. 66-125 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 7, 1988.

JAMES D. BRADEN  
*Speaker of the House.*  
GENEVA SEWARD  
*Chief Clerk of the House.*

Passed the SENATE March 29, 1988.

ROBERT V. TALKINGTON  
*President of the Senate.*  
LU KENNEY  
*Secretary of the Senate.*

APPROVED April 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 April, 1988.

BILL GRAVES  
*Secretary of State.*

(SEAL)

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