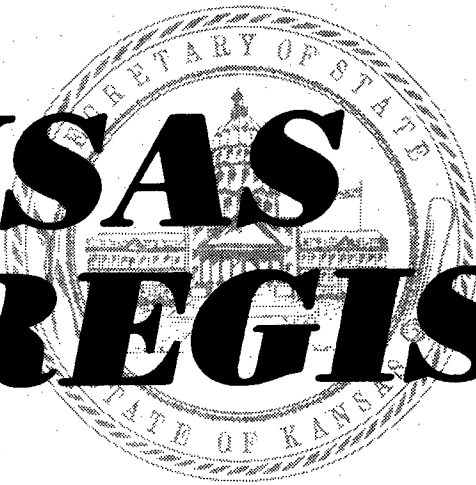


KANSAS REGISTER



State of Kansas

BILL GRAVES
Secretary of State

Vol. 7, No. 21

May 26, 1988

Pages 987-1040

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State of Kansas

LEGISLATURE

NOTICE OF COMMITTEE MEETINGS

The following legislative meetings have been scheduled during the period of May 30 through June 11:

Date	Room	Time	Committee	Agenda
June 2	531-N	10:00 a.m.	Commission on Access to	2nd: (a.m.) Staff briefing of 1988 legislative activities; reports of subcommittees on mid-session meeting.
June 3	531-N	9:00 a.m.	Services for the Medically Indigent and the Homeless	(p.m.) Shelda Harden, National Conference of State Legislatures staff, discussion of other state approaches to medically indigent. 3rd: Shelda Harden continues; committee discussion.
June 3	123-S	9:00 a.m.	Legislative Coordinating Council	Legislative matters.

Interim proposals and interim committee assignments have not been designated at this time. That information will be published as it becomes available.

WILLIAM R. BACHMAN
Director of Legislative
Administrative Services

Doc. No. 006619

The *Kansas Register* is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The *Kansas Register* is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$55. Single copies may be purchased, if available, for \$2 each. Second class postage paid at Topeka, KS. ISSN No. 0744-2254.

Postmaster. Send change of address form to *Kansas Register*, Secretary of State, State Capitol, Topeka, KS 66612-1594.

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PUBLISHED BY
BILL GRAVES
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594



Phone: (913) 296-3489

State of Kansas
BOARD OF TECHNICAL PROFESSIONS

NOTICE OF MEETING

The State Board of Technical Professions will meet at 9 a.m. Friday, June 3, at the board office, Room 507, Landon State Office Building, 900 S.W. Jackson, Topeka. The meeting is open to the public.

BETTY L. ROSE
 Executive Secretary

Doc. No. 006630

State of Kansas
SOCIAL AND REHABILITATION SERVICES
REHABILITATION SERVICES
ADVISORY COMMITTEE

NOTICE OF MEETING

The Rehabilitation Services Advisory Committee will meet at 1 p.m. Thursday, June 2, in the Alcohol and Drug Abuse Services conference room, second floor, Bidle Building, 2700 W. 6th, Topeka.

STEPHEN SCHIFFELBEIN
 Acting Commissioner

Doc. No. 006625

State of Kansas
STATE CONSERVATION COMMISSION

NOTICE TO CONTRACTORS

Sealed bids for the construction of a 21,000 cubic yard detention dam, Site D-67 in Jackson County, will be received by the Delaware Watershed Joint District No. 10 at the district office, 125 W. 4th, Holton 66436, until 6:45 p.m. on June 9. Bids will be opened at 7 p.m. on June 9 at the district office. A copy of the invitation for bids and plans and specification can be obtained from the district office, (913) 364-4309.

KENNETH F. KERN
 Executive Director

Doc. No. 006624

State of Kansas
ATTORNEY GENERAL

Opinion No. 88-66

Banks and Banking—Banking Code; Powers—Limitation on Loans; Limited Partnerships. W. Newton Male, Commissioner, Banking Department, Topeka, May 17, 1988.

To ensure good banking practices, the banking code establishes limitations on lending to any one person, co-partnership, association or corporation. No distinction is made in lending limitations for limited and general partnerships. In determining the limitation of liability to a bank of a limited or general partnership, the bank must consider the total liability of the partnership to the bank, plus the liability of the partner having the greatest debt

to the bank in comparison to the other members. Cited herein: K.S.A. 1987 Supp. 9-1104, 56-1a101(g). MWS

Opinion No. 88-67

State Departments; Public Officers and Employees—Department of Corrections—Placement and Evaluation of Female Offenders. Senator Edward F. Reilly, Jr., 3rd District, Leavenworth; Representative Martha Jenkins, 42nd District, Leavenworth; Representative Clyde Graeber, 41st District, Leavenworth, May 17, 1988.

While the secretary of corrections has broad discretion in designating the place of confinement for persons sentenced to his custody, current statutes prevent him from implementing a plan which would require female offenders to be conveyed directly to the Kansas Correctional Vocational Training Center, rather than the Correctional Institution at Lansing, and evaluated at the State Reception and Diagnostic Center. Cited herein: K.S.A. 21-4609; K.S.A. 1987 Supp. 75-5202; K.S.A. 75-5206; K.S.A. 1987 Supp. 72-5209; K.S.A. 75-5220; 75-5229; 75-5262; 75-5264; 75-5283; L. 1970, ch. 375, §§ 1, 2.

Opinion No. 88-68

Constitution of the United States—Fourth Amendment—Searches and Seizures. Senator Ben E. Vidricksen, 24th District, Salina, May 17, 1988.

Ordinance No. 88-9230 of the city of Salina prescribes that a refusal by the owner and/or occupant of certain property (dwellings, lodging houses, hotels, and apartments) to submit to an inspection "shall lead to a presumption that the premises is not equipped with approved smoke detectors and will result in a citation being issued." As the ordinance does not establish a warrant procedure under the standard set forth in *Camara v. Municipal Court*, 387 U.S. 523, 18 L.Ed.2d 930 (1967), it is our opinion that the "presumption" set forth in the ordinance violates the Fourth Amendment to the United States Constitution and is void. Cited herein: U.S. Const., Fourth Amendment. TRH

Opinion No. 88-69

Corporations—Agricultural Corporations—Limitations; Exceptions—Acquiring by Process of Law. Bill Graves, Secretary of State, Topeka, May 17, 1988.

If a corporation is a creditor of a party owning agricultural land, the corporation may acquire the land by the debtor's voluntary surrender of title if the land is subject to a lien or claim of the corporation. If a debt does not involve a lien or claim on the land, then collection of the debt by voluntary surrender of title may not be used to vest title in the corporation. Cited herein: K.S.A. 1987 Supp. 17-5904. MWS

ROBERT T. STEPHAN
 Attorney General

Doc. No. 006633

State of Kansas

KANSAS INC.**NOTICE OF MEETING**

The Kansas Inc. board will meet at 9 a.m. Thursday, June 2, at the Bank IV Building, third floor, Broadway and Douglas, Wichita. The meeting is open to the public.

CHARLES R. WARREN
President

Doc. No. 006607

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 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
American Walnut Company, Inc. Attention: Ed Grasso 1021 S. 18th Kansas City, KS 66105 Wyandotte County, Kansas	Kansas River Kansas River Basin	Steam room condensate, boiler blowdown and stormwater runoff
Kansas Permit No. I-KS27-PO24 Federal Permit No. KS-0085944		
Description of Facility: This facility is engaged in hardwood manufacturing. Wastewater is directed to an underground tank prior to discharge. This is a new facility. 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
Kansas City Power and Light Company LaCygne Generating Station Attention: Mr. Terry Eaton Route 1 LaCygne, KS 66040 Linn County, Kansas	Marais des Cygnes via North Sugar Creek via LaCygne Cooling Impoundment	Stormwater run- off, cooling water and proc- ess wastewater
Kansas Permit No. I-MC18-P001 Federal Permit No. KS-0080071		
Description of Facility: This facility is engaged in the generation and distribution of electric power. 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 June 24 will be considered in the formulation of final determinations regard-

ing this public notice. Please refer to the appropriate application number (KS-88-29/30) 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. 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 KDHE. 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. 006623

State of Kansas

**DEPARTMENT OF HEALTH
AND ENVIRONMENT****NOTICE OF AVAILABILITY OF FUNDS FOR
EARLY INTERVENTION PROJECTS**

The Department of Health and Environment announces that funds are available for noncompetitive grants for continuation of existing demonstration projects, and new competitive grants for projects located in urban areas with a population of 30,000 or more to:

- (1) develop a family centered, community based, coordinated, comprehensive, multidisciplinary inter-agency program for appropriate early intervention services to infants and toddlers, birth through two years, with developmental delays and their families, or
- (2) expand a family centered, community based, coordinated, comprehensive, multidisciplinary inter-agency program that provides appropriate early intervention services to infants and toddlers, birth through two years, with developmental delays and their families.

Applications must be hand delivered during business hours or post-marked on or before July 1.

Application guidance materials may be obtained by contacting Catharine C. Saal, R.N., M.S., Coordinator Infant/Toddler Program, Crippled & Chronically Ill Children's Program, Bureau of Maternal and Child Health, KDHE, Landon State Office Building, 10th Floor, 900 S.W. Jackson, Topeka 66612-1290, (913) 296-6135.

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

Doc. No. 006634

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	Legal Description	Receiving Water
Clifford Raile Route 1, Box 389 St. Francis, KS 67756	Section 32, Township 2S, Range 41W, of Cheyenne County, Kansas	Upper Republican River Basin

Kansas Permit No. A-URCN-H001 Federal Permit No. KS-0086070

The facility has capacity for approximately 3,500 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 Section, Department of Health and Environment, Division of Environment, Bureau of Water Protection, Topeka 66620.

All comments received prior to June 24 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-88-12) 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 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 KDHE. 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. 006622

State of Kansas

ADJUTANT GENERAL'S DEPARTMENT
MILITARY ADVISORY BOARD

NOTICE OF MEETING

The Kansas Military Advisory Board will meet at 10 a.m. Tuesday, June 7, in the State Defense Building, Conference Room 102, 2800 Topeka Blvd., Topeka. For further information, call (KANS-A-N) 567-0106 or (913) 233-7560, extension 106.

BRIG. GEN. PHILIP B. FINLEY
The Adjutant General

Doc. No. 006629

State of Kansas

KANSAS STATE UNIVERSITY

NOTICE TO BIDDERS

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 4 p.m. C.D.T. on the date indicated and then will be publicly opened. Interested bidders may call (913) 532-6214 for additional information.

Wednesday, June 8, 1988

#80087

Turbomolecular Pump System

WILLIAM H. SESLER
Director of Purchasing

Doc. No. 006631

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m. C.D.T. June 16, 1988, and then publicly opened:

DISTRICT ONE—Northeast

Atchison—3 C-2576-01—County road, 4.6 miles east and 0.8 mile north of Nortonville, then north, 0.1 mile, bridge replacement. (Federal Funds)

Johnson—56-46 K-3156-01—U.S. 56—East of U.S. 56 and Nall Avenue on south side at drainage structure, box extension. (State Funds)

Johnson—46 C-1701-01—County road, 2.0 miles north of Gardner, then west, 0.4 mile, bridge replacement. (Federal Funds)

Johnson—46 C-2559-01—County road, 83rd Street over Kill Creek in DeSoto, 0.1 mile, grading, surfacing and bridge. (Federal Funds)

Johnson—46 U-1154—87th and Bluejacket in Lenexa, intersection improvement. (Federal funds)

Leavenworth—73-52 K-3032-01—U.S. 73, Fairlane north to Holiday Terrace, 0.1 mile, grading and surfacing. (State Funds)

Marshall—36-58 X-1301-02—U.S. 36, Missouri Pacific

(continued)

Railroad crossing at Home City, grading and surfacing. (Federal Funds)

Nemaha—36-66 X-1247-02—Union Pacific Railroad crossing east of Seneca, grading and surfacing. (Federal Funds)

Osage—75-70 M-1526-01—U.S. 75, from U.S. 56 south, 4.5 miles, concrete pavement patching. (State Funds)

Shawnee—24-89 K-3425-01—U.S. 24 and Happy Hollow Road 2.2 miles east of U.S. 75 Alternate, intersection improvement. (State Funds)

Shawnee—470-89 K-3157-02—I-470 and 21st Street interchange, grading, surfacing and bridge. (Federal Funds)

Shawnee—470-89 K-3452-01—I-470, from the west junction of I-70 southeast on I-470 to the south Kansas Turnpike Authority booths, 6.7 miles, overlay. (Federal Funds)

Shawnee—89 U-1060-01—Gage Boulevard from 20th to Drury Lane in Topeka, 0.6 mile, grading and surfacing. (Federal Funds)

Shawnee—89 U-1159-01—Meridan Road at Soldier Creek cutoff in Topeka, 0.1 mile, grading, surfacing and bridge. (Federal Funds)

Wyandotte—105 U-0933-01—Kansas Avenue, from 138th Street east to K-7 in Bonner Springs, 1.1 miles, grading and surfacing. (Federal Funds)

Wyandotte—169-105 U-1144-01—U.S. 169, 7th and Kansas Avenue in Kansas City, traffic signal. (Federal Funds)

DISTRICT TWO—Northcentral

Geary—31 U-1191-01—6th and Jackson in Junction City, traffic signal. (Federal Funds)

Jewell—45 C-2563-01—County road, 14.0 miles north of Mankato on the Kansas-Nebraska line, then east, 0.3 mile, bridge replacement. (Federal Funds)

Mitchell—62 C-2472-01—County road, 2.0 miles west and 1.5 miles north of Cawker City, then east, 0.2 mile, bridge replacement. (Federal Funds)

Morris—64 C-2367-01—County road, 1.7 miles north and 0.7 mile east of Council Grove, then east, 0.1 mile, bridge replacement. (Federal Funds)

DISTRICT THREE—Northwest

Trego—283-98 K-3038-01—Union Pacific Railroad north to the north city limits of WaKeeney, 0.2 mile, curb and gutter. (State Funds)

Trego—283-98 M-1505-01—U.S. 283, from the north city limits of WaKeeney north 0.1 mile, curb and gutter. (State Funds)

DISTRICT FOUR—Southeast

Bourbon—6C-2550-01—County road, 10.6 miles south of Fort Scott on the Missouri-Kansas state line, then south, 0.2 mile, bridge replacement. (Federal Funds)

Cherokee—69-11 X-1060-02—U.S. 69, Missouri-Kansas-Texas Railroad crossing at Columbus, grading and surfacing. (Federal Funds)

Elk—25 C-1731-01—County road, 7.0 miles north and 1.0 mile west of Howard, then west, 0.1 mile, bridge replacement. (Federal Funds)

Linn—69-54 K-2957-01—U.S. 69, bridge 9 over K-152, bridge painting. (State Funds)

Linn—152-54 K-2071-01—K-152, Marais des Cygnes

River bridge 26, 7.9 miles east of K-7, bridge painting. (State Funds)

DISTRICT FIVE—Southcentral

Barber—2-4 K-3031—K-2, 250 feet west of K-8 in Kiowa, 0.1 mile, culvert. (State Funds)

Cowley—77-18 K-3039-01—Timber Creek bridge to Manning Street in Winfield, 0.2 mile, pavement reconstruction. (State Funds)

Cowley—18 U-1068-01—U.S. 77 truck route, east of Arkansas City, 0.6 mile, grading and surfacing. (Federal Funds)

Reno—78 U-0984-01—17th Avenue over Cow Creek in Hutchinson, 0.1 mile, bridge replacement. (Federal Funds)

Rice—56-80 M-1525-01—Little Cow Creek, 1 mile west of Lyons, bridge deck repair. (State Funds)

Sedgwick—87 C-2617-01—Intersection of 63rd Street south and Hydraulic, traffic signal. (Federal Funds)

Sedgwick—87 M-1524-01—Various structures on I-135, I-235, K-96 and K-254 around Wichita, mudjacking concrete riprap. (State Funds)

Sedgwick—235-87 M-1523-01—I-235 and I-135 junction, southwest 1.0 mile, concrete pavement patching. (State Funds)

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

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

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

HORACE B. EDWARDS
Secretary of Transportation

Doc. No. 006592

State of Kansas

DEPARTMENT OF TRANSPORTATION

NOTICE TO CONTRACTORS

Sealed proposals for the construction of road and bridge work in the following Kansas county will be received at the office of the Chief of Construction and Maintenance, K.D.O.T., Topeka, until 10 a.m. C.D.T. June 16, 1988, and then publicly opened:

DISTRICT SIX—Southwest

Gray—56-36 M-1527-01, U.S. 56, beginning at the Haskell/Gray county line, then northeast to the east city limits of Montezuma, 24.5 miles, cold milling. (State Funds)

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

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

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

HORACE B. EDWARDS
Secretary of Transportation

Doc. No. 006620

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, June 6, 1988

#27821

Department of Social and Rehabilitation Services—
LICENSED SECURITY GUARD SERVICES

#74257

Kansas State University—HPLC SYSTEM

#74258

Kansas State University—LAB CENTRIFUGE

#74259

Kansas Correctional Vocational Training Center—
LOCK SETS

#74271

University of Kansas—LISP WORKSTATION

#74272

University of Kansas—TERMINAL/
MICROCOMPUTER WORKSTATION

Tuesday, June 7, 1988

#27148

Kansas State Penitentiary—HIGH CALCIUM
QUICKLIME

#27164

Statewide—BATTERIES

#27474

University of Kansas Medical Center—JULY (1988)
MEAT PRODUCTS

#73508-A

University of Kansas—DISK DRIVE FOR DG
MV/20000

#74324

University of Kansas Medical Center—FILM
RECORDER AND GRAPHICS PROCESSOR

Wednesday, June 8, 1988

#27158

University of Kansas Medical Center—
RADIOPHARMACEUTICALS AND RADIO IMMUNO
ASSAY KITS

#74294

Department of Transportation—CONCRETE SAWS,
CRACK SEAL MACHINES AND TAMPER, various
locations

#74295

University of Kansas Medical Center—SKID
LOADER

74312

Department of Transportation—TRUCK AND
SPRAYER

#74323

Department of Transportation—BITUMINOUS
MIXTURE, various locations

#74325

Department of Transportation—PROFILE
EQUIPMENT

#74333

Department of Transportation—GENERATORS,
various locations

#74385

Department of Wildlife and Parks—CATFISH
FEED, various locations

Thursday, June 9, 1988

#27256

Statewide—ANTI-FREEZE (HIGH AND LOW
SILICATE)

(continued)

#74339
Department of Transportation—PAVEMENT
SEALANT, Hutchinson

#74348
University of Kansas Medical Center—LAB FUME
HOOD EQUIPMENT

#74349
Kansas Lottery—FURNISH AND INSTALL METAL
BUILDING, Hutchinson

#74350
Department of Wildlife and Parks—FURNISH AND
INSTALL STEEL SIDING, Pratt

#74358
University of Kansas Medical Center—O-R
MICROSCOPE

#74359
Department of Transportation—BITUMINOUS
MIXTURE, various locations

#74360
Kansas State University—HPLC

#74361
Kansas State University—MICROSCOPES

#74371
Department of Human Resources—AUTOMATED
MAILING SYSTEM

#74372
Kansas State University—SPECTROMETER
UPGRADE

#74373
Kansas State University—GAMMA COUNTER
Friday, June 10, 1988

#A-5450-2
Pittsburg State University—CLASSROOM
REMODEL, Department of Engineering Technology

#27824
Statewide—FACSIMILE MACHINE

#74322
Department of Transportation—FURNISH AND
INSTALL CHAIN LINK FENCE, various locations

#74351
Department of Transportation—INTERNAL
CONTROL REVIEW

#74378
Department of Transportation—READY MIX
CONCRETE, Wichita

#74379
Kansas State University—LAB CENTRIFUGE

#74384
Larned State Hospital—CANNED GOODS

#74386
Kansas State University—BLOOD GAS ANALYZER

#74387
University of Kansas Medical Center—LIQUID
SCINTILLATION EQUIPMENT

#74403
State Department of Education—LOCAL AREA
NETWORK

#74404
Department of Social and Rehabilitation Services—
SOFTWARE

#74405
University of Kansas Medical Center—
SPECTROPHOTOMETER
Monday, June 13, 1988
#A-5922
Emporia State University—BUCHER CHILDREN'S
SCHOOL/STORMONT MAINTENANCE CENTER—
REROOF PROJECT

#27558
Department of Transportation—ASPHALTIC
MATERIALS

#27822
Pittsburg State University—OPERATION OF
UNIVERSITY BOOKSTORE
Tuesday, June 14, 1988
#74374
Department of Administration, Division of
Architectural Services—LAN AND SOFTWARE

#74389
Department of Health and Environment—"RIGHT
TO KNOW" SOFTWARE AND CHEMICAL DATA
DICTIONARY

#74391
Department of Administration, Division of
Information Systems and Communications; University of
Kansas; Emporia State University; Kansas State
University; Wichita State University—IBM
MAINFRAME PERIPHERALS
Wednesday, June 15, 1988
#74375
State Corporation Commission—MINICOMPUTER
WITH ORACLE DBMS

#74390
Kansas Lottery—LOTTERY INSTANT GAME
TICKETS
Thursday, June 16, 1988
#27823
Emporia State University—NATURAL GAS

#74388
Department of Administration, Division of
Information Systems and Communications—MULTIPLE
SESSION MANAGER SOFTWARE FOR IBM
MAINFRAME
Monday, June 20, 1988
#27314
Statewide—SURGICAL INSTRUMENTS, PARTS
AND SUPPLIES
Monday, June 27, 1988
#27167
Department of Administration, Central Motor Pool—
AUTOMOBILE PHYSICAL DAMAGE INSURANCE
NICHOLAS B. ROACH
Director of Purchases

Doc. No. 006628

State of Kansas
SOCIAL AND REHABILITATION SERVICES

NOTICE OF MEETING

The Department of Social and Rehabilitation Services will meet at 9 a.m. Friday, June 10, in the SRS Staff Development Training Center, 2700 W. 6th, Topeka.

The scheduled agenda includes:

- Reports from SRS commissioners.
- Public hearings for FY 1990 program priorities.
- Public hearing on community service block grant plan.
- Adopt social service block grant plan.
- Other items as necessary.

Following the meeting, there will be a series of meetings for the public and advocates to discuss budget issues with the SRS commissioners. This part of the meeting will not be on the telephone hook-up.

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

WINSTON BARTON
 Secretary of Social and
 Rehabilitation Services

Doc. No. 006626

State of Kansas
SOCIAL AND REHABILITATION SERVICES

**NOTICE OF HEARING
 ON PROPOSED
 ADMINISTRATIVE REGULATIONS**

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

The scheduled agenda includes:

- Reports from SRS commissioners.
- Public hearing with clients/providers regarding FY 1990 budget priorities.
- Adopt community service block grant plan.
- Public hearing on the low income energy assistance program block grant.
- Public hearing concerning proposed temporary administrative regulations to become effective July 1, 1988. The summary and economic impact statements are set forth below. The phrase "Federal Mandate" following an item indicates that the change is required by federal policy. Optional changes in regulations related to federal programs are subject to approval by the U.S. Department of Health and Human Services.
- Adoption of proposed temporary administrative regulations.
- Other items as necessary.

Article 2—General

1. 30-2-16. Permanency planning goals for title IV-E

of the federal social security act. This regulation is being amended to change the date of the federal fiscal year permanency planning goals from October 1, 1987 to October 1, 1988.

Economic Impact: This regulation precludes the federal government from withholding approximately \$5,233,107 which the agency would otherwise receive under Titles IV-B and IV-E of the Federal Social Security Act for federal fiscal year 1989.

Article 4—Public Assistance Programs

1. 30-4-50. **Assistance eligibility, general.** This regulation is being amended to include the KanWork program outlined in K.A.R. 30-4-63 as a new general eligibility requirement. This is a technical change only and is being made to accommodate the provisions of H.B. 2644.

Economic Impact: See the economic impact statement for K.A.R. 30-4-63.

2. 30-4-57. **Job search requirements.** This regulation is being amended to modify the language of the exemptions to permit the adoption of the job search exemptions to the KanWork program. This is a technical change only and is being made to accommodate the provisions of H.B. 2644.

Economic Impact: See the economic impact statement for K.A.R. 30-4-63.

3. 30-4-58. **Potential employment.** This regulation is being amended to clarify that any persons who are exempted from the job search requirement and the WIN registration requirement for any reason other than full-time employment shall be exempt from this regulation. This is a technical change only.

Economic Impact: None.

4. 30-4-62. **Community work experience program requirements.** This regulation is being amended to restrict the exemption for any parent or other relative personally providing care for a child under the age of six to non-KanWork counties and to add an exemption for KanWork counties for any parent or other relative who is personally providing care for a child under the age of three. This change is being made to accommodate the provisions of H.B. 2644.

Economic Impact: See the economic impact statement for K.A.R. 30-4-63.

This regulation is being further amended to modify the language of the CWEP exemptions to permit the adoption of these exemptions to the KanWork program. This is a technical change and is being made to accommodate the provisions of H.B. 2644.

Economic Impact: None.

5. 30-4-63. **KanWork program requirements.** The secretary is promulgating a new regulation to establish the KanWork program in those counties in the state that are designated by the secretary as KanWork counties. The KanWork program incorporates the job search provisions of K.A.R. 30-4-57, the Community Work Experience program provisions of K.A.R. 30-4-62, and the Work Incentive program provisions of K.A.R. 30-4-75. In addition, the Kan-Work program will incorporate education and training provisions aimed at facilitating a recipient's move-

(continued)

ment toward self-sufficiency and employment retention and a grant diversion program in which an employer receives a wage subsidy from money diverted in accordance with law from public assistance grants.

Support services shall be provided to KanWork participants including education and training expenses, child care assistance, transportation assistance, and family mentor assistance. For KanWork participants who lose eligibility for public assistance due to becoming employed, transitional services will be provided including child care, transportation, special needs, and medical assistance.

A first-time failure of a nonexempt person to meet the KanWork requirements, without good cause, shall render the individual ineligible for assistance for three months, and a subsequent failure shall result in ineligibility for six months. For GA, the penalty shall also affect the eligibility of all persons for whom the individual is legally responsible. For ADC-UP, if the principal wage earner fails to meet the KanWork requirements, the penalty shall also affect the eligibility of all persons in the mandatory filing unit. If the person becomes exempt during the penalty period, the penalty shall not be delayed or waived.

This regulation is being proposed to implement the provisions of H.B. 2644.

Economic Impact: S.B. 572 appropriated \$5,000,000 in state general funds for the KanWork program in FY 1989. It is anticipated that an additional \$5,002,789 can be secured in federal matching funds. The KanWork program will focus on assisting public assistance recipients in their attempt to gain self-sufficiency through employment. In so doing, the state's investment will be returned through lower public assistance caseloads as well as the tax revenue and productivity of the newly employed.

6. 30-4-74. Persons whose needs shall be considered with the needs of the ADC child. This regulation is being amended to provide that all children whose needs are met through an ADC foster care payment will be excluded from the mandatory filing unit. This change is being made to accommodate the change to K.A.R. 30-4-80.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987 which amended Section 402(a)(24) of Title IV-A of the Social Security Act.

Economic Impact: See the economic impact statement for K.A.R. 30-4-80.

7. 3-4-80. Eligibility factors specific to the ADC-FC program. This regulation is being expanded to provide that a child of an ADC-FC recipient shall be deemed to meet the eligibility requirements of the ADC-FC program if the child and the recipient are living together in the same foster care living arrangement.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987 which amended Section 402(a)(24) of Title IV-A of the Social Security Act.

Economic Impact: It is estimated that 10 children will be affected by this change annually for a decrease in AFDC expenditures of \$20,880 and an increase in AFDC-FC expenditures of \$23,076 for a net increase of \$2,196 (\$988 state general funds). No increase in medical expenditures is expected.

8. 30-4-101. Standards for persons in own home, other family home, specialized living, commercial board and room, or commercial room-only living arrangements. This regulation is being amended to increase the energy supplement contained in the basic standards from \$12 to \$18 per person. This \$6 per person increase represents a 5 percent increase in the public assistance expenditures that were appropriated by the Kansas Legislature.

Economic Impact: S.B. 572 appropriated a 5 percent COLA increase and a 1 percent caseload growth factor in the AFDC and GA programs. It is estimated that these changes will result in increased expenditures of \$7,112,408 (\$2,657,686 state general funds).

9. 30-4-102. Standards for children in foster care. This regulation is being amended to increase the foster family care rates by 3.2 percent. This results in an increase in the daily rates of: \$.19 for infants through four years of age; \$.27 for ages 5 through 11; and \$.44 for children age 12 and older. The increase in foster family care rates was appropriated by the Kansas Legislature.

Economic Impact: S.B. 572 appropriated a 1.8 percent caseload growth factor and a 3.2 percent increase in foster family care rates and in the residential standards. It is estimated that the increase in expenditures will be \$275,985 (\$120,750 state general funds) in foster family care and an increase of \$864,767 (\$538,387 state general funds) in residential standards. These changes result in a total increase in expenditures of \$1,140,752 (\$659,137 state general funds).

This regulation is being further amended to provide that the foster care standards are to be used to meet the maintenance needs of a child of an ADC-FC recipient if the recipient and child are living together in the same foster care living arrangement.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987 which amended Section 475(4) of Title IV-E of the Social Security Act.

Economic Impact: See the economic impact statement for K.A.R. 30-4-80.

10. 30-4-106. General rules for consideration of resources, including real property, personal property, and income. This regulation is being amended to provide that the income and resources of children who have been excluded from the assistance plan because their needs are met through foster care payments shall not be considered in determining eligibility for the remaining members of the assistance plan.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987 which amended Section 402(a)(24) of Title IV-A of the Social Security Act.

Economic Impact: See the economic impact statement for K.A.R. 30-4-80.

11. 30-4-120. Special allowances and requirements for applicants and recipients of ADC, ADC-FC, APW, GAU, and GA-FC. This regulation is being amended to add a special allowance provision for KanWork transition services. Based on an agency-approved plan, transition expenses shall be allowed for the KanWork recipient who

loses eligibility for public assistance due to becoming employed. Such expenses include but are not limited to child care, transportation, and special one-time needs. This change is being made to accommodate the provisions of H.B. 2644.

Economic Impact: See the economic impact statement for K.A.R. 30-4-63.

This regulation is being further amended to clarify that education and training costs can include but are not limited to tuition, books, fees, transportation, and child care. This is a technical change only.

Economic Impact: None.

**Article 5—Provider Participation,
Scope of Services, and Reimbursements
for the Medicaid (Medical Assistance) Program**

1. 30-5-58. Definitions. This regulation is being amended to delete the definition of "disproportionate number of low income patients with special needs" and to replace it with the definition of "disproportionate share hospital" as follows:

(s) "Disproportionate share hospital" means:

(1) A hospital that has a medicaid/medikan inpatient utilization rate of at least one standard deviation above the mean medicaid/medikan inpatient utilization rate for hospitals within the state borders of Kansas which are receiving medicaid/medikan payments or the hospital's low-income utilization rate exceeds 25%; and

(2) the hospital must have at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to medicaid/medikan eligible individuals with the exceptions of:

(A) Hospitals of which the inpatients are predominantly under 18 years of age; or

(B) hospitals which did not offer non-emergency obstetric services as of December 21, 1987. In a hospital located in a rural area, the obstetrician may be any physician with staff privileges at the hospital to perform non-emergency obstetric procedures.

Add the following new definitions:

(gg) "Hospital located in a rural area" means a facility located in an area outside of a metropolitan statistical area as defined by the executive office of management and budget under the health care financing administration.

(11) "Low-income utilization rate for hospitals" means the sum of:

(1) The fraction expressed as a percentage,

(A) The numerator of which is the sum, for a period of time specified by the secretary, of the total revenues paid to the hospital for patient services under the medicaid state-plan, and the amount of the cash subsidies for patient services received directly from state and local governments; and

(B) the denominator of which is the total amount of revenues of the hospital for patient services including the amount of such cash subsidies in the period of time specified by the secretary; and

(2) a fraction expressed as a percentage,

(A) the numerator of which is the total amount of the hospital's charges for inpatient hospital services which are attributable to charity care in a period of time specified by the secretary. This shall not include contractual allow-

ances and discounts other than for indigent patients not eligible for medicaid/medikan; and

(B) the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the hospital in the period of time specified by the secretary.

(nn) "Medicaid/medikan hospital inpatient utilization rate" means the total number of medicaid/medikan paid inpatient days in a cost reporting period, divided by the total number of the hospital's inpatient days in the same period.

Federal Mandate: These changes are required based on federal mandate (Public Law 100-203, Section 4112 [Omnibus Budget Reconciliation Act]).

Economic Impact: See economic impact statement for K.A.R. 30-5-81b.

2. 30-5-81b. The basis of reimbursement for hospital services. This regulation is being amended to be consistent with the definitional changes and additions to K.A.R. 30-5-58 and to change the reimbursement methodology for hospitals determined to be disproportionate share hospitals to be in accordance with the Omnibus Budget Reconciliation Act of 1988, Public Law 100-203, Section 4112, effective July 1, 1988.

Federal Mandate: These changes are required based on federal mandate (Public Law 100-203, Section 4112 [Omnibus Budget Reconciliation Act]).

Economic Impact:

Cost

Fiscal Year	Aggregate Cost (Total Funds)	New Funds (Total Funds)	State Funds	Federal Funds
Total Estimated Cost	\$2,200,800			
First Year (FY 1989)	\$ 733,600	\$733,600	\$366,800	\$366,800
Second Year (FY 1990)	1,467,200	733,600	366,800	366,800
Third Year (FY 1991)	2,200,800	733,600	366,800	366,800
Every Year Thereafter	2,200,800	0	0	0
Cost for 120 Days *		\$366,800	\$183,400	\$183,400

* Payments will be made on a quarterly basis, and paid during the first month of each quarter (except for the quarter beginning July 1988, when payment may be made later in the quarter).

Bearer of Cost

The State of Kansas, Department of Social and Rehabilitation Services, Medical Assistance Program will bear the cost for this proposal. The FY 1989 budget appropriation for the Medical Assistance Program (program code 3100) included \$800,000 to fund the first year implementation.

Affected Parties

1. Department of Social and Rehabilitation Services. This agency will be responsible for providing compensation to hospitals determined to be disproportionate share hospitals.

2. Approximately 14 general hospitals and state institutions. These hospitals have tentatively been identified as disproportionate share hospitals, and will therefore receive additional compensation for the services they provide to Medicaid/MediKan recipients.

(continued)

Other Methods

No other methods were considered. The Omnibus Budget Reconciliation Act specifies how disproportionate share hospitals will be determined along with the formula that will be used to calculate compensation due to these hospitals.

3. 30-5-100. Scope of dental services. This regulation is being amended to delete emergency dental services for adult medicaid recipients.

Economic Impact:

Cost

No economic impact.

Emergency dental service for adult Medicaid recipients are currently noncovered. There would be no economic effect to continue the noncoverage of these services.

Bearer of Cost

Not applicable.

Affected Parties

Not applicable, since these services are not covered currently.

Other Methods

No other methods were considered.

Article 6—Medical Assistance Program— Client's Eligibility for Participation

1. 30-6-41. Assistance planning. This regulation is being amended to provide a cross-reference to K.A.R. 30-6-77 for purposes of establishing the mandatory filing unit for the new program for poverty level pregnant women and young children. This change is as a result of specific appropriations made by the Kansas Legislature for pregnant women and for children under two years of age.

Economic Impact: See the economic impact statement for K.A.R. 30-6-77.

2. 30-6-53. Financial eligibility. This regulation is being amended to make sections (c) and (d) of this regulation not applicable in determining eligibility for poverty level pregnant women and young children. Persons with a spenddown are not eligible for the new program, and thus, no medical expenses can be deducted to lower the spenddown. This is a technical change to accommodate the new provisions of K.A.R. 30-6-77.

Economic Impact: See the economic impact statement for K.A.R. 30-6-77.

3. 30-6-58. Potential employment. This regulation is being amended to clarify that any persons who are exempted from the job search requirement for any reason other than full-time employment shall be exempt from this regulation. This is a technical change only.

Economic Impact: None.

4. 30-6-65. Automatic eligibles. This regulation is being amended to expand the automatic eligible provisions to include a KanWork participant and the participant's family who have lost eligibility for public assistance due to employment. Automatic eligibility for the medical assistance program shall not exceed 12 months immediately subsequent to the last month in which the family was eligible and legally entitled to receive public assistance. Eligibility shall be contingent upon an agency-approved plan in which the recipient has the responsibility to contribute to the payment of the costs for medical

coverage for a portion of the 12-month period. This change is being made to accommodate the provisions of H.B. 2644.

Economic Impact: See the economic impact statement for K.A.R. 30-4-63.

5. 30-6-74. Persons whose needs are to be considered with the needs of the ADC child. This regulation is being amended to provide that all children whose needs are met through an ADC foster care payment will be excluded from the mandatory filing unit. This change is being made to accommodate the change to K.A.R. 30-4-80.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987 which amended Section 402(a)(24) of Title IV-A of the Social Security Act.

Economic Impact: See the economic impact statement for K.A.R. 30-4-80.

6. 30-6-77. Poverty level pregnant women and young children determined eligibles. The secretary is promulgating a new regulation to establish medical eligibility for pregnant women and for children under two years of age. One hundred percent of the official federal nonfarm poverty level will be used as the protected income level for the number of persons in the plan and any other persons in the family whose income is being considered. To be eligible under this provision, the total applicable income cannot exceed the poverty level established for the base period. Ownership of excess nonexempt real or personal property will not result in ineligibility. A woman must be medically determined to be pregnant. Assistance under this provision will continue for two calendar months following the month in which the pregnancy terminates. A child must be under two years of age. Assistance under this provision will continue through the month in which the child turns age two or, if receiving inpatient services in the month in which the child turns age two, eligibility will continue through the calendar month in which that inpatient care ends. For cases involving a pregnant woman, the needs of the pregnant woman, the unborn child, and the father of the unborn child will be considered if living together. If the pregnant woman is a minor, the needs of her parents shall also be included if living together. For young children, the needs of the child and the child's parents will be considered if living together. Other children under the age of two may be included in the assistance plan if living in the home and if assistance is requested. This new regulation is a result of appropriations specifically designated by the Kansas Legislature for pregnant women and children under two years of age.

Economic Impact: S.B. 572 appropriated \$4,035,200 (\$1,815,840 state general funds) for expanding medical coverage for pregnant women and for children under two years of age.

7. 30-6-78. Medicaid (title XIX) determined eligibles—eligibility factors specific to aid to pregnant women (APW). This regulation is being amended to restrict eligibility under the APW program to women who do not qualify for medical assistance under the provisions of K.A.R. 30-6-77. This is a technical change to accommodate the new provisions of K.A.R. 30-6-77.

Economic Impact: See the economic impact statement for K.A.R. 30-6-77.

8. 30-6-103. Determined eligibles; protected income levels. This regulation is being amended by increasing the protected income levels for persons in independent living arrangements from \$460 to \$466 for two persons and from \$460 to \$480 for three persons. The protected income levels for four or more persons shall be the sum of the basic standard for a like public assistance family plus the maximum state shelter standard.

Federal Mandate: The above change is required by 43 CFR 435.811, 435.812, and 435.1007.

Economic Impact: As a result of the increases in the public assistance standards, it is necessary to increase the protected income levels for families of two or more persons. It is estimated that 3,285 cases per month will be affected by this change with an estimated decrease in spenddown of \$14 per person. Annualized, this results in increased expenditures of \$551,880 (\$248,346 state general funds).

This regulation is being further amended so that the protected income level for persons in institutional living arrangements be increased from \$25 to \$30. This change is being made to parallel the increase in SSI benefits for institutionalized persons as provided in Section 9119 of the Omnibus Budget Reconciliation Act of 1987.

Economic Impact: It is estimated that 12,473 persons per month who reside in institutional living arrangements will be affected by this change. The increase in the protected needs allowance will result in a decreased patient liability of \$5 per person per month. Annualized, it is estimated that this change will result in increased expenditures of \$748,380 (\$374,190 state general funds).

This regulation is being further amended to provide that the protected income level for pregnant women and for children under age two who qualify under the provisions of K.A.R. 30-6-77 equal 100 percent of the official federal nonfarm poverty level. This change is a result of appropriations specifically designated by the Kansas Legislature for pregnant women and children under two years of age.

Economic Impact: See the economic impact statement for K.A.R. 30-6-77.

9. 30-6-106. General rules for consideration of resources, including real property, personal property, and income. This regulation is being amended to provide that the income and resources of children who have been excluded from the assistance plan because their needs are met through foster care payments shall not be considered in determining eligibility for the remaining members of the assistance plan.

Federal Mandate: The above change is required by Section 9133 of the Omnibus Budget Reconciliation Act of 1987, which amended Section 402(a)(24) of Title IV-A of the Social Security Act.

Economic Impact: See the economic impact statement for K.A.R. 30-4-80.

10. 30-6-107. Property exemption. This regulation is being amended to provide that the ownership of excess nonexempt real and personal property will not result in ineligibility for pregnant women and children under two years of age who qualify for medical assistance under K.A.R. 30-6-77. This change is a result of appropriations

specifically designated by the Kansas Legislature for pregnant women and children under two years of age.

Economic Impact: See the economic impact statement for K.A.R. 30-6-77.

11. 30-6-113. Income except as applicable income. This regulation is being amended for SSI to exempt the amount of Social Security early widow or widower benefits under section 202(e) or (f) of the Social Security Act provided that the person: became ineligible for SSI because of the receipt of such benefits; would be currently eligible for SSI in the absence of such benefit; and is not entitled to hospital insurance benefits under Part A of Title XVIII of the Social Security Act.

Federal Mandate: The above change is required by Section 9116 of the Omnibus Budget Reconciliation Act of 1987.

Economic Impact: It is estimated that five persons per month will be affected by this change. These persons will now have a decrease in spenddown of about \$40 per month. Annualized, it is estimated that this change will result in increased expenditures of \$2,400 (\$1,080 state general funds).

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

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

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

WINSTON BARTON
Secretary of Social and
Rehabilitation Services

Doc. No. 006627

State of Kansas

OFFICE OF JUDICIAL ADMINISTRATION

SUPREME COURT DOCKET

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

Tuesday, May 31, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,444	State of Kansas, Appellee, v. Frederick C. Parrott, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney Benjamin C. Wood	Sedgwick
60,952	State of Kansas, Appellee, v. Gregory A. Chism, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney Jack Focht	Sedgwick
60,770	State of Kansas, Appellee, v. Carl J. Wenzel, Appellant.	Robert T. Stephan, Attorney General Debra Barnett, Assistant District Attorney Charles A. O'Hara	Sedgwick
61,423	In the Matter of the Estate of Frank and Lotus Huxtable, Living Trust.	Dale H. Cooper Royce E. Wallace Robert I. Guenther Robert M. Collins Mary Ruth Byerley John W. Sumi	Sedgwick

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,454	Rachelle Childs, a minor, by and through Buelah M. Harvey, her mother and next friend, Appellant, v. Kristine Williams, Appellee.	Michael R. McIntosh David M. Druten	Wyandotte
61,170	J. W. Thompson, Appellee, v. Welles Products Corporation, <i>et al.</i> , Appellants.	William P. Tretbar Robert L. Howard Wyatt A. Hoch	Sedgwick
60,076	Angela Denio, Appellee, v. Orkin Exterminating Company, Inc., Appellant.	Michael L. Hodges Angela Denio, <i>pro se</i> Wade A. Dorothy	Johnson On Petition for Review
61,708	In the Matter of the Application of U.S.D. No. 437 and 501 for Relief From a Tax Grievance in Shawnee County, Kansas.	Anne L. Baker Douglas Martin William E. Enright	Shawnee

Wednesday, June 1, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,959	State of Kansas, Appellant, v. Jon A. Weaver, Appellee.	Robert T. Stephan, Attorney General Bruce W. Beye, Assistant District Attorney Robert L. Morse	Johnson
61,509	State of Kansas, Appellant, v. Victoria L. Knabe, <i>et al.</i> , Appellees.	Robert T. Stephan, Attorney General Steven J. Obermeier, Assistant District Attorney William Coffee	Johnson
61,430	Gary Brillhart, <i>et al.</i> , Appellants, v. Steven Scheier, <i>et al.</i> , Appellees.	Stanley R. Juhnke Scott J. Mann Herbert R. Hess Nicholas Daily Arthur Chalmers	Greenwood
58,152	Jerry Wayne Smith, <i>et al.</i> , Appellees, v. Gary Rayl, <i>et al.</i> , Appellants.	Jerry Wayne Smith, <i>pro se</i> James Bagby, <i>pro se</i> Wiley Miles, <i>pro se</i> James Mitchell, <i>pro se</i> Charles E. Simmons	Leavenworth

1:30 p.m.

Case No.	Case Name	Attorneys	County
60,020	State of Kansas, Appellant, v. Leland Dickens and Lois D. Roberts, Appellees.	Robert T. Stephan, Attorney General Joseph E. Cosgrove, Jr. Carl E. Cornwell William Grimshaw	Johnson
60,359	City of Arkansas City, Kansas, <i>et al.</i> , Appellants, v. A. Scott Anderson and E. Sylvia Anderson, <i>et al.</i> , Appellees.	Kenneth C. Jones Paul Hasty, Jr. Roy S. Bennett	Johnson On Petition for Review
61,158	Elaine Sullivan, Appellee, v. Clasen-Morse Chevrolet, Inc., Appellant.	Robert V. Wells Michael P. Oliver	Johnson
61,704	Kansas Turnpike Authority, <i>et al.</i> , Appellees, v. Henry P. Wheeler, <i>et al.</i> , Appellants.	Dan Biles Lawrence C. Gates Robert C. Foulston Deanne Watts Hay Christopher Crowley Robert J. Campbell Leland H. Corley	Shawnee

(continued)

Thursday, June 2, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,581	City of Elkhart, Appellant, v. Lanning Bollacker, Appellee.	William J. Graybill John D. Osborn	Morton
59,942	State of Kansas, Appellee, v. Kevin Semisch, Appellant.	Joe Shepack Leonard Fisk Watkins, Jr. Jean Oliver Moore	Meade
61,491	State of Kansas, Appellant, v. Kassandra L. Coates, Appellee.	Robert T. Stephan, Attorney General Jay C. Hinkel, County Attorney Robert Levy	Finney
61,686	Elizabeth A. Mariche, Appellee, v. Pedro R. Mariche, Appellant, and Credit Union of Dodge City, Appellee.	Ben Lightfoot Kenneth S. Johnson	Ford

1:30 p.m.

Case No.	Case Name	Attorneys	County
61,663	Marion McCullough, <i>et al.</i> , Appellants, v. Ralph L. Lukens, Appellee.	Ronald D. Albright John M. Gaffney Gordon Penny	Barber
61,067	State of Kansas, Appellee, v. Kenneth Rasch, Appellant.	Robert T. Stephan, Attorney General Ty Kaufman, County Attorney Benjamin C. Wood	McPherson
61,925	State of Kansas, Appellant, v. Dan Winkel, Appellee.	Robert T. Stephan, Attorney General Jerry L. Harrison Lee R. Barnett C. Richard Comfort	Mitchell
60,995	State of Kansas, Appellee, v. Susan Diane Vanderlinden, Appellant.	Robert T. Stephan, Attorney General Edwin VanPetten Daniel D. Creitz	Cherokee

Friday, June 3, 1988

9:30 a.m.

Case No.	Case Name	Attorneys	County
61,839	State of Kansas, <i>ex rel.</i> , Robert T. Stephan, <i>et al.</i> , Petitioners, v. The Honorable Paul W. Clark, <i>et al.</i> , Respondents.	Robert T. Stephan, Attorney General John W. Campbell, Deputy Attorney General Timothy G. Madden, Special Assistant Attorney General Paul W. Clark Henry H. Blase Kiehl Rathbun C. Warren Eisenbise Stuart W. Gribble	Original
61,250	In the Matter of Dennis Dene Barritt, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Dennis Dene Barritt, <i>pro se</i>	Original
62,131	In the Matter of Bradley J. Smoot, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Bradley J. Smoot, <i>pro se</i> Jack Focht Thomas Haney	Original
62,094	In the Matter of Robert E. Diehl, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Robert E. Diehl, <i>pro se</i> Mark F. Anderson	Original
62,112	In the Matter of Donald H. Diggs, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Donald H. Diggs, <i>pro se</i>	Original
61,998	In the Matter of Hartzell J. Whyte, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Hartzell J. Whyte, <i>pro se</i>	Original
62,095	In the Matter of Harry D. Smith, Respondent.	Bruce E. Miller, Disciplinary Administrator Stanton Hazlett, Disciplinary Counsel Harry D. Smith, <i>pro se</i>	Original

LEWIS C. CARTER
Clerk of the Appellate Courts

Doc. No. 006609

(Published in the *Kansas Register*, May 26, 1988.)

NOTICE OF REDEMPTION
Labette County, Kansas
Single Family Mortgage Revenue Bonds
1980 Series A

Notice is hereby given that, pursuant to Section 3.01 of the Trust Indenture dated as of January 1, 1980, \$1,020,000 principal amount of the bonds are called for redemption July 1, 1988, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date. This notice was first published on Thursday, May 26, 1988, in *The Bond Buyer* and the *Kansas Register*.

The serial numbers of the bearer bonds to be redeemed are as follows:

(NOTE: Coupons due July 1, 1988, should be presented in the normal manner. Coupons due January 1, 1989, and all subsequent coupons must be attached to bonds called for redemption.)

Due January 1, 1989: 407, 417, 436
 CUSIP 505395-AJ

Due January 1, 1990: 485, 511, 533
 CUSIP 505395-AK

Due January 1, 1991: 573, 605, 640
 CUSIP 505395-AL

Due January 1, 1992: 652, 655, 676, 729
 CUSIP 505395-AM

Due January 1, 1993: 766, 783, 816, 849
 CUSIP 505395-AN

Due January 1, 1994: 861, 867, 944, 950
 CUSIP 505395-AP

Due January 1, 1995: 1011, 1031, 1056, 1089, 1115
 CUSIP 505395-AQ

Due January 1, 1996: 1184, 1185, 1186, 1256, 1258
 CUSIP 505395-AR

Due January 1, 1997: 1321, 1327, 1340, 1391, 1400, 1410
 CUSIP 505395-AS

Due January 1, 1998: 1458, 1469, 1498, 1502, 1541, 1603
 CUSIP 505395-AT

Due January 1, 1999: 1631, 1637, 1685, 1723, 1727, 1741,
 CUSIP 505395-AU 1778

Due January 1, 2000: 1817, 1824, 1835, 1922, 1927, 1943,
 CUSIP 505395-AV 1957

Due January 1, 2011 (CUSIP 505395-AW)

2040	2782	3570	4294	5020	5751
2102	2786	3605	4311	5027	5775
2106	2842	3637	4331	5054	5794
2129	2890	3644	4366	5076	5818
2136	2898	3651	4376	5123	5852
2179	2910	3683	4378	5135	5862
2189	2977	3690	4403	5165	5917
2252	2982	3700	4429	5173	5935
2259	2986	3707	4443	5258	5967
2287	3008	3730	4445	5275	6031
2326	3023	3763	4618	5309	6048
2336	3068	3801	4619	5341	6056
2353	3089	3915	4639	5366	6071

2410	3158	3920	4647	5373	6119
2433	3196	3973	4678	5392	6139
2441	3224	3983	4680	5448	6153
2474	3259	3995	4730	5465	6162
2489	3299	3998	4764	5492	6192
2550	3315	4030	4766	5493	6258
2555	3325	4031	4768	5530	6265
2634	3348	4056	4794	5567	
2641	3372	4088	4938	5616	
2658	3422	4119	4944	5625	
2700	3460	4286	4960	5696	
2733	3520	4288	5001	5745	

The serial numbers of the registered bonds to be partially or fully redeemed in the amounts described below are as follows:

Due January 1, 2000:

CUSIP 505395-AV

Registered Bond Number	Amount Called
R179	5,000

Due January 1, 2011:

CUSIP 505395-AW

Registered Bond Number	Amount Called
R165	5,000

Payment of the redemption price of the bearer bonds and registered bonds to be redeemed will be made at Security Bank of Kansas City, One Security Plaza, Kansas City, KS 66117. To avoid a 20 percent backup withholding required by the Interest and Dividend Tax Act of 1983, bondholders should submit certified taxpayer identification numbers when presenting their securities for collection.

Notice is hereby given that on and after July 1, 1988, interest on the bonds hereby called for redemption shall cease to accrue.

Security Bank of Kansas City
 Kansas City, Kansas, Trustee

Doc. No. 006632

(Published in the *Kansas Register*, May 26, 1988.)

NOTICE OF BOND SALE
\$1,500,000
General Obligation Hospital Bonds
Series 1988
of the
County of Smith, State of Kansas
(general obligation bonds payable
from unlimited ad valorem taxes)

Sealed Bids

Sealed bids will be received by the undersigned, county clerk of Smith County, Kansas, on behalf of the Board of County Commissioners at the County Courthouse, 218 S. Grant, Smith Center, KS 66967, until 10 a.m. C.D.T. on Monday, June 6, 1988, for the purchase of \$1,500,000 principal amount of general obligation hospital bonds, Series 1988, of the county hereinafter described. All bids will be publicly opened and read at said time and place and will be acted upon by the Board of County Commissioners immediately thereafter. No oral or auction bids will be considered.

Bond Details

The bonds shall consist of fully registered bonds in the

denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 1988, and shall become due serially on December 1 in the years as follows:

Year	Principal Amount
1989	\$ 60,000
1990	120,000
1991	130,000
1992	140,000
1993	150,000
1994	160,000
1995	170,000
1996	180,000
1997	190,000
1998	200,000

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 the bonds shall be payable in lawful money of the United States of America at the principal office of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar), 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 check or draft of the paying agent 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 county and the Kansas Attorney General.

The county 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 1996, inclusive, shall become due without option of prior payment. Bonds maturing in the years 1997 and 1998 may be called for redemption and payment prior to maturity, at the option of the county, on December 1, 1996, or on any interest payment date thereafter in inverse order of maturity, and by lot in multiples of \$5,000 principal amounts within a single maturity, at the principal amount thereof, plus accrued interest thereon to the redemption date, without premium. In the event that the county shall elect to redeem and pay any of the bonds prior to maturity pursuant to this section, the county, or the bond registrar acting on behalf of the county, shall give written notice of its intention to redeem and pay the bonds on a specified date, the same being described by number, principal amount and maturity, said notice to be given by United States certified mail addressed to the paying agent, to the original purchaser of the bond, and to the registered owner of each bond, each of said notices to be mailed at least 30 days prior to the redemption date. The county

shall also publish once in the official newspaper of the state of Kansas a notice of its intention to call and pay the bonds on a specified date, the same being described by number, principal amount and maturity, said notice to be published not less than 30 days prior to the date affixed for redemption. Whenever any bond is called for redemption and payment as provided in this section, all interest on such bonds shall cease from and after the date for which 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. 19-4606, as amended, for the purpose of paying the cost of constructing, equipping and erecting an addition to the existing Smith County Memorial Hospital and for the improvement of the existing hospital. The bonds and the interest thereon will constitute general obligations of the county, 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 county.

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 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 county, 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 county on the basis of such bid—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 also specify the average annual net interest rate to the county on the basis of such bid.

As a condition of the bid, it is understood that at least one week prior to the delivery of the bonds the original purchaser shall furnish to the county the reoffering prices to the public. A certificate stating that a substantial amount of the bonds 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 executed by the original purchaser and furnished to the county at the time of closing.

Bid Form and Good Faith Deposit

All bids must be made on forms which may be procured from the county clerk or the financial adviser. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. Each bid shall be accompanied by a cashier's or certified check drawn

(continued)

on a bank located in the United States of America in the amount of \$30,000 (2 percent of the principal amount of the bonds) payable to the order of the county to secure the county 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 county until the bidder has complied with all of the terms and conditions of this notice. If a bid is accepted but the county 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 forfeited to the county. 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 county, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the county. 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 Board of County Commissioners will determine which bid, if any, will be accepted, and its determination is final. The county reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 10 a.m. on the date of sale will be returned to the bidder unopened.

Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned county clerk and marked "Bond Bid." Bids may be submitted by mail or delivered in person to the undersigned at the County Courthouse and must be received by the undersigned prior to 10 a.m. C.D.T. on Monday, June 6, 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 county.

Delivery and Payment

The county will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about July 21, 1988, at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by 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. Payment for the bonds must be made in Federal Reserve funds, immediately subject to use by the county.

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

Official Statement

The county has prepared a preliminary official statement dated May 16, 1988, copies of which may be obtained from the county clerk or from the financial adviser. Upon the sale of the bonds, the county will furnish the successful bidder with a reasonable number of copies of the final official statement 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 county, for the year 1987, is as follows:

Equalized assessed valuation of taxable, tangible property	\$28,473,923
Tangible valuation of motor vehicles	\$ 3,548,443
Equalized assessed tangible valuation for computation of bonded debt limitations	<u>\$32,022,366</u>

The total general obligation indebtedness of the county as of January 1, 1988, including the bonds being sold, is \$1,725,000. Temporary notes in the principal amount of \$82,000 will be retired out of proceeds of the bonds and other available funds.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Cosgrove, Webb & Oman, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the county, 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 county with the provisions contained in the bond resolution, the interest on the bonds is, under existing law: (a) excludable from gross income for federal income tax purposes, and (b) not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided that for the purpose of computing alternative minimum tax imposed on corporations, bond interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years ending after December 31, 1989). The opinion set forth in clause (a) above is subject to the compliance by the county with all requirements of the Internal Revenue Code of 1986, as amended, which 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 those requirements could cause the interest on the bonds to be included in federal gross income retroactive

to the date of issuance of the bonds. The county has covenanted to comply with all such requirements.

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

A form of bond counsel's opinion with respect to the bonds is contained in the official statement of the county; no further opinion concerning the tax consequences, other than the above, is given.

The county has declared the bonds to be "qualified tax-exempt obligations" within the meaning of Section 265 of the code, which provides in effect that a deduction is allowed for 80 percent of that portion of interest expense allocable to interest on the bonds held by certain financial institutions designated in the section.

Related Federal Tax Matters

Prospective bond purchasers are advised that: (a) except as stated above, Section 265 of the code denies a deduction for interest on indebtedness incurred or continued to purchase or hold the bonds; (b) with respect to insurance companies subject to the tax imposed by Section 831 of the code, Section 832 of the code reduces the deduction for loss reserves by a percentage of the sum of certain items which include interest on the bonds; (c) for taxable years beginning before January 1, 1992, interest on the bonds earned by some corporations might be subject to the environmental tax imposed by Section 59A of the code; (d) interest on the bonds earned by certain foreign corporations doing business in the United States could be subject to the tax imposed by Section 884 of the code; (e) 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 if greater than 25 percent of the gross receipts of the Subchapter S corporation is passive investment income; and (f) Section 86 of the code requires recipients of certain Social Security and railroad retirement benefits to take receipts or accruals of interest on the bonds into account in determining gross income. Bondholders should consult their tax advisers with respect to the above.

Additional Information

Additional information regarding the bonds may be obtained from the county clerk or from the financial adviser, BANK IV Wichita, N.A., Investments Group, P.O. Box 4, Wichita, KS 67201, (316) 261-4516.

Dated May 16, 1988.

SMITH COUNTY, KANSAS
Terry Kugler, County Clerk
Smith County Courthouse
218 S. Grant
Smith Center, KS 66967
(913) 282-6533

Doc. No. 006605

(Published in the *Kansas Register*, May 26, 1988.)

NOTICE OF BOND SALE
\$200,000

City of Lucas, Kansas
General Obligation Bonds
Series 1988

(Water Distribution Improvements)

Sealed Bids

Sealed bids for the purchase of \$200,000 principal amount of the general obligation bonds, Series 1988 (water distribution improvements), of the city hereinafter described, will be received by the undersigned, city clerk of the city of Lucas, Kansas, on behalf on the governing body of the city at City Hall, Main Street, Lucas, until 7:30 p.m. C.D.T. on Wednesday, June 8, 1988. All bids will be publicly opened and read at said time and place and will be acted upon by the city immediately thereafter. No oral or auction bids will be considered.

Bond Details

The bonds will consist of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated July 1, 1988, and will become due serially on September 1 in the years as follows:

Year	Principal Amount	Year	Principal Amount
1989	\$ 5,000	1999	\$10,000
1990	5,000	2000	10,000
1991	5,000	2001	10,000
1992	5,000	2002	10,000
1993	5,000	2003	15,000
1994	5,000	2004	15,000
1995	5,000	2005	15,000
1996	5,000	2006	15,000
1997	10,000	2007	20,000
1998	10,000	2008	20,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 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). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of the paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons in whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

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

(continued)

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 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 permanently finance water supply improvements to the city. The bonds will be general obligations of the city payable as to both principal and interest from ad valorem taxes which may be levied without limitation upon all the taxable tangible property, real and personal, within the territorial limits of the city.

Tax Exemption

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

On May 3, 1988, the Kansas Legislature adopted Senate Substitute for House Bill No. 2543. The bill, as signed into law by the Governor of the State of Kansas, will become effective July 1, 1988, upon publication in the statute book. Section 4 of the bill provides that interest on obligations of the state of Kansas or its political subdivisions issued after December 31, 1987, shall be excluded from computation of Kansas adjusted gross income. When the bill becomes law, interest on the bonds will be excluded from computation of Kansas adjusted gross income for taxable years commencing after December 31, 1987.

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. As indicated under the immediately preceding section hereof entitled "Tax Exemption," when the Senate Substitute for House Bill

No. 2543 becomes law, interest on the bonds will be excluded from the computation of Kansas adjusted income.

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 July 15, 1988, at such bank or trust company in the state of Kansas or the greater metropolitan Kansas City area as may be specified by the successful bidder. Delivery elsewhere will be at the expense of the successful bidder. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the bonds shall be made in Federal Reserve funds, immediately subject to use by the city. The denominations of the bonds and the names, addresses and Social Security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the city and bond registrar not later than 4 p.m. C.D.T. on July 8, 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 4 p.m. C.D.T. on July 8, 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 \$4,000, payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of 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 bid is accepted but the city shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be retained by the city as and for liquidated damages.

CUSIP Numbers

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

Bid Forms

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

Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk and marked "Proposal for the Purchase of General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the City Hall and must be received by the undersigned prior to 7:30 p.m. C.D.T. on Wednesday, June 8, 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, The Columbian Securities Corporation, 700 Rule Building, 321 E. William, Wichita, KS 67202, (316) 262-0421. 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 \$827,095. The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds, is \$207,150.

Dated May 18, 1988.

City of Lucas, Kansas
Joleen Kaufman
City Clerk
City Hall
Main Street
Lucas, KS 67648
(913) 525-6425

Doc. No. 006621

(Published in the *Kansas Register*, May 26, 1988.)

NOTICE OF BOND SALE
\$225,000
General Obligation Improvement Bonds
Series 1988
Unified School District 421
Osage County, Kansas
 (general obligation bonds payable from
 unlimited ad valorem taxes)

The Bids

Sealed bids will be received by the Board of Education of Unified School District 421, Osage County, Kansas, at the district office, 412 E. 6th, P.O. Box X, Lyndon, KS 66451, until 8 p.m. C.D.T. on Monday, June 13, 1988, for the purchase of \$225,000 principal amount of general obligation improvement bonds, Series 1988, of the district. All bids will be publicly opened and read at said time and place and will be acted upon by the Board of Education of the district immediately thereafter. No other bids will be considered.

Bond Details

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

Maturity Date	Principal Amount
December 1:	
1989	\$30,000
1990	35,000
1991	35,000
1992	40,000
1993	40,000
1994	45,000

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 semi-annually on June 1 and December 1 in each year, beginning on June 1, 1989. 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, Topeka, Kansas (the paying agent and bond registrar), 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 check or draft of the paying agent 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.

Costs

The county 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.

Authority

The bonds are being issued pursuant to K.S.A. 72-6761

and 10-101 *et seq.*, as amended, for the purpose of paying a portion of the costs of constructing, equipping and furnishing an addition to the existing elementary school facility in Lyndon, Kansas. 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

Bids for the bonds will specify such rate or rates of interest at which the bidder proposes to purchase the bonds, 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 and the lowest rate specified cannot exceed 2 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. 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.

All bids must be made on forms which may be procured from the secretary of the board. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid. 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 \$4,500 (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. 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 shall be forfeited to the district. No interest will be paid upon the successful bidder's good faith check.

Bids must be submitted in sealed envelopes addressed to the undersigned secretary of the board and marked "Bond Bid." Bids may be submitted by mail or delivered in person to the undersigned at the district office.

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 board 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 8 p.m. on the date of sale will be returned to the bidder unopened.

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 July 8, 1988, at a location in the state of Kansas or Kansas City, Missouri, to be specified by 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. Payment for the bonds must be made in funds immediately subject to use by the district.

As a condition of the bid, at least one week prior to the delivery of the bonds, the successful bidder shall furnish to the district the reoffering prices to the public and a certificate stating that a substantial amount of the bonds 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 and must be executed by the successful bidder and furnished to the district at the time of closing.

The number and denominations of the bonds and the names, addresses and Social Security or taxpayer identification numbers of the initial registered owners must be submitted in writing by the successful bidder to the bond registrar at least two weeks prior to the date of delivery. 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.

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	\$7,262,025
Tangible valuation of motor vehicles	\$1,663,744
Equalized assessed tangible valuation for computation of bonded debt limitations	\$8,925,769

The district has no present general obligation indebtedness.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Cosgrove, Webb & Oman, Topeka, 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.

The opinion will state that, assuming continuing compliance by the district with the provisions contained in the bond resolution, the interest on the bonds is, under existing law: (a) excludable from gross income for federal income tax purposes, and (b) not an item of tax preference for purposes of the federal alternative minimum tax im-

posed on individuals and corporations, provided that for the purpose of computing alternative minimum tax imposed on corporations, bond interest is taken into account in determining adjusted net book income (adjusted current earnings for taxable years ending after December 31, 1989). The opinion set forth in clause (a) above is subject to the compliance by the district with all requirements of the Internal Revenue Code of 1986, as amended, which 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 those requirements could cause the interest on the bonds to be 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 opinion will state that the bonds are exempt from intangible personal property taxes levied by Kansas counties, cities and townships. No further opinion concerning the tax consequences, other than the above, is or will be given.

The district has declared the bonds to be "qualified tax-exempt obligations" within the meaning of Section 265 of the code, which provides in effect that a deduction is allowed for 80 percent of that portion of interest expense allocable to interest on the bonds held by certain financial institutions designated in that section.

Related Federal Tax Matters

Prospective bond purchasers are advised that: (a) except as stated above, Section 265 of the code denies a deduction for interest on indebtedness incurred or continued to purchase or hold the bonds; (b) with respect to insurance companies subject to the tax imposed by Section 831 of the code, Section 832 of the code reduces the deduction for loss reserves by a percentage of the sum of certain items which include interest on the bonds; (c) for taxable years beginning before January 1, 1992, interest on the bonds earned by some corporations might be subject to the environmental tax imposed by Section 59A of the code; (d) interest on the bonds earned by certain foreign corporations doing business in the United States could be subject to the tax imposed by Section 884 of the code; (e) 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 if greater than 25 percent of the gross receipts of the Subchapter S corporation is passive investment income; and (f) Section 86 of the code requires recipients of certain Social Security and railroad retirement benefits to take receipts or accruals of interest on the bonds into account in determining gross income. Bondholders should consult their tax advisers with respect to the above.

Inquiries

Inquiries regarding the bonds should be directed to the secretary of the district, (913) 828-4413.

Dated May 26, 1988.

Unified School District 421
Osage County, Kansas
By Donnalee Mounkes
Secretary of the Board

Doc. No. 006608

State of Kansas

**BOARD OF INDIGENTS'
DEFENSE SERVICES****NOTICE OF HEARING
ON PROPOSED
ADMINISTRATIVE REGULATIONS**

The State Board of Indigents' Defense Services will conduct a public hearing at 1 p.m. Friday, June 10, in Room 106, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed amendments to the permanent rules and regulations of the agency.

These amendments will take effect July 1, 1988, as temporary rules and become permanent rules on May 1, 1989. The rules will be amended to comply with recent legislative action on the regional public defender system. The following summarizes the proposed changes:

K.A.R. 105-2-1 includes definitions for regional public defender, assigned and appointed counsel.

K.A.R. 105-3-1 creates volunteer panels.

K.A.R. 105-3-2 changes eligibility requirements for attorneys serving on voluntary panels.

K.A.R. 105-3-5 defines specific reasons for removal of attorneys from panels, procedures for removal and reinstatement.

K.A.R. 105-5-2 is changed to allow a rate of \$50 per hour for attorney compensation.

K.A.R. 105-5-6, 105-5-7 and 105-5-8 are changed to replace case maximums for nontried cases, tried cases and exceptional cases respectively, substituting amounts representing reasonable compensation.

K.A.R. 105-6-1 and 105-6-2 regarding expenses are changed to reflect the change from case maximums to reasonable compensation and the addition of the new definition of assigned attorneys.

K.A.R. 105-7-1 is changed by adding a provision whereby regional public defenders and their assigned counsel are excluded from the requirement of obtaining orders for expert services.

K.A.R. 105-9-4 regarding proration of claims is revoked.

K.A.R. 105-10-1 defines specific regions of the state to be served by regional public defender offices.

The fiscal impact of these changes is estimated at \$2.2 million.

All interested parties may submit written comments prior to the hearing to Ronald E. Miles, Director, State Board of Indigents' Defense Services, 900 S.W. Jackson, Room 506, Topeka 66612. All interested parties will be given a reasonable opportunity at the hearing to present their views, orally, in regard to the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request each participant to limit oral presentations to five minutes.

Following the hearing, all written and oral comments submitted by interested parties will be considered by the board as the basis for making changes to these regulations.

RONALD E. MILES
Director

Doc. No. 006606

State of Kansas

DEPARTMENT OF CORRECTIONS**NOTICE OF COMMENCEMENT
OF NEGOTIATIONS
FOR ARCHITECTURAL SERVICES**

Notice is hereby given of the commencement of negotiations for architectural services for the Hutchinson Correctional Work Facility, Hutchinson.

Questions or expressions of interest should be directed to Capital Improvements Projects Manager, Department of Corrections, 900 S.W. Jackson, Topeka 66603, (913) 296-3317, prior to June 10.

ROGER V. ENDELL
Secretary of Corrections

Doc. No. 006635

(Published in the *Kansas Register*, May 26, 1988.)

HOUSE BILL No. 3096

AN ACT concerning the indigents' defense services act; disposition of certain moneys; amending K.S.A. 1987 Supp. 22-4526 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 22-4526 is hereby amended to read as follows: 22-4526. All moneys received by the state board of indigents' defense services under contracts entered into with one or more cities or counties under subsection (f) of K.S.A. 1982 Supp. 22-4523 and amendments thereto shall be remitted by the board 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 to the credit of the state general fund indigents defense services fund.

Sec. 2. K.S.A. 1987 Supp. 22-4526 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 31, 1988.

HOUSE concurred in SENATE amendments April 30, 1988.

JAMES D. BRADEN
Speaker of the House.

GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 30, 1988.

ROBERT V. TALKINGTON
President of the Senate.

LU KENNEY
Secretary of the Senate.

APPROVED May 17, 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 17th day of May, 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, May 26, 1988.)

SENATE BILL No. 720

AN ACT relating to cigarette taxation; concerning unlawful acts relating thereto; amending K.S.A. 79-3321 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section. 1. K.S.A. 79-3321 is hereby amended to read as follows: 79-3321. It shall be unlawful for any person: (a) To possess, except as otherwise specifically provided by this act, more than ~~two hundred (200)~~ 200 cigarettes without the required tax indicia being affixed as herein provided.

(b) To mutilate or attach to any individual package of cigarettes any stamp that has in any manner been mutilated or that has been heretofore attached to a different individual package of cigarettes or to have in possession any stamps so mutilated.

(c) To prevent the director or any officer or agent authorized by law, to make a full inspection for the purpose of this act, of any place of business and all premises connected thereto where cigarettes are or may be manufactured, sold, distributed, or given away.

(d) To use any artful device or deceptive practice to conceal any violation of this act or to mislead the ~~said~~ director or officer or agent authorized by law in the enforcement of this act.

(e) Who is a dealer to fail to produce on demand of the ~~said~~ director or any officer or agent authorized by law any records or invoices required to be kept by ~~said~~ such person.

(f) Knowingly to make, use, or present to ~~said~~ the director or agent thereof any falsified invoice or falsely state the nature or quantity of the goods therein invoiced.

(g) Who is a dealer to fail or refuse to keep and preserve for the time and in the manner required herein all the records required by this act to be kept and preserved.

(h) To wholesale cigarettes to any person, other than a ~~duly licensed~~ manufacturer's salesman, retail dealer or wholesaler, who is:

(1) *Duly licensed by the state where such manufacturer's salesperson, retail dealer or wholesaler is located, or*

(2) *exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United State bureau of Indian affairs.*

(i) To have in ~~his or her~~ possession any evidence of tax indicia provided for herein not purchased from the director.

(j) To fail or refuse to permit the director or any officer or agent authorized by law to inspect a carrier transporting cigarettes.

(k) To vend small cigars, or any products so wrapped as to be confused with cigarettes, from a machine vending cigarettes, nor shall a vending machine be so built to vend cigars or products that may be confused with cigarettes, be attached to a cigarette vending machine.

(l) To sell cigarettes to any person under ~~eighteen (18)~~ 18 years of age.

(m) For any person under ~~eighteen (18)~~ 18 years of age to purchase cigarettes.

(n) To sell cigarettes to a retailer or at retail that do not bear Kansas tax indicia or upon which the Kansas cigarette tax has not been paid.

(o) To sell cigarettes without having a license for such sale as provided herein.

(p) To sell cigarette vending machines without having a license as provided herein for sale of vending machines.

Sec. 2. K.S.A. 79-3321 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 April 9, 1988.

SENATE concurred in HOUSE amendments April 30, 1988.

ROBERT V. TALKINGTON
President of the Senate.

LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 29, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED May 17, 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 17th day of May, A.D. 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, May 26, 1988.)

SENATE BILL No. 478

AN ACT relating to rules and regulations; concerning the filing thereof; providing for the transfer of certain rules and regulation files; amending K.S.A. 2-2606, 16a-6-405, 16a-6-406, 32-185, 32-507, 34-101d, 40-2308, 44-573, 45-404, 46-224, 46-1211, 46-1501, 47-1215, 65-1630, 65-1825, 65-2703, 65-2865, 72-7514b, 74-3214, 74-4909, 75-430, 75-431, 75-3504, 76-168, 76-1927, 77-416, 77-417, 77-418, 77-419, 77-423, 77-424, 77-428, 77-430a, 77-432a, 77-435, 77-436, 79-3297a, 79-3385, 82a-816, 82a-923 and 83-147 and K.S.A. 1987 Supp. 74-8710, 77-420, 77-421, 77-422, 77-425 and 77-426 and repealing K.S.A. 77-436, as amended by section 1 of 1988 House Bill No. 2705, and the existing sections; also repealing K.S.A. 1987 Supp. 77-439.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The secretary of state shall file and publish all rules and regulations as provided by article 4 of chapter 77 of the *Kansas Statutes Annotated*.

New Sec. 2. (a) All rules and regulations of state agencies which are in force and effect at the time this act takes effect shall continue to be effective and shall be deemed to be duly filed with the secretary of state as provided for by this act until revised, amended, revoked or nullified pursuant to law.

(b) All temporary rules and regulations filed prior to the effective date of this act and which are in effect on the effective date of this act shall expire on October 1, 1988.

(c) On the effective date of this act, all rules and regulations of state agencies lawfully filed with the office of the revisor of statutes prior to the effective date of this act and all records pertaining to such rules and regulations shall be transferred to the office of the secretary of state.

Sec. 3. K.S.A. 2-2606 is hereby amended to read as follows: 2-2606. In the administration of this act the commission shall have the following duties, authorities and powers:

(1) To conduct a campaign of development, education and publicity;

(2) to find new markets for wheat and wheat products;

(3) to accept grants and donations;

(4) to sue and be sued;

(5) to enter into such contracts as may be necessary or advisable for the purpose of this act;

(6) to appoint an administrator and an assistant administrator and fix their compensation and the ~~said~~ administrator and assistant administrator shall be in the unclassified service of the *Kansas civil service act*. With the approval of the commission, ~~said~~ the administrator may appoint such other personnel as is needed and such employees shall be in the classified service of the *Kansas civil service act*. Other than ~~said~~ the administrator and the assistant of the administrator, all employees of the commission at the time this act takes effect shall from such effective date be in the classified service under the *Kansas civil service act* and each such employee shall attain permanent status

(continued)

in a classified position without examination and without a probationary period; and. The time served by each of them employee with a state agency prior to July 1, 1965, shall be credited in determining longevity and longevity benefits under the Kansas civil service act; and. Each such employee shall be entitled to annual sick leave accumulated prior to July 1, 1965. *Provided, except that* the personnel whose positions are by this act placed for the first time within the classified service of the Kansas civil service shall suffer no reduction in classification or pay thereby, but in particular each one shall be paid on a step within the authorized salary range of the approved class of positions that either coincides with or is the next step above the payroll monthly gross amount of pay that would be payable had this statute not been enacted;

(7) to cooperate with any local, state or national organization or agency, whether voluntary or created by the law of any state, or by national law, engaged in work or activities similar to the work and activities of the commission, and to enter into contracts and agreements with such organizations or agencies for carrying on a joint campaign of development, education and publicity;

(8) to expend funds held in the revolving fund previously authorized under the provisions of this subsection for payment to the great plains wheat market development association, inc., pursuant to contracts with such association for purposes authorized by the Kansas wheat act;

(9) to establish an office of the administrator at any place in this state the commission may select;

(10) to prosecute in the name of the state of Kansas any suit or action for the collection of the tax or assessment herein provided; and

(11) to adopt, rescind, modify and amend all necessary and proper orders, resolutions and regulations for the procedure and exercise of its powers and the performance of its duties, and all rules and regulations shall be filed in the office of the ~~revisor of statutes~~ *secretary of state* as provided in article 4 of chapter 77 of the Kansas Statutes Annotated.

Sec. 4. K.S.A. 16a-6-405 is hereby amended to read as follows: 16a-6-405. (1) Every rule and regulation or amendment or revocation thereof shall be filed by the administrator in the office of the ~~revisor of statutes~~ *secretary of state* in the manner provided by article 4 of chapter 77 of the Kansas Statutes Annotated and amendments thereto.

(2) Each rule and regulation or amendment or revocation thereof shall take effect at times prescribed under the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated and amendments thereto.

Sec. 5. K.S.A. 16a-6-406 is hereby amended to read as follows: 16a-6-406. The ~~revisor of statutes~~ *secretary of state* shall publish all rules and regulations filed under the provisions of this act subject to and in the manner provided for the publication of rules and regulations under the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated and amendments thereto.

Sec. 6. K.S.A. 32-185 is hereby amended to read as follows: 32-185. The ~~forestry, fish and game~~ *commission secretary of the Kansas department of wildlife and parks* is hereby authorized to make and adopt rules and regulations establishing and designating:

(a) Certain portions of the Missouri river bordering on the state of Kansas and certain streams, lakes, impoundments, or parts thereof, in the state of Kansas, to be open to commercial fishing for such period of time as the ~~commission~~ *secretary* may specify;

(b) certain methods and equipment to be legal for the taking of fish for commercial purposes, and require daily inspection;

(c) the size and specifications relative to seines, nets, traps, and other commercial fishing equipment, and prescribing method of tagging;

(d) procedure for the handling, sale, or exchange of fish taken for commercial purposes;

(e) species of fish, in addition to those hereinbefore named, to be subject to commercial fishing; such additional specifications may be by specie alone or specie and size;

(f) such reports to be made by the permittee as the ~~commission~~ *secretary* deems advisable.

The ~~commission regulations~~ *adopted as provided for in this act rules and regulations adopted by the secretary* shall be effective upon the filing of a copy of the same with the ~~revisor of statutes~~ *secretary of state*. The ~~commission~~ *secretary* shall have authority to contract, after securing the best competitive bid, for the removal of fish, both game fish and undesirable fish, from any waters of the state and may limit related commercial fishing to the person holding the contract.

Sec. 7. K.S.A. 32-507 is hereby amended to read as follows: 32-507. The ~~commission~~ *secretary of the Kansas department of wildlife and parks* may adopt such rules and regulations that it ~~shall deem~~ *deems* necessary to implement and administer the provisions of this act. All rules and regulations adopted under this act shall be adopted and filed in the office of the ~~revisor of statutes~~ *secretary of state* as provided in the acts contained in article 4 of chapter 77 of the Kansas Statutes Annotated and ~~acts amendatory thereof or supplemental amendments~~ *thereto*.

Sec. 8. K.S.A. 34-101d is hereby amended to read as follows: 34-101d. The director of the Kansas state grain inspection department, with the approval of the state grain advisory commission and the governor, is authorized and empowered to enter into a contract or contracts with the state of Missouri or any agency of ~~said~~ *such* state which may correspond to the state grain inspection and weighing department to provide for the taking of samples and weighing of grain by employees of the Kansas department from railroad cars which may be held by the railroad in the area immediately east of the city of Atchison in the state of Missouri, which railroad cars contain grain in which Kansas grain dealers or warehousemen or other Kansas citizens or merchants may have an interest. A copy of any agreement which may be entered into pursuant to this section shall be filed with the ~~revisor of statutes~~ *secretary of state* as a rule and regulation of the department.

Sec. 9. K.S.A. 40-2308 is hereby amended to read as follows: 40-2308. The state agency ~~shall make~~ *may adopt*, publish, and file in the office of the ~~revisor of statutes~~ *secretary of state* as provided by law, such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

Sec. 10. K.S.A. 44-573 is hereby amended to read as follows: 44-573. The director may adopt and promulgate such rules and regulations as the director deems necessary for the purposes of administering and enforcing the provisions of the ~~workmen's~~ *workers* compensation act. The commissioner of insurance may adopt and promulgate such rules and regulations as the commissioner of insurance deems necessary for the purposes of administering the workers' compensation fund and group-funded workers' compensation pools. All such rules and regulations shall be filed in the office of ~~revisor of statutes~~ *the secretary of state* as provided by article 4 of chapter 77 of the Kansas Statutes Annotated ~~or acts amendatory thereof and amendments thereto~~.

Sec. 11. K.S.A. 45-404 is hereby amended to read as follows: 45-404. The state records board shall:

(a) Approve or modify retention and disposition schedules and records manuals prepared pursuant to subsections (c) and (d) of K.S.A. 45-406 and amendments thereto. Once approved by the board the retention and disposition schedules for state agencies shall be filed with the ~~revisor of statutes~~ *secretary of state*. Without further action by the board, noncurrent records of state agencies scheduled for disposition may be disposed of as provided in the schedules and noncurrent records scheduled for retention may be transferred to the state archives, subject to approval by the state archivist and in accordance with procedures to be established by the state archivist.

(b) Pass upon any proposed revisions in the retention and disposition schedules and upon requests for authority to dispose of records of state agencies or counties not listed in the schedules. No records of state agencies or counties shall be disposed of before the retention periods designated in the schedules have elapsed without the approval of the board. No state agency or

county shall be required to destroy records which it chooses to retain, even though the retention and disposition schedules authorize their destruction. The retention and disposition schedules for all local agencies except counties shall be recommendations and shall not alter or replace current statutes authorizing or restricting the disposition of government records by local agencies.

(c) Any board of county commissioners may order disposition of any noncurrent county government records after minimum retention periods set forth in the schedules prepared pursuant to subsection (d) of K.S.A. 45-406 and amendments thereto. Any board of county commissioners may petition the state records board for amendments to the schedules, for authority to depart from specific provisions of the schedules or for authority to implement schedules applicable to only a single county.

(d) With the approval of the state archivist, the board of county commissioners of any county may transfer any noncurrent county government records to the custody of the state historical society. The board of county commissioners of any county may transfer any noncurrent county government records which have been determined by the state archivist to be records, which are not required by law to be confidential or restricted, to the custody of a county historical society, a genealogical society, a public library, a college or university library or another local or regional repository in Kansas, determined by the state archivist to be suitable, which will accept such records, except that under authority of this subsection no records relating to the mental or physical health of any person shall be so transferred.

(e) Pass upon recommendations by the state archivist for transfer to the state archives of any noncurrent government records with enduring value which are held by a state agency opposing such a transfer. When the state archivist makes such a recommendation, the state agency opposing the transfer shall defend before the board its reasons for wanting to retain the records in its custody, and the board shall determine whether the transfer shall occur.

(f) Approve or modify recommended microphotographic standards prepared by the state archivist and pass upon requests for authority to dispose of original government records of state agencies following reproduction on film, as provided in K.S.A. 45-412 and amendments thereto.

Sec. 12. K.S.A. 46-224 is hereby amended to read as follows: 46-224. (a) "State agency" means the legislature, legislators, legislative committees and councils and all executive departments, institutions, offices, officers, commissions, boards and authorities of the state, but does not include municipalities and other political subdivisions.

(b) "Rules and regulations" means rules and regulations required by law to be filed with the ~~revisor of statutes~~ *secretary of state*, and does not include rules adopted by the judicial branch or any court.

Sec. 13. K.S.A. 46-1211 is hereby amended to read as follows: 46-1211. (a) There is hereby established the office of revisor of statutes whose head shall be the revisor of statutes and who shall be appointed by the legislative coordinating council to serve under its direction. The revisor of statutes may be removed from office by a vote of five (5) members of the legislative coordinating council taken at any regular meeting of such council. The revisor of statutes shall receive such compensation as is determined by the legislative coordinating council. The revisor of statutes, and any of ~~his~~ *the revisor of statutes'* assistants specified by the legislative coordinating council, shall receive expenses and allowances for in-state and out-of-state travel as is provided by law for members of the legislature. The revisor of statutes shall appoint such assistants and employees of the office of revisor of statutes as are authorized by the legislative coordinating council and shall set their compensation subject to the approval of such council. The revisor of statutes and all assistants and employees of the office of revisor of statutes shall be in the unclassified service.

(b) The office of revisor of statutes shall perform the following functions: Drafting of bills, resolutions and other legislative documents; legal consultation for members of the legislature and legislative committees; legal research; supervise revisions and

compilations of the general laws of this state; prepare and publish Kansas Statutes Annotated, Supplements thereto and publication of additional and replacement volumes thereof; ~~file and publication of rules and regulations as provided by law~~; recommend to the standing judiciary committees or to other appropriate legislative committees such bills as will tend to update or clarify existing laws; other duties as provided by law; and such other legal duties as are directed by the legislative coordinating council.

(c) The office of revisor of statutes, to the extent possible, shall provide a staff member in attendance at all meetings of all special committees, select committees and all standing committees when the legislature is not in session. Such staff member shall provide legislative legal consultation and bill drafting services, and shall suggest such technical changes in statutes and bill drafts as may be expedient to make the same more harmonious, clear or understandable, consistent with the policies espoused by such committee and within the subject field of its study. Such staff member shall also assist in legislative procedural matters as may be needed.

(d) Special committees, select committees and standing committees are expected to utilize the foregoing staff services to the extent the same are available in making all studies.

Sec. 14. K.S.A. 46-1501 is hereby amended to read as follows: 46-1501. In accordance with any instructions given by the legislative coordinating council and as provided in this act, the revisor of statutes shall introduce in phases and supervise or operate, or both supervise and operate as may be appropriate, a comprehensive legislative information system. Such system shall initially be operated to accomplish computer search of existing statutes of Kansas and computer preparation of legislative bills and resolutions. In succeeding years, as may be convenient, such system shall encompass computer preparation of the following:

- (a) Statutory search;
- (b) search of other documents;
- (c) bill and resolution preparation;
- (d) printing (outside the office of revisor of statutes) of bills, resolutions and other documents within the legislative branch;
- (e) preparation of such legislative documents as journals, calendars, bill locators, bill indexes and research materials;
- (f) cathode ray tube display of any of the foregoing;
- (g) preparation of session laws, statutes, ~~rules and regulations~~ and other books; and
- (h) printing (outside the office of revisor of statutes) of any or all of the foregoing.

Sec. 15. K.S.A. 47-1215 is hereby amended to read as follows: 47-1215. The commissioner ~~shall make may adopt~~ and enforce such reasonable rules and regulations relating to transportation of carcasses of domestic animals and packing house refuse, specifications for disposal plants, substations, places of transfer, equipment and vehicles, and all operations in connection therewith, as ~~he may deem the commissioner deems~~ *advisable* and which are not inconsistent with provisions of this act. All such rules and regulations shall be filed with the ~~revisor of statutes~~ *secretary of state*.

Sec. 16. K.S.A. 65-1630 is hereby amended to read as follows: 65-1630. The board may adopt and promulgate such reasonable rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions of this act, which rules and regulations shall be filed in the office of the ~~revisor of statutes~~ *secretary of state* as required by article 4 of chapter 77 of the Kansas Statutes Annotated and ~~any acts amendatory thereof or supplemental amendments~~ thereto.

Sec. 17. K.S.A. 65-1825 is hereby amended to read as follows: 65-1825. The board may adopt and enforce such rules and regulations as may be necessary to carry out the provisions of this act. Every such rule or regulation shall be posted for public inspection in the main office of the board and a certified copy thereof shall be filed in the office of the secretary of the board and in the office of the ~~revisor of statutes~~ *secretary of state* in the manner prescribed by law. The board may also publish such

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rules and regulations in such press publications representing the barber industry as the board deems necessary.

Sec. 18. K.S.A. 65-2703 is hereby amended to read as follows: 65-2703. The secretary of health and environment is authorized to adopt such *rules and regulations* as are necessary to protect the public from improper use of poisonous household articles, and as are necessary to administer the provisions of this act; ~~said such rules and regulations~~ may include requirements for: Cautionary labeling, the setting out on labels of specific toxic ingredients, adequate directions for safe use, specific warnings against common types of misuse, specific prohibition of sale of articles which are inherently so hazardous that they are unsafe for domestic use under any type of labeling. Such *rules and regulations* shall be filed in the office of the ~~revisor of statutes~~ *secretary of state*, as required by law.

Sec. 19. K.S.A. 65-2865 is hereby amended to read as follows: 65-2865. The board shall promulgate all necessary ~~rules, regulations and forms and regulations~~, not inconsistent herewith, for carrying out the provisions of this act, which rules and regulations shall include standards for the dispensing of drugs by persons licensed to practice medicine and surgery. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent with this act. All rules and regulations promulgated and adopted by the board shall be filed with the ~~revisor of statutes~~ *secretary of state* as required by law.

Sec. 20. K.S.A. 72-7514b is hereby amended to read as follows: 72-7514b. (a) Every rule and regulation which is adopted by the state board of education pursuant to authority granted to the board under section 2 of article 6 of the constitution of the state of Kansas and which is not adopted pursuant to statutory authority of the board shall be adopted by the state board of education and filed as a rule and regulation as provided in this section.

(b) Prior to the adoption of such rule and regulation, the state board of education shall give at least ~~15~~ 30 days' notice of its intended action in the Kansas register and hold a public hearing thereon. The notice shall be published in the Kansas register and shall contain a summary of the substance of the proposed rule and regulation along with the full text of any such rule and regulation to be considered at the hearing. Such notice shall state the time and place of the public hearing to be held thereon and the manner in which interested parties may present their views thereon. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rule and regulation. On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing.

(c) The rule and regulation shall be adopted at a meeting which is open to the public and shall not be adopted unless it receives approval by roll call vote of a majority of the total membership of the state board of education.

(d) Each rule and regulation adopted by the state board of education shall be filed in ~~duplicate~~ *triplicate* with the ~~revisor of statutes~~ *secretary of state* and shall indicate that such rule and regulation was adopted pursuant to authority granted to the state board of education under section 2 of article 6 of the constitution of the state of Kansas. The state board of education shall number each section with a distinguishing number. Upon filing, the ~~revisor of statutes~~ *secretary of state* shall assign a distinguishing number to each section for purposes of publication in the annual supplement to the Kansas administrative regulations.

(e) All rules and regulations adopted and filed with the ~~revisor of statutes~~ *secretary of state* in accordance with the provisions of this section on or before December 31 in any year shall be published in the annual supplement to the Kansas administrative regulations which is published during the next succeeding year after the year in which such rules and regulations were filed unless otherwise directed by the state rules and regulations board.

(f) As used in this section, "rule and regulation" means a standard, statement of policy, procedure or practice or general order, including amendments or revocations thereof, of general application which is adopted by the state board of education

pursuant to authority granted to the board under section 2 of article 6 of the constitution of the state of Kansas and which is not adopted pursuant to statutory authority of the board.

Sec. 21. K.S.A. 74-3214 is hereby amended to read as follows: 74-3214. All rules and regulations adopted by the board under authority of this act shall be filed in the office of the ~~revisor of statutes~~ *secretary of state* as provided by law.

Sec. 22. K.S.A. 74-4909 is hereby amended to read as follows: 74-4909. (1) The board of trustees shall be responsible for the general administration of the system, subject to the provisions of this act.

(2) The board shall establish rules and regulations for the administration of the system and for the transaction of its business consistent with law, which rules and regulations shall be filed in the office of the ~~revisor of statutes~~ *secretary of state*.

(3) The board shall be responsible for the installation of a complete and adequate system of accounts and records. The board shall contract with the department of administration to provide such accounting services as are necessary to avoid duplication of efforts and promote efficiency. The board shall pay the department of administration an amount not exceeding the actual cost incurred in providing this service, which payments shall be deposited in the state treasury and then credited to the state general fund.

(4) All meetings of the board shall be open to the public. The board shall keep a record of its proceedings.

(5) The board may prescribe rules and regulations for the determination of the value of maintenance, board, lodging, laundry and other allowances to employees in lieu of money.

(6) The board may adopt all necessary actuarial tables to be used in the operation of the system as recommended by the actuary, and may compile such additional data as may be necessary for required actuarial valuations and calculations.

(7) The board or the investment committee may invest all cash not required for current payments in securities eligible for investment under this act. All actions of the investment committee shall be reported to the board at the first meeting of the board following the action of the investment committee.

(8) The board, as soon after the close of the fiscal year as practical, shall publish for distribution among members a financial statement showing the financial status of the system.

(9) All decisions of the board as to questions of fact shall be final and conclusive on all persons except for the right of review as provided by law and except for fraud or such gross mistake of fact as to have an effect equivalent to fraud.

(10) Each member's account and records shall be administered in a confidential manner and specific data regarding the member shall not be released unless authorized in writing by the member; however, the board may release information to the employer or to other state and federal agencies as it deems necessary.

Sec. 23. K.S.A. 1987 Supp. 74-8710 is hereby amended to read as follows: 74-8710. The commission, upon the recommendation of the executive director, shall adopt rules and regulations governing the establishment and operation of a state lottery as necessary to carry out the purposes of this act. Temporary rules and regulations may be adopted by the commission without being subject to the provisions and requirements of K.S.A. 77-415 through 77-438, and amendments thereto, but shall be subject to approval by the attorney general as to legality and shall be filed with the ~~revisor of statutes~~ *secretary of state* and published in the Kansas register. Temporary and permanent rules and regulations may include but shall not be limited to:

(a) The types of lottery games to be conducted, including but not limited to instant lottery, on-line and traditional games.

(b) The manner of selecting the winning tickets or shares, except that, if a lottery game utilizes a drawing of winning numbers, a drawing among entries or a drawing among finalists, such drawings shall always be open to the public and shall be recorded on both video and audio tape.

(c) The manner of payment of prizes to the holders of winning tickets or shares.

(d) The frequency of the drawings or selections of winning tickets or shares.

(e) The type or types of locations at which tickets or shares may be sold.

(f) The method or methods to be used in selling tickets or shares.

(g) Additional qualifications for the selection of lottery retailers and the amount of application fees to be paid by each.

(h) The amount and method of compensation to be paid to lottery retailers, including special bonuses and incentives.

(i) Deadlines for claims for prizes by winners of each lottery game.

(j) Provisions for confidentiality of information submitted by vendors pursuant to K.S.A. 1987 Supp. 74-8705, and amendments thereto.

(k) Information required to be submitted by vendors, in addition to that required by K.S.A. 1987 Supp. 74-8705, and amendments thereto.

(l) The major procurement contracts or portions thereof to be awarded to minority business enterprises pursuant to subsection (a) of K.S.A. 1987 Supp. 74-8705, and amendments thereto, and procedures for the award thereof.

Sec. 24. K.S.A. 75-430 is hereby amended to read as follows: 75-430. (a) The secretary of state shall compile, index and publish a publication to be known as the Kansas register. Such register shall contain:

(1) All acts of the legislature required to be published in the Kansas register;

(2) all executive orders and directives of the governor which are required to be filed in the office of the secretary of state;

(3) summaries of all opinions of the attorney general interpreting acts of the legislature as prepared by the office of the attorney general;

(4) notice of any public comment period on contemplated modification of an existing rule and regulation, which notice shall contain the information required by K.S.A. 77-421 and amendments thereto;

(5) all notices of hearings on proposed administrative rules and regulations required to be filed in the office of the ~~revisor of statutes~~ secretary of state under the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated and a summary of all proposed administrative rules and regulations to be considered at such hearings together with the address of the state agency from which a copy of the full text of the proposed rules and regulations may be received;

(6) the full text of all administrative rules and regulations which have been adopted and filed in accordance with the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, except that the secretary of state may publish a summary of any rule and regulation together with the address of the state agency from which a copy of the full text of the proposed rules and regulations may be received, if such rule and regulation is lengthy and expensive to publish and otherwise available in published form and a summary will, in the opinion of the secretary, properly notify the public of the contents of such rule and regulation;

(7) a cumulative index of all administrative rules and regulations which have been adopted and filed in accordance with the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated;

(8) all notices of hearings of special legislative interim study committees, descriptions of all prefiled bills and resolutions and descriptions of all bills and resolutions introduced in the legislature during any session of the legislature, and other legislative information which is approved for publication by the legislative coordinating council;

(9) the hearings docket of the Kansas supreme court and the court of appeals;

(10) summaries of all orders of the board of tax appeals which have statewide application;

(11) all advertisements for contracts for construction, repairs, improvements or purchases by the state of Kansas or any agency thereof for which competitive bids are required; and

(12) any other information which the secretary of state deems to be of sufficient interest to the general public to merit its publication or which is required by law to be published in the Kansas register.

(b) The secretary of state shall publish such register at regular intervals, but not less than weekly.

(c) The secretary of state may omit from the register any information the publication of which the secretary deems cumbersome, expensive, or otherwise inexpedient, if the information is made available in printed or processed form by the adopting agency on application for it, and if the register contains a notice stating the general subject matter of the information and the manner in which a copy of it may be obtained.

(d) One copy of each issue of the register shall be made available without charge on request to each officer, board, commission, and department of the state having statewide jurisdiction, to each member of the legislature, to each county clerk in the state, and to the supreme court, court of appeals and each district court.

(e) The secretary of state shall make copies of the register available to other persons on payment of a fee to be fixed by the secretary of state under K.S.A. 75-433, and amendments thereto.

Sec. 25. K.S.A. 75-431 is hereby amended to read as follows: 75-431. (a) Each agency shall file materials for publication in the Kansas register by delivering to the office of the secretary of state during normal working hours two certified copies of the document to be filed, *except that rules and regulations required to be filed in the office of the secretary of state under the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated shall be filed in triplicate*. On receipt of a document required by this act to be published in the register, the secretary of state shall note the day and hour of filing on the certified copies. One certified copy of each filed document shall be maintained in original form or on microfilm in a permanent register in the office of the secretary of state and, on filing, shall be made available immediately for public inspection during regular business hours.

(b) If there is a conflict, the official text of a rule and regulation is the text on file with the ~~revisor of statutes~~ secretary of state, and not the text published in the register or on file with the issuing agency.

(c) The secretary of state is hereby authorized to adopt rules and regulations necessary to the effective administration of this act. Such rules and regulations may include, but are not limited to, rules prescribing paper size and the format of documents required to be published by this act. The secretary of state may refuse to accept for filing and publication any document that does not substantially conform to the promulgated rules and regulations.

(d) The secretary of state may maintain on microfilm the files of information required by this act to be published in the register and, after microfilming, destroy the original copies of all information submitted for publication.

Sec. 26. K.S.A. 75-3504 is hereby amended to read as follows: 75-3504. The board shall pass upon the requests of the state departments or other agencies for the destruction or other disposition of records, and shall have power to order the destruction, reproduction, temporary or permanent retention, and disposition of the public records of any department or agency of the state, to establish records disposal schedules for the orderly retirement of records, and to adopt such other rules and regulations as they may deem necessary to accomplish the purposes of this act. ~~Said~~ The disposal schedules shall be filed by the board with the ~~revisor of statutes~~ secretary of state. Records so scheduled may be transferred to the state records center at regular intervals, in accordance with procedures to be established by the center, without further action by the board. In all its acts the board shall be specifically required to safeguard the legal, financial and historical interests of the state in such records.

Sec. 27. K.S.A. 76-168 is hereby amended to read as follows: 76-168. All proceeds of such leases shall be paid into the state treasury and shall be kept by the state treasurer in separate funds for the use and benefit of the proper state institutions entitled to such proceeds under rules and regulations adopted by the board of regents, approved by the attorney general, and filed with the ~~revisor of statutes~~ secretary of state as provided by law.

Sec. 28. K.S.A. 76-1927 is hereby amended to read as follows: 76-1927. The Kansas veterans' commission shall have the

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authority to establish rules and regulations for the management and operation of the Kansas soldiers' home and governing conduct and discipline of the members of and other persons in the Kansas soldiers' home. Such rules and regulations shall be filed with the ~~revisor of statutes~~ *secretary of state* as provided by law. ~~Provided, That all such rules and regulations of the board of managers on file in the office of the revisor of statutes in force and effect on the date this act takes effect shall continue in force and effect until revoked or amended by the Kansas veterans' commission.~~

Sec. 29. K.S.A. 77-416 is hereby amended to read as follows: 77-416. (a) Every state agency shall file with the ~~revisor of statutes~~ *secretary of state* every rule and regulation adopted by it and every amendment and revocation thereof. Every rule and regulation, *other than a temporary rule and regulation*, filed in the office of the ~~revisor of statutes~~ *secretary of state* shall be filed in ~~duplicate triplicate, and nine copies of every temporary rule and regulation shall be filed in the office of the secretary of state,~~ and each section shall include a citation to the statutory section or sections being implemented or interpreted and a citation of the authority pursuant to which it, or any part thereof, was adopted. Every rule and regulation filed in the office of the ~~revisor of statutes~~ *secretary of state* shall be accompanied by a copy of the ~~fiscal or financial economic impact statement~~ required by subsection (b) of ~~this section~~ and any document which is adopted by reference by the rule ~~or~~ and regulation, except that for the purpose of avoiding unwarranted expense the board may authorize and direct the ~~revisor of statutes~~ *secretary of state* to file any rule ~~or~~ and regulation without the document which is adopted by such rule ~~or~~ and regulation whenever the board determines that: (1) The document is a technical manual of limited public interest; (2) the cost of providing file copies of such document is excessive in view of its limited public interest; and (3) the document will be available for public inspection during normal business hours in the office of the agency adopting the rule and regulation. A copy of any document adopted by reference in a rule and regulation shall be available from the state agency which adopted the rule and regulation upon request by any person interested therein. The state agency shall, under the direction of the ~~revisor of statutes~~ *secretary of state*, shall number each section with a distinguishing number and, in making a compilation of the rules and regulations, the sections shall be arranged ~~therein~~ in numerical order. A decimal system of numbering shall be prohibited.

(b) At the time of drafting ~~any~~ a proposed rule and regulation or amendment to ~~any~~ an existing rule and regulation, the state agency shall prepare a statement of the ~~fiscal or financial effect or economic impact~~ of such proposed rule and regulation or amendment upon all governmental agencies or units ~~and private businesses and all persons which will be subject thereto and upon the general public, and, if such. The economic impact statement shall include:~~ (1) A brief description of the proposed rules and regulations and what is intended to be accomplished by their adoption; (2) whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program; ~~the state agency shall so specify as a part of the fiscal or financial impact statement;~~ (3) a description of the cost, the persons who will bear the costs and those who will be affected by the proposed rules and regulations, including the agency proposing the rules and regulations, other governmental agencies or units, private citizens and consumers of the products or services which are the subject of the rules and regulations or the enforcement thereof; and (4) a description of any less costly or less intrusive methods that were considered by the state agency for achieving the stated purpose of the rules and regulations and why such methods were rejected in favor of the proposed rules and regulations. The state agency shall reevaluate and, when necessary, update the statement at the time of giving notice of hearing on a proposed rule and regulation and at the time of filing a rule and regulation with the ~~revisor of statutes~~ *secretary of state*. If a public hearing was held prior to the adoption of the rule and regulation, a state agency at the time of filing a rule and regulation with the ~~revisor of statutes~~ *secretary of state* shall include as

a part of the ~~fiscal or financial economic impact statement~~ a statement specifying the time and place at which the hearing was held and the attendance at the hearing. A copy of the current ~~fiscal or financial economic impact statement~~ shall be available from the state agency upon request by any party interested therein.

(c) Upon request of the state rules and regulations board, the joint committee on administrative rules and regulations or the chairperson of either committee or board, the director of the budget shall review the ~~fiscal or financial economic impact statement~~ prepared by any state agency and shall prepare a supplemental or revised statement. If possible, the supplemental or revised statement shall include a reliable estimate in dollars of the anticipated change in revenues and expenditures of the state. It also shall include a statement, if determinable or reasonably foreseeable, of the immediate and long-range ~~financial effect economic impact of the regulation on private businesses rule and regulation upon persons subject thereto~~ and the general public. If, after careful investigation, it is determined that no dollar estimate is possible, the statement shall set forth the reasons why no dollar estimate can be given. Every state agency is directed to cooperate with the division of the budget in the preparation of any statement pursuant to this subsection when, and to the extent, requested by the director of the budget.

Sec. 30. K.S.A. 77-417 is hereby amended to read as follows: 77-417. The ~~revisor of statutes~~ *secretary of state* shall: (1) Endorse on each rule and regulation filed, the time and date of the filing thereof; (2) maintain a file of such rules and regulations for public inspection; (3) keep a complete record of all amendments and revocations of rules and regulations; (4) index the rules and regulations so filed; and (5) publish the rules and regulations as hereinafter provided.

Sec. 31. K.S.A. 77-418 is hereby amended to read as follows: 77-418. All rules and regulations adopted and filed by every state agency shall be typewritten, mimeographed, multilithed, or printed on standard letter size (8 1/2 by 11 inches) paper, the kind, grade, and durability thereof to be subject to the approval of the ~~revisor of statutes~~ *secretary of state*. ~~Whenever~~ If any rule and regulation is amended or revoked after the same has been adopted and filed, each rule and regulation amended or revoked shall be filed on a separate sheet or sheets of paper, except this filing requirement may be complied with for consecutively numbered rules and regulations which are being revoked by filing with the ~~revisor of statutes~~ *secretary of state* a statement clearly identifying the consecutively numbered rules and regulations. Such statement shall clearly express that the consecutively numbered rules and regulations are being revoked and shall specify the effective date of the revocation of such rules and regulations. If a rule and regulation is filed with the ~~revisor of statutes~~ *secretary of state* on more than one page, each page of such rule and regulation, subsequent to the first page, shall be consecutively numbered at the top of each page, and the number of the rule and regulation shall be placed in the upper right hand corner of each page.

Sec. 32. K.S.A. 77-419 is hereby amended to read as follows: 77-419. No section of any rule ~~or~~ and regulation shall be revived or amended unless the new rule ~~or~~ and regulation contains the entire section revived or amended, and any section so amended shall be revoked. For the purpose of filing in the office of the ~~revisor of statutes~~ *secretary of state* and for submission to the joint committee on administrative rules and regulations and to the legislature as provided in K.S.A. 77-426, and amendments thereto, a rule and regulation amending an existing regulation shall indicate the new matter contained therein by underlining or printing in italics the new matter, and material to be deleted from such rule and regulation shall be shown in cancelled type. The ~~revisor of statutes~~ *secretary of state* in preparing such rules and regulations for publication in the Kansas administrative regulations shall omit all material shown in cancelled type and such rules and regulations shall be printed in Roman style type. The ~~revisor of statutes~~ *secretary of state* shall not file any regulation which amends or revives a regulation unless the regulation so amending or reviving conforms to the provisions of this section.

Sec. 33. K.S.A. 1987 Supp. 77-420 is hereby amended to read as follows: 77-420. (a) Every rule and regulation proposed to be adopted by any state agency, before being submitted to the attorney general under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. Every rule and regulation submitted to the secretary of administration under this subsection (a) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection (a) shall be stamped as approved and the date of such approval shall be indicated therein. ~~No rule and regulation proposed to be adopted by any state agency as a permanent rule and regulation shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar after October 15 in any year. The secretary of administration shall not approve any permanent rule or regulation submitted or received after 5:00 p.m. on October 15 in any year.~~

(b) Every rule and regulation proposed by any state agency which has been approved by the secretary of administration as provided in subsection (a) of this section before being adopted or filed shall be submitted to the attorney general for an opinion as to the legality of the same, and the attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection (b) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection (b) shall be stamped as approved and the date of such approval shall be indicated therein.

(c) No rule and regulation shall be filed by the ~~revisor of statutes~~ secretary of state unless:

- (1) The organization, style, orthography and grammar have been approved by the secretary of administration;
- (2) the rule and regulation has been approved in writing by the attorney general as to legality;
- (3) the attorney general finds that the making of such rule and regulation is within the authority conferred by law on the state agency submitting the same;
- (4) the rule and regulation has been formally adopted by the state agency after it has been approved by the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421, and any amendments thereto, when adoption is by a board, commission, authority, or other similar body;
- (5) the rule and regulation to be filed is accompanied by a copy of the fiscal or financial economic impact statement as provided by K.S.A. 77-416, and amendments thereto; and
- (6) the rule and regulation, if a permanent rule and regulation, is submitted or received for filing in the office of the ~~revisor of statutes~~ secretary of state not later than 5:00 p.m. on December 15 of any year; and
- (7) (6) the rule and regulation is accompanied by a copy of any document which is adopted by reference by such rule and regulation unless specifically exempt by the state rules and regulations board pursuant to subsection (a) of K.S.A. 77-416, and amendments thereto.

Sec. 34. K.S.A. 1987 Supp. 77-421 is hereby amended to read as follows: 77-421. (a) Prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 15 30 days' notice of its intended action in the Kansas register and to the ~~revisor of statutes~~ secretary of state. The notice shall be mailed to the ~~revisor of statutes~~ secretary of state and published in the Kansas register and. The notice shall contain: (1) a summary of

the substance of the proposed rules and regulations and; (2) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public; (3) the address where a complete copy of the proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416 and amendments thereto may be obtained. Such notice shall state; (4) the time and place of the public hearing to be held thereon and; the manner in which interested parties may present their views thereon. The notice shall be accompanied by a copy of the fiscal or financial impact statement provided by K.S.A. 77-416 and amendments thereto which is applicable to all proposed rules and regulations which will be considered at such public hearing, and the notice shall state that a copy of the complete fiscal or financial impact statement may be obtained from the state agency and shall provide the address of the state agency from which such fiscal or financial impact statement may be obtained. A summary of such fiscal or financial impact statement, as required by K.S.A. 77-416, and amendments thereto, indicating the estimated monetary impact on governmental agencies or units, private businesses and the general public, shall be published in the Kansas register with the notice of hearing on the applicable rules and regulations; and (5) a specific statement that the period of 30 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(b) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. When requested to do so, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto. Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency may, in lieu of following the requirements or statutory procedure set out in such other law, give notice and hold hearings on proposed rules and regulations in the manner prescribed by this act. Notwithstanding the other provisions of this section, the Kansas adult authority parole board and the secretary of corrections may, but shall not be required to, may give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation, but the secretary shall not be required to give such notice or opportunity.

(c) No public hearing required by this section shall be scheduled or held by a state agency after December 1 of any calendar year.

(c) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(d) No rule and regulation shall be adopted except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 35. K.S.A. 1987 Supp. 77-422 is hereby amended to read as follows: 77-422. (a) A rule and regulation may be adopted by a state agency as a temporary rule and regulation if the state agency and the state rules and regulations board finds that: (1)

(continued)

The preservation of the public peace, health, safety or welfare necessitates or makes desirable putting such rule and regulation into effect prior to the time it could be put into effect if the agency were to comply with the notice, hearing and publication requirements of this act or prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto; or (2) it is necessary for such rule and regulation to take effect prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto, in order to comply with the requirements of the statute authorizing the adoption of such rule and regulation or with any federal law with which the state agency is required to comply or with rules and regulations of federal agencies adopted pursuant to any such federal law; or (3) the rule and regulation is adopting, amending or revoking a rule and regulation in response to specific direction contained in a concurrent resolution adopted by the legislature and directed to such agency; or (4) (A) insufficient appropriations are available for a specific fiscal year to meet certain budget requirements for such fiscal year which necessitates putting a rule and regulation into effect prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto, (B) the temporary rule and regulation applies only to such fiscal year, and (C) the proposed rule and regulation is not contrary to the provisions of an appropriations act or other act of the legislature.

(b) ~~No temporary rule and regulation shall be adopted on the basis that such rule and regulation must be adopted as a temporary rule and regulation for the purpose of complying with the requirements of the statute authorizing the rule and regulation to be adopted or on the basis that such rule and regulation must be adopted as a temporary rule and regulation for the purpose of complying with any federal law with which the state agency is required to comply or with rules and regulations of federal agencies adopted pursuant to any such federal law without notice having been given and a hearing thereon held in the manner prescribed by K.S.A. 77-421, and amendments thereto. Temporary rules and regulations, other than temporary rules and regulations adopted on the basis that such rules and regulations must be adopted as temporary rules and regulations for the purpose of complying with the requirements of the statute authorizing the rules and regulations to be adopted or for the purpose of complying with any federal law with which the state agency is required to comply or with rules and regulations of federal agencies adopted pursuant to any such federal law or those adopted pursuant to paragraph (4) of subsection (a) pursuant to subsection (a)(2) or (4), may be adopted without the giving of notice and the holding of a hearing thereon.~~

(c) No temporary rule and regulation shall be adopted prior to the effective date of the statute authorizing its adoption, but, prior to the effective date of such statute, the proposed temporary rule and regulation may be submitted to the secretary of administration and to the attorney general for approval as required by K.S.A. 77-420, and amendments thereto, and notice of the proposed rule and regulation may be given and a hearing held thereon in the manner prescribed by K.S.A. 77-421, and amendments thereto.

(d) A temporary rule and regulation shall take effect: (1) After approval by the secretary of administration and the attorney general as provided by K.S.A. 77-420, and amendments thereto; and; (2) after approval by the state rules and regulations board as provided by K.S.A. 77-423, and amendments thereto; and (3) upon filing with the ~~revisor of statutes secretary of state~~. The effective date of all or specific parts of a temporary rule and regulation may be delayed to a date later than its filing date if the delayed effective date of such rule and regulation, or specific parts thereof, is clearly expressed in the body of such rule and regulation. A temporary rule and regulation filed during any year shall not be effective after April 30 of the year succeeding the year in which the temporary rule and regulation was filed shall be effective for a period not to exceed 120 days.

(e) A temporary rule and regulation which amends an existing rule and regulation shall have the effect of suspending the force and effect of the existing rule and regulation until such time as the temporary rule and regulation is no longer effective. In such case, at the time the temporary rule and regulation ceases to be effective, the existing permanent rule and regulation which was amended by the temporary rule and regulation shall

be in full force and effect unless such existing rule and regulation is otherwise amended, revoked or suspended as provided by law.

(f) Temporary rules and regulations shall be numbered in accordance with the numbering arrangement approved by the ~~revisor of statutes secretary of state~~ and shall otherwise conform to the approval, adoption and filing requirements of this act, insofar as the same can be made applicable.

Sec. 36. K.S.A. 77-423 is hereby amended to read as follows: 77-423. There is hereby created a state rules and regulations board consisting of the attorney general, the secretary of state, the secretary of administration, the chairperson of the joint committee on administrative rules and regulations or a member of the joint committee designated by the chairperson from the same house of the legislature as the chairperson and the vice-chairperson of the joint committee on administrative rules and regulations or a member of the joint committee designated by the vice-chairperson from the same house of the legislature as the vice-chairperson. If a member is designated to serve on the board by the chairperson or vice-chairperson of the joint committee, the designated member shall serve in lieu of the designating officer on a temporary or permanent basis as specified by the designating officer. The attorney general shall be the chairperson of said the board. The ~~revisor of statutes secretary of state~~ shall serve as the secretary to the board. The state rules and regulations board shall determine whether a rule and regulation should be adopted as a temporary rule and regulation, shall determine the rules and regulations to be published in the Kansas administrative regulations and in the annual supplement to such regulations as provided for in this act and shall perform such other duties as may be required by this act.

Sec. 37. K.S.A. 77-424 is hereby amended to read as follows: 77-424. The state rules and regulations board shall meet as soon as possible after December 15 each year to determine which rules and regulations are to be published in the Kansas administrative regulations or annual supplement thereto. For the purpose of avoiding unwarranted expense, the board may authorize and direct the ~~revisor of statutes secretary of state~~ to withhold publication of any technical rule and regulation of any state agency where such rules and regulations are of limited public interest and are or will be available in published form. In every such case where the rules and regulations are not published in the Kansas administrative regulations or annual supplement, reference shall be made by the ~~revisor of statutes secretary of state~~ to the rules and regulations omitted therefrom, and shall state how such rules and regulations may be obtained and that the rules and regulations so omitted are on file in the office of ~~revisor of statutes the secretary of state~~. Rules and regulations adopted jointly by two or more agencies shall not be published in more than one place in the compilation or supplement thereto.

Sec. 38. K.S.A. 1987 Supp. 77-425 is hereby amended to read as follows: 77-425. Every rule and regulation other than a temporary rule and regulation which is filed by a state agency in the office of the ~~revisor of statutes secretary of state~~ as provided in this act shall have the force and effect of law on and after the date prescribed in K.S.A. 77-426, and amendments thereto, until amended or revoked as provided by law and such amendment or revocation shall have become effective. Any rule and regulation not filed and published as required by this act shall be of no force or effect, except that any error or irregularity in form or any clerical error or omission of the ~~revisor of statutes secretary of state~~ in the filing of such regulation not affecting substantial rights shall not invalidate the same. The filing and publication of rules and regulations as required by this act shall not be construed as dispensing with the requirements of any other law necessary to make the rules and regulations effective. The revocation of a rule and regulation by a state agency shall not be construed as reviving a rule and regulation previously revoked by such agency, nor shall such revocation by a state agency be construed as affecting any right which accrued, any duty imposed, any penalty incurred, nor any proceeding commenced, under or by virtue of the rule and regulation revoked.

Sec. 39. K.S.A. 1987 Supp. 77-426 is hereby amended to read

as follows: 77-426. (a) All rules and regulations on file with the revisor of statutes which are in force and effect at the time this act takes effect shall continue in full force and effect and may be amended, revived or revoked as provided by law. All new rules and regulations and all amendments, revivals or revocations of rules and regulations, other than temporary regulations, adopted in any year shall be filed with the revisor of statutes on or before December 15 of such year, and shall become effective on and after May 1 of the succeeding year. No rules and regulations shall be filed by the revisor of statutes after December 15 in any year or prior to the next following May 1, except temporary rules and regulations secretary of state and shall become effective 45 days following its publication in the Kansas register or such later date as clearly expressed in the body of such rule and regulation.

(b) As soon as possible after the filing of any rules and regulations by a state agency, the revisor of statutes secretary of state shall submit to the joint committee on administrative rules and regulations such number of copies as may be requested by the joint committee on administrative rules and regulations.

(c) At any time prior to adjournment sine die of the regular session of the legislature, the legislature may adopt a concurrent resolution expressing the concern of the legislature with any permanent or temporary rule and regulation which is in force and effect and on file in the office of the revisor of statutes secretary of state and any permanent rule and regulation filed in the office of revisor of statutes the secretary of state during the preceding year and requesting the revocation of any such rule and regulation or the amendment of any such rule and regulation in the manner specified in such resolution.

Sec. 40. K.S.A. 77-428 is hereby amended to read as follows: 77-428. (a) At the beginning of each calendar year the revisor of statutes shall secretary of state, as soon as possible, shall assemble all rules and regulations, except temporary rules and regulations, filed during the preceding year in accordance with the provisions of this act. The state rules and regulations board shall determine which of such rules and regulations are to be published in the Kansas administrative regulations or annual supplement as provided in this act.

(b) Annual supplements shall be cumulative and shall include all rules and regulations published in the annual supplement in the next preceding year which remain in force and effect on the effective date of the current supplement, together with all rules and regulations, other than temporary rules and regulations, which were regularly adopted and filed in the office of the revisor of statutes secretary of state in the year next preceding the year in which when such annual supplement is published and becomes effective, and which were approved for publication by the state rules and regulations board.

(c) The revisor of statutes secretary of state shall prepare annual supplements to the rules and regulations and material to be published therewith, in one or more paperbound volumes in the form determined by the revisor of statutes secretary of state. The annual supplement of rules and regulations shall be published and shall include a general index of all rules and regulations contained therein and such notes, cross references and explanatory materials as will facilitate the use of such supplements. All rules and regulations and material published in the annual supplement shall be delivered to and published by the director of printing. Authentication of all supplement volumes shall be in the manner provided in K.S.A. 77-429, and amendments thereto. The director of printing shall print the number of copies requisitioned by the revisor of statutes secretary of state.

Sec. 41. K.S.A. 77-430a is hereby amended to read as follows: 77-430a. (a) The revisor of statutes secretary of state shall edit and prepare for printing and publication volumes of rules and regulations which replace existing volumes of the Kansas administrative regulations when authorized by the legislative coordinating council within the limitations of available appropriations therefor. Replacement volumes shall be published and printed in the same format and in accordance with the same printing specifications used in the volume replaced and shall be authenticated as required by K.S.A. 77-429, and amendments thereto. Replacement volumes of the Kansas administrative

regulations shall be printed by the director of printing and delivered to the secretary of state who shall distribute and sell them in the same manner as provided in K.S.A. 77-430, and amendments thereto, for the distribution and sale of other volumes of the Kansas administrative regulations.

(b) Whenever it shall become necessary to print additional copies of any volume of the Kansas administrative regulations, the revisor of statutes secretary of state shall requisition the necessary number of copies from the director of printing.

Sec. 42. K.S.A. 77-432a is hereby amended to read as follows: 77-432a. Whenever the secretary of state and the revisor of statutes determine determines that any volume of Kansas administrative regulations or any annual supplement to the Kansas administrative regulations has become obsolete by reason of the publication of a later volume or annual supplement, such officers the secretary of state may provide for the disposition of the remaining copies of such obsolete volumes or supplement volumes by whatever means such officers determine the secretary determines, without making a charge therefor.

Sec. 43. K.S.A. 77-435 is hereby amended to read as follows: 77-435. In publishing the material in the Kansas administrative regulations and latest supplements thereto, the revisor of statutes secretary of state shall not alter the sense, meaning or effect of any rule and regulation but may correct manifest orthographical, clerical or typographical errors and may edit the rules and regulations in the following manner:

(a) By inserting the correct references in lieu of any internal cross-references to session laws or other outdated statutory references or outdated references to other rules and regulations sections.

(b) By changing descriptive-subject-word headings of sections, subsections or subparts of a rule and regulation in order to briefly and clearly indicate the subject matter of such sections.

(c) Wherever a board, commission, commissioner, department or other agency or officer of the state government has been abolished by statute and the powers, duties and jurisdiction thereof transferred to some other board, commission, commissioner, department or other agency or officer now in existence, the revisor of statutes secretary of state may edit the rules and regulations affected thereby by striking out the name of the abolished board, commission, commissioner, department or other agency or officer and inserting in lieu thereof the name of the proper board, commission, commissioner, department or other agency or officer.

(d) Where a pronoun of only masculine or only feminine gender appears a pronoun of the opposite gender may be added, or language may be changed for the same purpose, so long as the opening limitation of this section is not violated.

(e) By striking the word "that" wherever it appears as the first word of any section in the Kansas administrative regulations or the latest supplement thereto.

(f) By correcting doublets.

No change made pursuant to the provisions of this section shall effect any change in the substantive meaning of the rule and regulation section, and any error made by the revisor of statutes secretary of state in editing the rules and regulations as authorized by this section shall be construed as a clerical error only.

Sec. 44. K.S.A. 77-436 is hereby amended to read as follows: 77-436. (a) There is hereby established a joint committee on administrative rules and regulations which shall consist of five senators and seven members of the house of representatives. The five senator members shall be appointed as follows: Three by the committee on organization, calendar and rules and two by the minority leader of the senate. The seven representative members shall be appointed as follows: Four by the speaker of the house of representatives and three by the minority leader of the house of representatives. The first named appointee of the committee on organization, calendar and rules shall designate a senator member to be chairperson or vice-chairperson of the joint committee as provided in this section. The first named appointee of the speaker of the house of representatives shall designate a representative member to be chairperson or vice-

(continued)

chairperson of the joint committee as provided in this section.

(b) A quorum of the joint committee on administrative rules and regulations shall be seven. All actions of the committee may be taken by a majority of those present when there is a quorum. In odd-numbered years the chairperson of the joint committee shall be *a the designated* member of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years the chairperson of the joint committee shall be *a the designated* member of the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) All rules and regulations filed each year in the office of the *revisor of statutes secretary of state* shall be submitted to and reviewed by the joint committee on administrative rules and regulations. All forms used by state agencies and all rules and regulations specifically excluded from the definition of rule and regulation under *paragraph subsection* (4) of K.S.A. 77-415, and amendments thereto, shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations and agency forms.

(d) *The provisions of article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee on administrative rules and regulations to the extent that the same do not conflict with the specific provisions of this act applicable to such joint committee. The joint committee shall meet on call of the chairperson as authorized by the legislative coordinating council. All such meetings shall be held in Topeka, unless authorized to be held in a different place by the legislative coordinating council. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.*

(e) *Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.*

Sec. 45. K.S.A. 79-3297a is hereby amended to read as follows: 79-3297a. The secretary of revenue shall change the percentage of the amount required to be withheld from wages under K.S.A. 79-3296, *and amendments thereto*, when such rate no longer bears the proper correspondence to the employees' income tax liability on wages because of changes in the federal withholding rate. Any such change in the state withholding rate shall be in proper proportion to the amount of increase or decrease in the federal withholding tax, increases or decreases in the tax rates under K.S.A. 79-32,110, *and amendments thereto*, or increases or decreases in the tax base so that the withholding rate as changed bears the same correspondence to the employees' expected income tax liability. Such rate may be fixed for all adjusted gross income classes, or variable rates may be established, based upon adjusted gross income class, to insure proper withholding consistent with the taxpayer's expected tax liability.

Any such change in rate shall be adopted as a rule and regulation and shall be effective when filed with the *revisor of statutes secretary of state*.

Sec. 46. K.S.A. 79-3385 is hereby amended to read as follows: 79-3385. The secretary of revenue shall have the power to make and enforce such rules and regulations as may be necessary to administer and enforce the provisions of this act. Such rules and regulations shall be filed in the office of the *revisor of statutes secretary of state* as required by law.

Sec. 47. K.S.A. 82a-816 is hereby amended to read as follows: 82a-816. A copy of the *rules and regulations* adopted pursuant to this act, and *of any* amendments thereto, shall be filed in the office of the commission and in the office of the *revisor of statutes secretary of state* as provided by law. Rules

and regulations shall be published by the commission in a convenient form.

Sec. 48. K.S.A. 82a-923 is hereby amended to read as follows: 82a-923. The office shall adopt, amend, promulgate, and enforce such rules and regulations as are necessary and proper to carry out the provisions of this act. Such rules and regulations shall be filed in the office of the *revisor of statutes secretary of state* as provided by law. The Kansas water office may prepare and distribute, free or at cost, compilations of its rules and regulations.

Sec. 49. K.S.A. 83-147 is hereby amended to read as follows: 83-147. The state sealer of weights and measures is authorized to promulgate and adopt such rules and regulations and establish tolerances within a maximum of ~~two percent (2%)~~ 2%, plus or minus, which may be necessary for the enforcement of this act. Such rules and regulations shall be filed in the office of the *revisor of statutes secretary of state* as provided by article 4 of chapter 77 of the Kansas Statutes Annotated.

Sec. 50. K.S.A. 2-2606, 16a-6-405, 16a-6-406, 32-185, 32-507, 34-101d, 40-2308, 44-573, 45-404, 46-224, 46-1211, 46-1501, 47-1215, 65-1630, 65-1825, 65-2703, 65-2865, 72-7514b, 74-3214, 74-4909, 75-430, 75-431, 75-3504, 76-168, 76-1927, 77-416, 77-417, 77-418, 77-419, 77-423, 77-424, 77-428, 77-430a, 77-432a, 77-435, 77-436, 79-3297a, 79-3385, 82a-816, 82a-923 and 83-147 and K.S.A. 1987 Supp. 74-8710, 77-420, 77-421, 77-422, 77-425, 77-426 and 77-439 are hereby repealed.

Sec. 51. On July 1, 1988, K.S.A. 77-436, as amended by section 1 of 1988 House Bill No. 2705, is hereby repealed.

Sec. 52. 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 23, 1988.

SENATE adopted Conference Committee report April 30, 1988.
ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

Passed the HOUSE as amended April 28, 1988.

HOUSE adopted Conference Committee report April 30, 1988.
JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED May 17, 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 17th day of May, A.D. 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, May 26, 1988.)

SENATE BILL No. 623

AN ACT relating to insurance; concerning rate making with respect to certain insurers; providing requirements for certain insurers upon cessation of business in the state; amending the health care provider insurance availability act; concerning liability coverage of the health care stabilization fund and self-insurance; amending K.S.A. 40-923, 40-929, 40-1113 and 40-3414 and K.S.A. 1987 Supp. 40-927, 40-1112 and 40-3403 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. From and after January 1, 1989, K.S.A. 1987 Supp. 40-927 is hereby amended to read as follows: 40-927. (a) Rates shall be made in accordance with the following provisions:

(1) Manual, minimum, class rates or rating schedules, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated. Such rates for personal lines of property insurance may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Rates for commercial lines of property insurance may be modified to produce rates for individual risks in accordance with rules and regulations promulgated by the commissioner establishing reasonable standards for rating plans, including experience rating plans, schedule rating plans, individual risk premium modification plans and expense reduction plans, designed to modify rates in the development of premiums for individual risks insured in a property market. Such standards shall permit recognition of expected differences in loss or expense characteristics, and shall be designed so that such plans are reasonable and equitable in their application, and are not unfairly discriminatory, violative of public policy or otherwise contrary to the best interests of the people of this state. Such standards shall not prevent the development of new or innovative rating methods which otherwise comply with this act. Such rating plans shall be filed or refiled by insurers in compliance with the rules and regulations. The commissioner shall review such plans and shall disapprove a plan that does not comply with the rules and regulations. The rules and regulations shall establish maximum debits and credits that may result from the application of a rating plan, encourage loss control, safety programs, and other methods of risk management and require insurers to maintain documentation of the basis of the debits and credits applied under any plan. Once it has been filed and approved, use of the rating plan shall become mandatory and such plan shall be applied uniformly for eligible risks in a manner that is not unfairly discriminatory.

(2) Rates shall not be excessive, inadequate or unfairly discriminatory.

(3) Due consideration shall be given to past and prospective loss experience within and outside this state, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, *to earnings or losses resulting from the investment of unearned premiums and loss reserves in accordance with rules and regulations adopted by the commissioner* and to all other relevant factors within and outside this state; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

(4) The systems of expense provision included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination the commissioner of insurance, hereinafter referred to as commissioner, approves the application for separate expense provisions.

(b) Except to the extent necessary to meet the provisions of subdivision (2) of subsection (a) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(c) Rates made in accordance with this section shall be used subject to the provisions of this act.

Sec. 2. From and after January 1, 1989, K.S.A. 40-928 is hereby amended to read as follows: 40-928. (a) Every insurer shall file with the commissioner, except as to those inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of the act, the commissioner shall require such insurer to furnish the information upon which it supports such filing, and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include (1) the experience or judgment of the insurer or rating organization making the filing; (2) its interpretation of any statistical data it relies upon; (3) the experience of other insurers or rating organizations; or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(b) An insurer may satisfy its obligation to make such filings either individually or by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this act. *In reviewing a rate filing the commissioner may require the insurer or rating organization to provide, at the insurer's or rating organization's expense, all information necessary to evaluate the reasonableness of the filing according to the criteria enumerated in this section.*

(d) Subject to the exception specified in subsection (e) of this section, each filing shall be on file for a waiting period of ~~fifteen~~ ~~(15)~~ 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed ~~fifteen~~ ~~(15)~~ 15 days if the commissioner gives written notice within such waiting period to the insurer or rating organization which made the filing that such additional time is needed for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which ~~he or she~~ *the commissioner* has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this act unless disapproved by the commissioner within the waiting period or any extension thereof.

(e) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this act until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations adopted by the commissioner, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, and rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as deemed advisable to ascertain whether any rates affected by such order meet the standards set forth in subdivision 2 of subsection (a) of K.S.A. 40-927, and amendments thereto.

(g) Upon the written application of the insured, stating the

(continued)

reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(h) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in this act or in accordance with subsections (f) or (g) of this section. This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 3. From and after January 1, 1989, K.S.A. 40-929 is hereby amended to read as follows: 40-929. (a) If within the waiting period or any extension thereof as provided in subsection (d) of K.S.A. 40-928, and amendments thereto, the commissioner finds that a filing does not meet the requirements of this act, ~~he~~ the commissioner shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects ~~he finds~~ such filing fails to meet the requirements of this act and stating that such filing shall not become effective. *In any administrative proceeding under this act, the insurer or rating organization shall carry the burden of proof to show that the rate is not excessive, inadequate or unfairly discriminatory.*

(b) If within ~~thirty (30)~~ 30 days after a specific inland marine rate on a risk specially rated by a rating organization, subject to subsection (e) of K.S.A. 40-928, and amendments thereto, has become effective, the commissioner finds that such filing does not meet the requirements of this act, ~~he~~ the commissioner shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects ~~he finds~~ that such filing fails to meet the requirements of this act and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. *Said Such* disapproval shall not affect any contract made, issued and effective prior to the expiration of the period set forth in *said such* notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this act, ~~he~~ the commissioner shall, after a hearing held upon not less than ~~ten (10)~~ 10 days' written notice, specifying the matters to be considered at such hearing to every insurer and rating organization which made such filing, issue an order specifying in what respects ~~he finds~~ that such filing fails to meet the requirements of this act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of *said such* order shall be sent to every such insurer and rating organization. *Said Such* order shall not affect any contract or policy made, issued and effective prior to the expiration of the period set forth in *said such* order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon: *Provided, however, That, except that* the insurer that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant and such application ~~must~~ shall show that the person or organization making such application has a specific economic interest affected by the filing. If the commissioner shall find that the application is made in good faith, that the applicant has a specific economic interest, that the applicant would be so aggrieved if ~~his~~ such applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, ~~he~~ the commissioner shall, within ~~thirty (30)~~ 30 days after receipt of such application, hold a hearing upon not less than ~~ten (10)~~ 10 days' written notice to the applicant and to every insurer and rating organization which made such filing. No rating or advisory organization shall have any status under this act to make application for a hearing on any filing made by an insurer with the commissioner.

If, after such hearing, the commissioner finds that the filing does not meet the requirements of this act, ~~he~~ the commissioner shall issue an order specifying in what respects ~~he finds~~ that such filing fails to meet the requirements of this act, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to

the applicant and to every such insurer and rating organization. *Said Such* order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in *said such* order.

(e) *If after hearing, the commissioner finds that a rate or rate change is excessive, inadequate or unfairly discriminatory, the commissioner shall issue an order disapproving such rate or rate change to be effective not sooner than 60 days after the date of the order and shall further order that premiums be adjusted prospectively to reflect the findings of the commissioner regarding the rate or rate change at the next policy anniversary or renewal date.*

(e) (f) No manual, minimum, or class rate, rating schedule, rating plan, rating rule or any modification of any of the foregoing which has been filed pursuant to the requirements of K.S.A. 40-928, and amendments thereto, shall be disapproved if the rates thereby produced meet the requirements of this act.

Sec. 4. From and after January 1, 1989, K.S.A. 1987 Supp. 40-1112 is hereby amended to read as follows: 40-1112. All rates shall be made in accordance with the following provisions:

(a) Due consideration ~~may~~ shall be given: (1) To past and prospective loss experience within and outside the state;

(2) to catastrophe hazards, if any;

(3) to a reasonable margin for profit and contingencies;

(4) to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

(5) to policyholders' dividends in the case of participating insurers; and

(6) to earnings or losses resulting from investment of unearned premiums and loss reserves in accordance with rules and regulations adopted by the commissioner; and

(6) (7) to all other relevant factors within and outside the state.

(b) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination the commissioner of insurance approves the application of separate expense provisions. This paragraph shall not be construed to require uniformity among all insurers with respect to the application of other paragraphs of this section.

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates for personal lines of casualty insurance may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Classification rates for commercial lines of casualty insurance may be modified to produce rates for individual risks in accordance with rules and regulations promulgated by the commissioner establishing reasonable standards for rating plans, including experience rating plans, schedule rating plans, individual risk premium modification plans and expense reduction plans, designed to modify rates in the development of premiums for individual risks insured in a casualty market. Such standards shall permit recognition of expected differences in loss or expense characteristics, and shall be designed so that such plans are reasonable and equitable in their application, and are not unfairly discriminatory, violative of public policy or otherwise contrary to the best interests of the people of this state. Such standards shall not prevent the development of new or innovative rating methods which otherwise comply with this act. Such rating plans shall be filed or refiled by insurers in compliance with the rules and regulations. The commissioner shall review such plans and shall disapprove a plan that does not comply with the rules and regulations. The rules and regulations shall establish maximum debits and credits that may result from the application of a rating plan, encourage loss control, safety programs, and other methods of risk management and require insurers to maintain documentation of the basis of the debits and credits applied under any plan. Once it has been filed and approved, use of the rating plan shall become

mandatory and such plan shall be applied uniformly for eligible risks in a manner that is not unfairly discriminatory.

(d) Rates shall be reasonable, adequate and not unfairly discriminatory.

Sec. 5. From and after January 1, 1989, K.S.A. 40-1113 is hereby amended to read as follows: 40-1113. (a) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filing. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner.

(b) An insurer may satisfy its obligation to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(c) Any filing made pursuant to this section shall be approved by the commissioner unless the commissioner finds that such filing does not meet the requirements of this act or establishes an unreasonable or excessive rate. As soon as reasonably possible after the filing has been made, the commissioner shall in writing approve or disapprove the same, except that any filing shall be deemed approved unless disapproved within ~~thirty~~ (30) 30 days.

(d) *In reviewing a rate filing the commissioner may require the insurer or rating organization to provide, at the insurer's or rating organization's expense, all information necessary to evaluate the reasonableness of the filing according to the criteria enumerated in this section.*

(~~d~~) (e) Any such filing with respect to a fidelity, surety or guaranty bond shall be deemed approved from the date of filing to the date of such formal approval or disapproval.

(~~e~~) (f) In the event that the commissioner disapproves a filing, the commissioner shall specify in what respect ~~he or she~~ finds that such filing does not meet the requirements of this act. *In any administrative proceeding under this act, the insurer or rating organization shall carry the burden of proof to show that the rate is not excessive, inadequate or unfairly discriminatory.*

(~~f~~) (g) If at any time the commissioner finds that a filing so approved no longer meets the requirements of this act, the commissioner may, after a hearing held on not less than ~~twenty~~ (20) 20 days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order withdrawing ~~his or her~~ approval thereof. *Said* Such order shall specify in what respects the commissioner finds that such filing no longer meets the requirements of this act and shall be effective not less than ~~thirty~~ (30) 30 days after its issuance. Copies of such order shall be sent to every such insurer and rating organization.

(~~g~~) (h) Any person or organization aggrieved by the action of the commissioner with respect to any filing may, within ~~thirty~~ (30) 30 days after such action, make written request to the commissioner for a hearing thereon. This section shall not apply to any insurer or rating organization with respect to a withdrawal of a filing made by it. The commissioner shall hear such aggrieved party within ~~thirty~~ (30) 30 days after receipt of such request and shall give not less than ~~ten~~ (10) 10 days' written notice of the time and place of the hearing to the insurer or rating organization which made the filing and to any other aggrieved party. Within ~~thirty~~ (30) 30 days after such hearing the commissioner shall affirm, reverse or modify ~~his or her~~ such commissioner's previous action specifying the reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of ~~his or her~~ such previous action. *If after hearing, the commissioner finds that a rate or rate change is excessive, inadequate or unfairly discriminatory, the commissioner shall issue an order disapproving such rate or rate change to be effective not sooner than 60 days after the date of the order and shall further order that premiums be adjusted prospectively to reflect the findings of the commissioner regarding the rate or rate change at the next policy anniversary or renewal date.*

(~~h~~) (i) No insurer shall make or issue a contract or policy except in accordance with filings which have been approved for said insurer as provided in this act.

New Sec. 6. From and after January 1, 1989, an insurer may cease to transact insurance in this state, or discontinue the writing or renewal of one or more kinds of property or casualty insurance specified in K.S.A. 40-901 and 40-1102, and amendments thereto, or classes of property or casualty insurance risks which were actively solicited or written, (1) after 60 days' notice to the commissioner, or (2) upon loss of adequate reinsurance, or (3) when deemed to be in hazardous financial condition, or (4) when deemed to be insolvent or potentially insolvent. Enforcement of the provisions of this section shall be in accordance with article 24 of chapter 40 of the Kansas Statutes Annotated, and acts amendatory thereof and supplemental thereto.

New Sec. 7. Nothing in K.S.A. 40-927, 40-928, 40-929, 40-1112 and 40-1113, and amendments thereto, shall alter the basis for approval or disapproval of consent to rate or unique and unusual rate filings for individual risks nor shall any provision of such statutes require that all present approved rates be refilled.

Sec. 8. K.S.A. 1987 Supp. 40-3403 is hereby amended to read as follows: 40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a health care provider, self-insurer or inactive health care provider subsequent to the time that such health care provider or self-insurer has qualified for coverage under the provisions of this act, there is hereby established the health care stabilization fund. The fund shall be held in trust in a segregated fund in the state treasury. The commissioner shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.

(b) (1) There is hereby created a board of governors. The board of governors shall:

(A) Provide technical assistance with respect to administration of the fund;

(B) provide such expertise as the commissioner may reasonably request with respect to evaluation of claims or potential claims;

(C) provide advice, information and testimony to the appropriate licensing or disciplinary authority regarding the qualifications of a health care provider; and

(D) prepare and publish, on or before October 1 of each year, a summary of the fund's activity during the preceding fiscal year, including but not limited to the amount collected from surcharges, the highest and lowest surcharges assessed, the amount paid from the fund, the number of judgments paid from the fund, the number of settlements paid from the fund and the amount in the fund at the end of the fiscal year.

(2) The board shall consist of 14 persons appointed by the commissioner of insurance, as follows: (A) The commissioner of insurance, or the designee of the commissioner, who shall act as chairperson; (B) two members appointed from the public at large who are not affiliated with any health care provider; (C) three members licensed to practice medicine and surgery in Kansas who are doctors of medicine; (D) three members who are representatives of Kansas hospitals; (E) two members licensed to practice medicine and surgery in Kansas who are doctors of osteopathic medicine; (F) one member licensed to practice chiropractic in Kansas; (G) one member who is a licensed professional nurse authorized to practice as a registered nurse anesthetist; and (H) one member of another category of health care providers. Meetings shall be called by the chairperson or by a written notice signed by three members of the board. The board, in addition to other duties imposed by this act, shall study and evaluate the operation of the fund and make such recommendations to the legislature as may be appropriate to ensure the viability of the fund.

(3) The board shall be attached to the insurance department and shall be within the insurance department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the commissioner of insurance. All vouchers for ex-

(continued)

penditures of the board shall be approved by the commissioner of insurance or a person designated by the commissioner.

(c) Subject to subsections (d), (e), (f), (i) and (k), the fund shall be liable to pay: (1) Any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable resident health care providers or resident self-insurers for any personal injury or death arising out of the rendering of or the failure to render professional services within or without this state; (2) any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable nonresident health care providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state but in no event shall the fund be obligated for claims against nonresident health care providers or nonresident self-insurers who have not complied with this act or for claims against nonresident health care providers or nonresident self-insurers that arose outside of this state; (3) any amount due from a judgment or settlement against a resident inactive health care provider for any such injury or death arising out of the rendering of or failure to render professional services; (4) any amount due from a judgment or settlement against a nonresident inactive health care provider for any injury or death arising out of the rendering or failure to render professional services within this state, but in no event shall the fund be obligated for claims against: (A) Nonresident inactive health care providers who have not complied with this act; or (B) nonresident inactive health care providers for claims that arose outside of this state, unless such health care provider was a resident health care provider or resident self-insurer at the time such act occurred; (5) reasonable and necessary expenses for attorney fees incurred in defending the fund against claims; (6) any amounts expended for reinsurance obtained to protect the best interests of the fund purchased by the commissioner, which purchase shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, but shall not be subject to the provisions of K.S.A. 75-4101 and amendments thereto; (7) reasonable and necessary actuarial expenses incurred in administering the act, which expenditures shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto; (8) annually to the plan or plans, any amount due pursuant to subsection (a)(3) of K.S.A. 40-3413 and amendments thereto; (9) reasonable and necessary expenses incurred by the insurance department and the board of governors in the administration of the fund; (10) return of any unearned surcharge; (11) reasonable and necessary expenses for attorney fees and other costs incurred in defending a person engaged or who was engaged in residency training from claims for personal injury or death arising out of the rendering of or the failure to render professional services by such health care provider; (12) any amount due from a judgment or settlement for an injury or death arising out of the rendering of or failure to render professional services by a person engaged or who was engaged in residency training; (13) amounts authorized by the court pursuant to K.S.A. 1986 Supp. 60-3411 and amendments thereto; and (14) reasonable and necessary expenses for the development and promotion of risk management education programs.

(d) All amounts for which the fund is liable pursuant to subsection (c) shall be paid promptly and in full except that, in any case arising out of a cause of action which accrued before July 1, 1986, if the amount for which the fund is liable is \$300,000 or more, it shall be paid, by installment payments of \$300,000 or 10% of the amount of the judgment including interest thereon, whichever is greater, per fiscal year, the first installment to be paid within 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the first installment was paid, until the claim has been paid in full. Any attorney fees payable from such installment shall be similarly prorated.

(e) In no event shall the fund be liable to pay in excess of \$3,000,000 pursuant to any one judgment or settlement against any one health care provider relating to any injury or death arising out of the rendering of or the failure to render professional services on and after July 1, 1984, and before July 1, 1986, subject to an aggregate limitation for all judgments or settle-

ments arising from all claims made in any one fiscal year in the amount of \$6,000,000 for each provider.

(f) Except as provided by K.S.A. 1986 Supp. 60-3411 and amendments thereto, the fund shall not be liable to pay in excess of \$1,000,000 pursuant to any one judgment or settlement for any party against any one health care provider relating to any injury or death arising out of the rendering of or the failure to render professional services on and after July 1, 1986, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of \$3,000,000 for each provider.

(g) A health care provider shall be deemed to have qualified for coverage under the fund: (1) On and after the effective date of this act if basic coverage is then in effect; (2) subsequent to the effective date of this act, at such time as basic coverage becomes effective; or (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414 and amendments thereto.

(h) A health care provider who is qualified for coverage under the fund shall have no vicarious liability or responsibility for any injury or death arising out of the rendering of or the failure to render professional services inside or outside this state by any other health care provider who is also qualified for coverage under the fund. The provisions of this subsection shall apply to all claims filed on or after the effective date of this act.

(i) Notwithstanding the provisions of K.S.A. 40-3402 and amendments thereto, if the board of governors determines due to the number of claims filed against a health care provider or the outcome of those claims that an individual health care provider presents a material risk of significant future liability to the fund, the board of governors is authorized by a vote of a majority of the members thereof, after notice and an opportunity for hearing, to terminate the liability of the fund for all claims against the health care provider for damages for death or personal injury arising out of the rendering of or the failure to render professional services after the date of termination. The date of termination shall be 30 days after the date of the determination by the board of governors. The board of governors, upon termination of the liability of the fund under this subsection, shall notify the licensing or other disciplinary board having jurisdiction over the health care provider involved of the name of the health care provider and the reasons for the termination.

(j) (1) Upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(11), the commissioner shall certify to the director of accounts and reports the amount of such payment, and the director of accounts and reports shall transfer an amount equal to the amount certified from the state general fund to the health care stabilization fund.

(2) Upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(12), the commissioner shall certify to the director of accounts and reports the amount of such payment which is equal to the basic coverage liability of self-insurers, and the director of accounts and reports shall transfer an amount equal to the amount certified from the state general fund to the health care stabilization fund.

(k) Notwithstanding any other provision of the health care provider insurance availability act, no psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto shall be assessed a premium surcharge or be entitled to coverage under the fund if such hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404 and amendments thereto prior to January 1, 1988.

Sec. 9. K.S.A. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider, or any health care system organized and existing under the laws of this state which owns and operates two or more medical care facilities licensed by the department of health and environment, whose aggregate annual insurance premium is or would be \$100,000 or more for basic coverage calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413 and amendments thereto, may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner. Upon application of any such health care provider or health care system, on a form prescribed by the commissioner, the commissioner may issue a certificate of self-insurance if the commissioner is satis-

vided that the applicant is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the commissioner shall consider (1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims and (4) any other relevant factors. The certificate of self-insurance may contain reasonable conditions prescribed by the commissioner. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel a certificate of self-insurance upon reasonable grounds therefor. Failure to pay any judgment for which the self-insurer is liable arising from the self-insurer's rendering of professional services as a health care provider, the failure to comply with any provision of this act or the failure to comply with any conditions contained in the certificate of self-insurance shall be reasonable grounds for the cancellation of such certificate of self-insurance. The provisions of this subsection shall not apply to the Kansas soldiers' home or to any person who is a self-insurer pursuant to subsection (d) or (e).

(b) Any such health care provider ~~who~~ or health care system that holds a certificate of self-insurance shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto.

(c) The Kansas soldiers' home shall be a self-insurer and shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto.

(d) A person engaged in residency training shall be self-insured by the university of Kansas medical center for occurrences arising during such training, and such person shall be deemed a self-insurer for the purposes of the health care provider insurance ~~stabilization~~ availability act. The university of Kansas medical center shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto on behalf of such person. Such self-insurance shall be applicable to a person engaged in residency training only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center.

(e) (1) A person engaged in a postgraduate training program approved by the state board of healing arts at a medical care facility or mental health center in this state may be self-insured by such medical care facility or mental health center in accordance with this subsection (e) and in accordance with such terms and conditions of eligibility therefor as may be specified by the medical care facility or mental health center and approved by the commissioner. A person self-insured under this subsection (e) by a medical care facility or mental health center shall be deemed a self-insurer for purposes of the health care provider insurance availability act. Upon application by a medical care facility or mental health center, on a form prescribed by the commissioner, the commissioner may authorize such medical care facility or mental health center to self-insure persons engaged in postgraduate training programs approved by the state board of healing arts at such medical care facility or mental health center if the commissioner is satisfied that the medical care facility or mental health center is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against a person engaged in such a postgraduate training program and arising from such person's rendering of or failure to render professional services as a health care provider.

(2) In making such determination the commissioner shall consider (A) the financial condition of the medical care facility or mental health center, (B) the procedures adopted by the medical care facility or mental health center to process and handle claims and potential claims, (C) the amount and liquidity of assets reserved for the settlement of claims or potential claims by the

medical care facility or mental health center and (D) any other factors the commissioner deems relevant. The commissioner may specify such conditions for the approval of an application as the commissioner deems necessary. Upon approval of an application, the commissioner shall issue a certificate of self-insurance to each person engaged in such postgraduate training program at the medical care facility or mental health center who is self-insured by such medical care facility or mental health center.

(3) Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel, upon reasonable grounds therefor, a certificate of self-insurance issued pursuant to this subsection (e) or the authority of a medical care facility or mental health center to self-insure persons engaged in such postgraduate training programs at the medical care facility or mental health center. Failure of a person engaged in such postgraduate training program to comply with the terms and conditions of eligibility to be self-insured by the medical care facility or mental health center, the failure of a medical care facility or mental health center to pay any judgment for which such medical care facility or mental health center is liable as self-insurer of such person, the failure to comply with any provisions of the health care provider insurance availability act or the failure to comply with any conditions for approval of the application or any conditions contained in the certificate of self-insurance shall be reasonable grounds for cancellation of such certificate of self-insurance or the authority of a medical care facility or mental health center to self-insure such persons.

(4) A medical care facility or mental health center authorized to self-insure persons engaged in such postgraduate training programs shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto on behalf of such persons.

(5) As used in this subsection (e), "medical care facility" does not include the university of Kansas medical center.

(f) For the purposes of subsection (a), "health care provider" may include each health care provider in any group of health care providers who practice as a group to provide physician services only for a health maintenance organization, any professional corporations, partnerships or not-for-profit corporations formed by such group and the health maintenance organization itself. The premiums for each such provider, health maintenance organization and group corporation or partnership may be aggregated for the purpose of being eligible for and subject to the statutory requirements for self-insurance as set forth in this section.

(g) The provisions of subsections (a) and (f), relating to health care systems, shall not affect the responsibility of individual health care providers as defined in subsection (f) of K.S.A. 40-3401, and amendments thereto, or organizations whose premiums are aggregated for purposes of being eligible for self-insurance from individually meeting the requirements imposed by K.S.A. 40-3402, and amendments thereto, with respect to the ability to respond to injury or damages to the extent specified therein and K.S.A. 40-3404, and amendments thereto, with respect to the payment of the health care stabilization fund surcharge.

Sec. 10. K.S.A. 40-3414 and K.S.A. 1987 Supp. 40-3403 are hereby repealed.

Sec. 11. From and after January 1, 1989, K.S.A. 40-928, 40-929 and 40-1113 and K.S.A. 1987 Supp. 40-927 and 40-1112 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body March 3, 1988.

SENATE adopted Conference Committee report May 2, 1988.

ROBERT V. TALKINGTON

President of the Senate.

LU KENNEY

Secretary of the Senate.

(continued)

Passed the HOUSE as amended March 31, 1988.

HOUSE adopted Conference Committee report May 2, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

APPROVED May 17, 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 17th day of May, A.D. 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the Kansas Register, May 26, 1988.)

HOUSE BILL No. 3024

AN ACT concerning state government; abolishing certain boards, councils, committees and commissions; imposing, revoking or transferring certain powers, duties and functions; amending K.S.A. 44-820, 48-307, 48-308, 48-310, 48-323, 58-2009, 58-2010, 74-4533, 74-4534, 74-4535, 75-1119, 75-1119b, 75-1120, 75-1121, 75-2249, 75-5523 and 75-5529a and K.S.A. 1987 Supp. 58-2011, 75-3317, 75-3319, 75-3320, 75-3321, 75-5205 and 75-52,117 and repealing the existing sections; also repealing K.S.A. 31-151, 31-152, 31-153, 31-154, 48-315, 48-316, 48-317, 48-318, 48-319, 48-320, 48-321, 48-322, 58-2007, 58-2008, 65-198, 65-199, 65-1,100, 65-1,101, 65-1,102, 65-1,103, 65-1,104, 74-4528, 74-4529, 74-4530, 74-4531, 74-7701, 75-1118, 75-2246, 75-2247, 75-3318, 75-5287, 75-5522 and 75-5629.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. On July 1, 1988, the following boards, councils, committees and commissions are hereby abolished:

- (a) Governor's commission on fire protection personnel standards and education created by K.S.A. 31-151;
- (b) armory board created by K.S.A. 48-315;
- (c) land survey advisory committee created by K.S.A. 58-2007;
- (d) renal disease advisory committee created by K.S.A. 65-1,100;
- (e) joint council on recreation created by K.S.A. 74-4528;
- (f) governor's commission on applied remote sensing created by K.S.A. 74-7701;
- (g) state municipal accounting board created by K.S.A. 75-1118;
- (h) state capitol murals committee created by K.S.A. 75-2246;
- (i) committee on state and unified school districts' purchases created by K.S.A. 74-3318;
- (j) industries advisory committee created by K.S.A. 75-5287;
- (k) prerelease center local advisory committees created by K.S.A. 1987 Supp. 75-52,117;
- (l) advisory committee on deferred compensation created by K.S.A. 75-5522; and
- (m) advisory committee on food service and lodging standards created by K.S.A. 75-5629.

New Sec. 2. On July 1, 1988, unless otherwise required by law, all books, records and other property of any board, council, committee or commission abolished by section 1 shall remain in the custody of, or are hereby transferred to, the state agency to which such abolished board, council, committee or commission was advisory or associated.

New Sec. 3. On July 1, 1988, all books, records and other property of the governor's commission on fire protection personnel standards and education abolished by section 1 are hereby transferred to the custody of the office of the state fire marshal.

New Sec. 4. On July 1, 1988, all books, records and other property of the joint council on recreation abolished by section 1

are hereby transferred to the custody of the state department of wildlife and parks.

New Sec. 5. On July 1, 1988, all books, records, reports and other property of the land survey advisory committee abolished by section 1 are hereby transferred to the custody of the state historical society.

New Sec. 6. On July 1, 1988, all books, records, reports and other property of the governor's commission on applied remote sensing abolished by section 1 are hereby transferred to the custody of the university of Kansas director of the applied remote sensing program.

New Sec. 7. On July 1, 1988, whenever any board, council, committee or commission abolished under section 1 is referred to or designated by statute, contract, lease, agreement or other document, such reference or designation shall be void and of no force and effect, except that nothing in this act shall in any way impair existing contracts, leases or agreements.

Sec. 8. On and after July 1, 1988, K.S.A. 44-820 is hereby amended to read as follows: 44-820. (a) There is hereby created the agricultural labor relations board, which shall consist of three members, two of whom shall be appointed by the governor, for terms of four years. One member shall be representative of agricultural employees, one member shall be representative of agricultural employers and one member shall be representative of the public. The appointment of the agricultural employee representative member of the board shall be made by the governor from a list of three nominations submitted to the governor by the secretary of human resources; the appointment of the agricultural employer representative member of the board shall be made by the governor from a list of three nominations submitted to the governor by the state board of agriculture; and the appointment of the public representative member of the board, who, because of vocation, occupation or affiliation, may be deemed not to be a representative of either agricultural employers or agricultural employees, shall be made by the members appointed by the governor as agricultural employee representative and agricultural employer representative. If the two members do not agree and make the appointment of the third member within 30 days, the governor shall appoint the representative of the public. Not more than two members of the board shall belong to the same political party. Every member of the board shall serve until a successor is appointed and qualified. Any vacancy in the membership of the board occurring prior to the expiration of a term shall be filled by appointment for the unexpired term in the same manner as provided for original appointment of the member.

(b) Members of the agricultural labor relations 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. Members' compensation shall be paid by the department of human resources from funds appropriated thereto by the legislature. The secretary of human resources shall provide office space and such clerical and other staff assistance as necessary to assist the board in carrying out the provisions of this act.

(c) The secretary of human resources shall establish, after consulting with representatives of employee organizations and of agricultural employers, panels of qualified persons, broadly representative of the public, to be available to serve as mediators or arbitrators. In addition, the secretary may appoint such persons as necessary for the performance of the board's functions, including but not limited to mediators, fact-finders and arbitrators. Such persons shall perform such duties and exercise such powers as the secretary and the board prescribe and such duties and powers as provided by law. The secretary shall fix the compensation of such persons and shall provide for reimbursement of their expenses within the amounts made available by the legislature for that purpose.

(d) In addition to other authority provided in this act the board shall:

(1) Establish procedures for the prevention of prohibited agricultural employer and employee organization practices as provided in K.S.A. 44-828 and amendments thereto, except that

the board shall provide only for the entering of an order directing the agricultural employer or employee organization to meet and confer in good faith in the case of a claimed violation of subsection (b)(5) or (c)(5) of that section. The pendency of proceedings under this paragraph shall not be used as the basis to delay or interfere with determination of representation status pursuant to K.S.A. 44-823 and amendments thereto or with meeting and conferring.

(2) Hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers. For the purpose of such hearings and inquiries, the board may administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence and compel attendance of witnesses and the production of documents by the issuance of subpoenas. Any such powers may be delegated to any member of the board or to any person appointed by the secretary to perform the functions of the board. Such subpoenas shall be regulated and enforced in the same manner as provided for the secretary of human resources under the provisions of K.S.A. 44-611 and amendments thereto.

(3) To make, amend and rescind such rules and regulations, and to exercise such other powers, as appropriate to carry out the purposes and provisions of this act.

(e) *The provisions of this section shall expire on July 1, 1989.*

Sec. 9. On and after July 1, 1988, K.S.A. 48-307 is hereby amended to read as follows: 48-307. When the ~~aforsaid~~ military board shall receive information from the governor of the disbandment of any organization of the national guard of Kansas occupying and using an armory provided by the state, under the direction of the military board, it shall be the duty of ~~said~~ such military board to sell such armory, at public or private sale, after due publication, for the highest price to be obtained for the same, and the proceeds thereof shall be divided equitably between the state, city or county as their interest may appear. ~~Provided, however, That any such property owned by the state armory board and upon which property said board has issued revenue bonds, shall not be sold until all of said bonds have been retired.~~

Sec. 10. On and after July 1, 1988, K.S.A. 48-308 is hereby amended to read as follows: 48-308. Every city and county in the state of Kansas now having or that may hereafter have a national guard organization or a state guard organization within its boundaries, and every city having a national guard or state guard organization within five miles of its boundaries, is hereby authorized and empowered to render such financial assistance as it may deem wise and patriotic to such national guard organization, ~~or state guard organization or the Kansas armory board, or the military board of the state of Kansas, either by donating lands or buildings, or donating the use of lands or buildings, or by contributing money for the equipping and maintenance of such national guard organization or state guard organization, or to the Kansas armory board or to the military board for acquiring or constructing an armory or armories. Provided, except (a) that bonds of such city or county may be issued and sold, as provided by law, to raise the money for such purposes when authorized by a majority of the electors thereof voting at an election called and held, and bonds issued thereunder in accordance with the provisions of the general bond law. Provided, ; (b) that the governing body of any city of the first class located in any county having a population of not less than one hundred and ten thousand 110,000 and having an assessed tangible valuation of more than one hundred and fifty million dollars \$150,000,000, and owning and operating a municipal airport and the board of county commissioners of any county in which such city is located which owns and operates a municipal airport, may issue and sell not to exceed fifty thousand dollars \$50,000 of bonds for the purpose of rendering financial assistance in the construction of a national guard armory to be used by a national guard air squadron. Provided further,; and (c) that every school district in the state of Kansas now having or that may hereafter have a national guard or state guard organization within its boundaries may lease or donate lands, buildings or equipment to such national guard or state guard organization.~~

Sec. 11. On and after July 1, 1988, K.S.A. 48-310 is hereby

amended to read as follows: 48-310. In the event that any real property is donated to a national guard organization under the provisions of K.S.A. 48-308, and amendments thereto, and the national guard organization shall fail or refuse to use the same, or shall, after accepting the same, disband its organization, the title to the real property thus donated shall revert to the person, corporation or municipality donating the same. ~~Provided, however, That any such property owned by the state armory board and upon which said board has issued revenue bonds secured by the revenue from such property, shall not revert to the person, corporation or municipality donating the same until all of said bonds have been retired.~~

Sec. 12. On and after July 1, 1988, K.S.A. 48-323 is hereby amended to read as follows: 48-323. (a) All armories under the control of the Kansas military board by virtue of being established pursuant to K.S.A. 48-301, and amendments thereto, or by virtue of a transfer pursuant to K.S.A. 48-319, and amendments thereto, shall be insured and subject to the provisions of subsection (b). ~~All armories established pursuant to K.S.A. 48-317, which are under the control of the Kansas armory board, shall be insured and subject to the provisions of subsection (b).~~

(b) The ~~boards board~~ having control of the armories enumerated in subsection (a) shall procure and keep in force fire and extended coverage insurance. In the event of fire or other damage for which coverage is included pursuant to such insurance, the proceeds of such insurance shall be used for the reconstruction or repair of the damaged armory.

Sec. 13. On and after July 1, 1988, K.S.A. 58-2009 is hereby amended to read as follows: 58-2009. (a) The secretary of ~~state~~ the state historical society shall: (a) (1) Adopt rules and regulations fixing fees for the filing of documents under K.S.A. 58-2011, and amendments thereto, and the providing of information and services therefrom in an amount necessary to pay the cost of administering the provisions of this act; and

(b) (2) adopt such other rules and regulations as necessary to implement the provisions of this act.

(b) *The rules and regulations of the secretary of state relating to land surveys, land survey reference reports and filing fees for such reference reports in existence on the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations of the secretary of the state historical society until revised, amended, repealed or nullified pursuant to law.*

Sec. 14. On and after July 1, 1988, K.S.A. 58-2010 is hereby amended to read as follows: 58-2010. Any city, county or state department, board or agency having information or records which will enable the secretary of ~~state~~ the state historical society to carry out the provisions of this act shall furnish, upon request, such information to the secretary of ~~state~~ the state historical society. The cost of providing such information shall be paid by the secretary of ~~state~~ the state historical society.

Sec. 15. On and after July 1, 1988, K.S.A. 1987 Supp. 58-2011 is hereby amended to read as follows: 58-2011. (a) Whenever a survey originates from a United States public land survey corner or any related accessory, the land surveyor shall file a copy of the report of the completed survey and references to the corner or accessory with the secretary of ~~state~~ the state historical society and with the county surveyor for the county or counties in which the survey corner exists. Such report shall be filed within 30 days of the date the references are made. At the time of filing such report with the secretary of ~~state~~ the state historical society, the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of ~~state~~ the state historical society.

(b) Any person engaged in an activity in which a United States public land survey corner or any related accessory is likely to be altered, removed, damaged or destroyed shall have a person qualified to practice land surveying establish such reference points as necessary for the restoration, reestablishment or replacement of the corner or accessory. The land surveyor shall file a reference report with the secretary of ~~state~~ the state historical society and with the county surveyor for the county or counties in which the survey corner exists. Such report shall be

(continued)

filed within 30 days of the date the references are made. At the time of filing such report with the secretary of ~~state the state historical society~~, the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of ~~state the state historical society~~.

(c) Upon completion of the activity likely to alter, remove, damage or destroy the public land survey corner or related accessory, the land surveyor shall review the survey corner and its accessories. If the survey corner or any accessory has been altered, removed, damaged or destroyed, the land surveyor shall replace the corner or accessory with a survey monument and file a restoration report with the secretary of ~~state the state historical society~~ and the county surveyor in the county or counties in which it existed. If the survey corner and accessories are not damaged during the activity, a restoration report so stating shall be filed with the secretary of ~~state the state historical society~~ and county surveyor's office. Such report shall be filed within 30 days after the activity is completed. At the time of filing such report with the office of the secretary of ~~state the state historical society~~ the land surveyor shall pay a filing fee in an amount fixed by rules and regulations of the secretary of ~~state the state historical society~~.

(d) Failure to comply with the filing requirements of this section shall be grounds for the suspension or revocation of the land surveyor's license.

(e) The secretary of ~~state the state historical society~~ may produce, reproduce and sell maps, plats, reports, studies and records relating to land surveys. The secretary of ~~state the state historical society~~ shall charge a fee in an amount to be fixed by rules and regulations of the secretary for the furnishing of information retrieved from records filed pursuant to this section and for reproductions or copies of maps, plats, reports, studies and records filed in such office.

(f) All moneys collected by the secretary of ~~state the state historical society~~ under the provisions of this section shall be paid to the state treasurer on or before the last day of each month. Upon receipt thereof the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the land survey fee fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants approved by the secretary of ~~state the state historical society~~ or a person designated by the secretary of ~~state the state historical society~~ and shall be used only for the purpose of paying the costs incurred in administering the provisions of this act. *After the effective date of this act, any reference to the secretary of state in regard to appropriations to the land survey fee fund shall be deemed to refer to the secretary of the state historical society.*

Sec. 16. On and after July 1, 1988, K.S.A. 74-4533 is hereby amended to read as follows: 74-4533. The ~~state park and resources authority department of wildlife and parks~~ is hereby designated as the official state agency to accept and disburse funds made available to the state under the provisions of the "land and water conservation fund act of 1965;" ~~in accordance with the policies established by the joint council on recreation.~~

Sec. 17. On and after July 1, 1988, K.S.A. 74-4534 is hereby amended to read as follows: 74-4534. The ~~joint council on recreation~~ shall be the official state agency to prepare a ~~comprehensive outdoor recreation plan by which activities of all agencies of the state, county, city, and other governmental units having an interest in outdoor recreation may be coordinated.~~ The ~~state park and resources authority department of wildlife and parks~~, as the administrative agency of the state for such federal assistance and benefits as may be available under the "land and water conservation fund act of 1965;" shall have the right and is authorized and empowered, ~~following project approval by the joint council on recreation;~~ (a) To apply for such assistance and benefits as may be available to the state under ~~said such act~~, and the state treasurer is hereby authorized and empowered to receive and disburse such moneys upon proper voucher by the ~~state park and resources authority department of wildlife and parks;~~ (b) to develop, operate, and maintain outdoor recreation areas and facilities of the state and to acquire land, water and interest in land and water for such areas and facilities. The title of any land

or waters acquired for the state shall be in the state of Kansas; (c) to enter into contracts and agreements with individuals, municipalities, governmental agencies and with the United States or any appropriate agency thereof; (d) to keep financial and other records thereto and to furnish appropriate officials and agencies of the state and of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under ~~said such program~~; (e) to coordinate its activities with and represent the interests of all agencies and political or municipal subdivisions of the state, subject to the provisions of this act, in the planning, development, and maintenance of outdoor recreation resources and facilities within the state; (f) to do and perform such other acts as may be necessary to comply with federal requirements in securing for the state the benefits provided by the "land and water conservation fund act of 1965."

Sec. 18. On and after July 1, 1988, K.S.A. 74-4535 is hereby amended to read as follows: 74-4535. The ~~state park and resources authority department of wildlife and parks~~ shall make no commitment or enter into any agreement pursuant to the exercise of authority under this act until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. It is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under the authority of this act, such areas and facilities shall be publicly maintained for outdoor recreation purposes and operated for all people regardless of race, color or creed. The ~~state park and resources authority, in accordance with the policies set out by the joint council on recreation, department of wildlife and parks~~ may enter into and administer agreements with the United States or any appropriate agency thereof, for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any subdivision or subdivisions of this state. *Provided, except that such subdivision or subdivisions give necessary assurance to the state park and resources authority department of wildlife and parks that they have available sufficient funds to meet their share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such subdivisions or subdivision for public outdoor recreation use.*

Sec. 19. On and after July 1, 1988, K.S.A. 75-1119 is hereby amended to read as follows: 75-1119. (a) The board of accountancy shall adopt rules and regulations governing the renewal and revocation of licenses of licensed municipal public accountants. ~~Commencing on July 1, 1982,~~ Such licenses shall be renewed for a two-year period from July 1 of the year of renewal and may be renewed at the discretion and under the rules and regulations of the board of accountancy. The rules and regulations of the state municipal accounting board governing the renewal and revocation of licenses of licensed municipal public accountants in existence on the effective date of this act shall continue to be effective and shall be deemed to be the rules and regulations of the board of accountancy until revised, amended, repealed or nullified pursuant to law. All other rules and regulations of the state municipal accounting board shall continue in existence until revised, amended, repealed or nullified *by the director of accounts and reports* pursuant to law.

(b) The chairperson of the board of accountancy is hereby authorized to administer oaths, issue subpoenas and take testimony of any persons or witnesses that the board of accountancy may desire relative to any duty or power given it in this section.

(c) ~~On and after July 1, 1982,~~ No person may be issued an original license to engage in practice as a licensed municipal public accountant. Licensed municipal public accountants who hold original licenses to practice as such prior to the effective date of this act and who are in active practice as licensed municipal public accountants or have been granted inactive status shall continue to hold such licenses and shall remain entitled to have such licenses renewed and to practice as licensed municipal public accountants subject to rules and regulations of the board of accountancy.

Sec. 20. On and after July 1, 1988, K.S.A. 75-1119b is hereby amended to read as follows: 75-1119b. (a) The board of account-

tancy shall remit all moneys received by or for it under the provisions of this act from fees, charges or penalties 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 of each such deposit shall be credited to the state general fund and the balance shall be credited to the board of accountancy fee fund.

(b) On July 1, 1982, the chairperson of the state municipal accounting board shall certify to the director of accounts and reports the amount of money in the state municipal accounting board fee fund which is attributable to the powers, duties and functions which are transferred from the state municipal accounting board to the board of accountancy. Upon receipt of such certification, the director of accounts and reports shall transfer (1) the amount certified from the state municipal accounting board fee fund to the board of accountancy fee fund, and (2) the balance remaining after such transfer in the state municipal accounting board fee fund to the accounting services recovery fund.

(c) On July 1, 1982, all liabilities of the state municipal accounting board fee fund existing prior to that date which are attributable to the powers, duties and functions which are transferred to the board of accountancy by this act are hereby imposed on the board of accountancy fee fund. On July 1, 1982, all other liabilities of the state municipal accounting board fee fund existing prior to that date are hereby imposed on the accounting services recovery fund. The state municipal accounting board fee fund is hereby abolished.

Sec. 21. On and after July 1, 1988, K.S.A. 75-1120 is hereby amended to read as follows: 75-1120. There is hereby authorized and there shall be a system of fiscal procedure, accounting and reporting for all municipalities of the state of Kansas required by K.S.A. 75-1122, and amendments thereto, to have their accounts examined and audited at least once each year, which system shall be uniform in its application to all officers of the same grade and kind and all accounts of the same kind of municipalities to which it is applicable, and shall be used by such municipalities and their officers and employees when directed by the state municipal accounting board director of accounts and reports. Any municipality may use or adopt such forms as it shall deem best suited for its particular needs so long as all necessary information is shown on such forms. No copyrighted form or forms, books or records shall be adopted. The system adopted must be obtainable upon the open market.

Sec. 22. On and after July 1, 1988, K.S.A. 75-1121 is hereby amended to read as follows: 75-1121. The director of accounts and reports shall, by and with the consent and approval of the state municipal accounting board:

(a) Formulate, devise and prescribe a system of fiscal procedure, auditing, accounting and reporting for municipalities, applicable to those municipalities required by K.S.A. 75-1122, and amendments thereto, to have their accounts examined and audited at least once each year.

(b) Adopt rules and regulations to carry out the provisions of this act and, from time to time, to make, change, amend and enforce such system and forms of accounting and reporting and rules or regulations. All rules and regulations of the auditor of state adopted under authority of this section that are in effect on the effective date of this act shall remain in full force and effect until amended or nullified by the director of accounts and reports as provided by law. No rules and regulations adopted pursuant to the provisions of this section shall prescribe any system of fiscal procedure or require the governing body of any municipality to have its accounts examined and audited unless such municipality is required to have its accounts examined and audited under the provisions of K.S.A. 75-1122, and amendments thereto.

(c) Conduct either in person or by representatives such investigation as he or she the director may deem necessary to determine if this act and the regulations issued pursuant thereto are being fully complied with.

Sec. 23. On and after July 1, 1988, K.S.A. 75-2249 is hereby amended to read as follows: 75-2249. (a) (1) The director of architectural services shall cause a work of sculpture selected in the manner hereinafter prescribed to be placed atop the state

capitol. The process for selecting such work of sculpture shall be coordinated by the Kansas arts commission. The commission shall invite suggestions from Kansas school children and all other interested persons and shall then invite interested artists to submit sketches. Such sketches shall first be reviewed by an advisory panel consisting of the governor, president of the senate, minority leader of the senate, speaker of the house of representatives, minority leader of the house of representatives, president of the Kansas arts commission, executive director of the Kansas state historical society, director of architectural services and four art professionals selected and appointed by the Kansas arts commission. Members of the advisory panel shall review the sketches submitted and make recommendations thereon to a state capitol dome sculpture selection committee consisting of five art professionals selected and appointed by the Kansas arts commission and the director of architectural services.

(2) The provisions of this subsection shall expire on July 1, 1989.

(b) (1) In selecting such work of sculpture or making recommendations thereon, the advisory panel and selection committee shall consider as the principal criteria therefor: (1) (A) The appropriateness of the artwork to the architectural setting of the state capitol; (2) (B) the artistic quality of the artwork; and (3) (C) the association of artist with the state of Kansas, through having been born or raised in Kansas, having resided or worked in Kansas or through having current residence in Kansas. Such work of sculpture shall not be a representation of the goddess Ceres.

(2) The provisions of this subsection shall expire on July 1, 1989.

(c) The Kansas arts commission is hereby authorized to receive any grants, gifts, contributions or bequests made for the purpose of financing the cost of acquiring and placing atop the state capitol the work of sculpture selected pursuant to this act. There is hereby established in the state treasury the state capitol dome sculpture fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the Kansas arts commission.

Sec. 24. On and after July 1, 1988, K.S.A. 1987 Supp. 75-3317 is hereby amended to read as follows: 75-3317. As used in K.S.A. 75-3317 to through 75-3322, inclusive, and amendments thereto, unless the context requires otherwise:

(a) "Committee" means the committee on state and unified school districts' purchases;

(b) (a) "Director of purchases" means the director of purchases of the department of administration;

(c) (b) "Kansas industries for the blind division and rehabilitation services" means workshops and home industry projects for blind or other handicapped persons which are located in Kansas and which are supported, operated or supervised by the division of services for the blind or rehabilitation services of the department of social and rehabilitation services;

(d) (c) "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or any unit within an office, department, board, commission or other state authority;

(e) (d) "rehabilitation facility" means any community mental health center or community facility for the mentally retarded operating under K.S.A. 19-4001 et seq. and amendments thereto or nonprofit corporation contracting with a mental retardation governing board to provide services under K.S.A. 19-4001 et seq. and amendments thereto, which has registered with the secretary of social and rehabilitation services for the purposes of K.S.A. 75-3317 to through 75-3322, inclusive, and amendments thereto, and shall also mean the Kansas foundation for the blind, Wichita, Kansas, center industries, inc., Wichita, Kansas, and, upon registration hereunder, any workshop or other facility for blind or other handicapped persons which is located in Kansas and which is certified to the United States department of labor and licensed by the secretary of social and rehabilitation services as a sheltered workshop under K.S.A. 75-3307b and amendments thereto.

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Sec. 25. On and after July 1, 1988, K.S.A. 1987 Supp. 75-3319 is hereby amended to read as follows: 75-3319. (a) The ~~committee director of purchases~~ shall determine fair market prices of products manufactured, processed, and offered for sale and of services offered under K.S.A. 75-3317 to through 75-3322, ~~inclusive~~, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by each rehabilitation facility. All of the products and services shall be standard conforming. Those products and services offered for purchase by or for a state agency shall meet specifications required by the director of purchases. Those products offered for purchase by or for a unified school district shall meet specifications required by the board of education of the unified school district. The ~~committee director of purchases~~ shall revise the prices determined under this section from time to time in accordance with changing market conditions.

(b) Each rehabilitation facility shall cooperate with and shall provide the ~~committee~~, the director of purchases and the secretary of social and rehabilitation services with all information necessary for the administration of K.S.A. 75-3317 to through 75-3322, ~~inclusive~~, and amendments thereto.

(c) The provisions of K.S.A. 75-3317 to through 75-3322, ~~inclusive~~, and amendments thereto, shall apply only to products manufactured or processed in Kansas or services provided in Kansas by blind or other handicapped persons.

(d) The provisions of K.S.A. 75-3317 to through 75-3322, ~~inclusive~~, and amendments thereto, shall not be construed to require a unified school district to purchase services offered by blind or other handicapped persons under this act.

Sec. 26. On and after July 1, 1988, K.S.A. 1987 Supp. 75-3320 is hereby amended to read as follows: 75-3320. (a) The secretary of social and rehabilitation services shall furnish to the department of administration, and to each person or officer authorized to purchase materials, services and supplies for any state agency or unified school district, a list of products manufactured, processed and offered for sale and of services offered under K.S.A. 75-3317 to through 75-3322, ~~inclusive~~, and amendments thereto, by the Kansas industries for the blind division and rehabilitation services and by rehabilitation facilities.

(b) The list of products and services shall be certified by the ~~committee director of purchases~~. The secretary of social and rehabilitation services shall amend such list from time to time in accordance with the recommendations of the ~~committee director of purchases~~.

(c) The secretary of social and rehabilitation services may charge a reasonable publication fee to those rehabilitation facilities which advertise their products or services on such lists. The secretary of social and rehabilitation services shall remit all moneys received pursuant to this section to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the social welfare fund.

Sec. 27. On and after July 1, 1988, K.S.A. 1987 Supp. 75-3321 is hereby amended to read as follows: 75-3321. The director of purchases and any person or officer authorized to purchase materials and supplies for any state agency or unified school district or to purchase services for any state agency shall purchase, except as otherwise provided in this section, the products and services on the list certified by the ~~committee director of purchases~~ from the Kansas industries for the blind division and rehabilitation services or from a rehabilitation facility, when those products are to be procured by or for the state or unified school district or when those services are to be procured by or for the state. Services offered for purchase are not required to be purchased by a unified school district.

Sec. 28. On and after July 1, 1988, K.S.A. 1987 Supp. 75-5205 is hereby amended to read as follows: 75-5205. (a) The secretary of corrections shall have the general supervision and management of the correctional institutions of the state and such other facilities as may be acquired by lease, purchase or contract for the housing of persons in the secretary's custody. The secretary shall have general supervision, management and control of any manufacturing or other business that may be carried on in behalf of the state pursuant to law, other than business enterprises

operating under K.S.A. 75-5288, and amendments thereto, in and about any correctional institution or facility and shall have the power to receive, take charge, sell or otherwise dispose of any articles manufactured or produced for the benefit of the state, in the manner prescribed by law, other than articles, products and services produced or provided by business enterprises operating under K.S.A. 75-5288, and amendments thereto. The secretary shall have charge and general supervision of the grounds and buildings of such correctional institutions, and the secretary is hereby authorized to purchase the necessary material and supplies therefor.

(b) For purpose of carrying out the secretary's duties, the secretary shall have the authority to receive and expend federal funds and to contract with qualified individuals, partnerships, corporations, organizations, other agencies of the state and the federal government and its agencies.

(c) The secretary shall devote the secretary's entire time to the duties conferred upon the secretary by this act. The secretary may appoint such employees as may be necessary for the efficient management and administration of the department of corrections and as are within available appropriations therefor, and such employees shall be within the classified service under the Kansas civil service act unless otherwise specifically provided by law. Any person appointed as an attorney shall be in the unclassified service under the Kansas civil service act.

(d) *The secretary may appoint such advisors or groups of advisors as the secretary deems necessary to carry out the duties imposed by this act. Such advisors or groups of advisors will serve at the pleasure of the secretary and may receive mileage and subsistence allowances.*

~~(d)~~ (e) The secretary may accept and receive for the department of corrections or a correctional institution any gift of property which the secretary determines would enhance the services provided by the department of corrections.

~~(e)~~ (f) The secretary of administration shall provide the department of corrections with office space at Topeka.

Sec. 29. On and after July 1, 1988, K.S.A. 1987 Supp. 75-52,117 is hereby amended to read as follows: 75-52,117. (a) The secretary of corrections is hereby authorized to establish a prerelease program under which inmates receive training and other services to better prepare themselves for release upon parole, conditional release or discharge from their maximum sentence.

(b) Within the limitations of appropriations available therefor, the secretary of corrections may establish and operate prerelease centers. Each prerelease center shall be used only for:

(1) The housing and confinement of minimum custody inmates during the period preceding their anticipated release upon parole, conditional release or discharge from their maximum sentence;

(2) the housing and confinement of those minimum custody inmates which the secretary determines are necessary to provide maintenance and other support services for the operation of the prerelease center; and

(3) the housing of paroled inmates who would benefit from the prerelease program, as determined by the secretary of corrections.

(c) No minimum custody inmate sentenced for committing a felony of a higher classification than a class D or E felony may be housed and confined at any prerelease center until the inmate has been in minimum custody status for 90 days or more, except that for good cause the secretary of corrections may make an exception and may house and confine any such inmate at a prerelease center.

(d) The prerelease center established at the Winfield state hospital and training center shall not be used as a work release center.

~~(e)~~ The secretary of corrections shall designate a local advisory committee for each prerelease center composed of persons who are residents of the community or area where the prerelease center is located.

~~(f)~~ (e) The secretary of corrections may house and confine minimum custody inmates at prerelease centers, in addition to those specified under subsection (b)(2), to provide maintenance,

support and other services to governmental agencies or nonprofit organizations, upon approval of the secretary of corrections.

(g) (f) The secretary of corrections may extend the limits of confinement of inmates of prerelease centers to work for any state agency, federal agency, city, county, school district or nonprofit organization organized for charitable purposes if such work is in furtherance of public service and public welfare or charitable objectives within the community. The inmates shall remain under the legal custody of the secretary of corrections with the actual limits of confinement extended and may be without actual supervision of correctional officials. Those persons observing, supervising, managing, controlling and reporting back to correctional officials regarding such inmates in their work shall be agents of the state and of the secretary of corrections for that purpose only but shall not, solely by reason of the agency, have law enforcement powers. Compensation of inmates working pursuant to this subsection shall be normal inmate incentive pay rendered to other inmates working within correctional institutions pursuant to K.S.A. 75-5211 and amendments thereto.

Sec. 30. On and after July 1, 1988, K.S.A. 75-5523 is hereby amended to read as follows: 75-5523. (a) The director is authorized to establish a deferred compensation plan in accordance with the federal revenue act of 1978, Public Law No. 95-600, subject to the approval of the ~~advisory committee on deferred compensation~~ *secretary of administration*. Such plan shall be the Kansas public employees deferred compensation plan. *All powers and duties heretofore conferred by such plan upon the advisory committee on deferred compensation are hereby transferred to the director of personnel services or the director's designees.*

(b) The director may enter into an agreement or agreements with approved insurers or other contracting parties whereby benefits under the Kansas public employees deferred compensation plan would be made available to those participants who contract with the director for deferred compensation under K.S.A. 75-5524, *and amendments thereto*. In addition, the director may enter into an agreement with one or more qualified private firms for consolidated billing services, participant enrollment services, participant accounts and other services related to the administration of the Kansas public employees deferred compensation plan.

(c) No significant costs shall be incurred by the state as a result of the administration of this act unless such costs are recovered by charging and collecting a service charge from all participants and in addition thereto or in lieu thereof, where the director has entered into agreements with one or more qualified private firms under subsection (b), are recovered from such firms. The amount of any such significant costs incurred and to be recovered by the state shall be determined by the director.

(d) Subject to the approval of the ~~advisory committee on deferred compensation~~ *secretary of administration*, the director is authorized to negotiate and enter into contracts with qualified insurers and other contracting parties for the purposes of establishing a deferred compensation plan, including acquisition of actuarial and other services necessary therefor. The director shall advertise for deferred compensation proposals, shall negotiate with not less than three firms or other contracting parties submitting such proposals, and shall select from among those submitting such proposals the firm or firms or other contracting party or parties to contract with for purposes of establishing a deferred compensation plan. Contracts entered into under this act shall not be subject to K.S.A. 75-3739 and amendments thereto.

Sec. 31. On and after July 1, 1988, K.S.A. 75-5529a is hereby amended to read as follows: 75-5529a. Subject to the approval of the ~~advisory committee on deferred compensation established by K.S.A. 75-5522 and amendments thereto~~ *secretary of administration*, the director of accounts and reports may enter into agreements for the participation of local governments of the state of Kansas, which are defined as eligible employers by subsection (13) of K.S.A. 74-4902 and amendments thereto, and their employees, as defined by subsection (14) of K.S.A. 74-4902 and amendments thereto except that such employees need not be

employed by a participating employer under the Kansas public employees retirement system, within the deferred compensation plan for state employees established under K.S.A. 75-5523 and amendments thereto. Such participation may include any such eligible employer and employees when authorized by the governing body of the eligible employer by ordinance or resolution. Except for such participation agreements, the director of accounts and reports or any other state officer or employee shall not be involved nor incur any expense in the administration of such plan as it applies to local governments or their employees.

New Sec. 32. No person appointed to any of the abolished boards, councils, committees and commissions, as specified in section 1, shall have to file a statement of substantial interest pursuant to K.S.A. 46-215 et seq., and amendments thereto, or K.S.A. 75-4301 et seq., and amendments thereto, in 1988.

Sec. 33. On and after July 1, 1988, K.S.A. 31-151, 31-152, 31-153, 31-154, 44-820, 48-307, 48-308, 48-310, 48-315, 48-316, 48-317, 48-318, 48-319, 48-320, 48-321, 48-322, 48-323, 58-2007, 58-2008, 58-2009, 58-2010, 65-198, 65-199, 65-1,100, 65-1,101, 65-1,102, 65-1,103, 65-1,104, 74-4528, 74-4529, 74-4530, 74-4531, 74-4533, 74-4534, 74-4535, 74-7701, 75-1118, 75-1119, 75-1119b, 75-1120, 75-1121, 75-2246, 75-2247, 75-2249, 75-3318, 75-5287, 75-5522, 75-5523, 75-5529a and 75-5629 and K.S.A. 1987 Supp. 58-2011, 75-3317, 75-3319, 75-3320, 75-3321, 75-5205 and 75-52,117 are hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body March 8, 1988.

HOUSE adopted Conference Committee report April 30, 1988.

JAMES D. BRADEN
Speaker of the House.
GENEVA SEWARD
Chief Clerk of the House.

Passed the SENATE as amended April 4, 1988.

SENATE adopted Conference Committee report April 29, 1988.

ROBERT V. TALKINGTON
President of the Senate.
LU KENNEY
Secretary of the Senate.

APPROVED May 18, 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 18th day of May, A.D. 1988.

BILL GRAVES
Secretary of State.

(SEAL)

(Published in the *Kansas Register*, May 26, 1988.)

SENATE BILL No. 772

AN ACT relating to the registration of vehicles; providing for certain exemptions amending K.S.A. 1987 Supp. 8-126 and 8-128 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 8-126 is hereby amended to read as follows: 8-126. The following words and phrases when used in this act shall have the meanings respectively ascribed to them herein:

(a) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(b) "Motor vehicle." Every vehicle, other than a motorized bicycle, which is self-propelled.

(c) "Truck." A motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers.

(d) "Motorcycle." Every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any such vehicle as may be included within the term "tractor" as herein defined.

(e) "Truck tractor." Every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn.

(f) "Farm tractor." Every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

(g) "Road tractor." Every motor vehicle designed and used for drawing other vehicles, and not so constructed as to carry any load thereon independently, or any part of the weight of a vehicle or load so drawn.

(h) "Trailer." Every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(i) "Semitrailer." Every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

(j) "Pole trailer." Any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

(k) "Specially constructed vehicle." Any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used; derived from other vehicles or makes of vehicles.

(l) "Foreign vehicle." Every motor vehicle, trailer or semitrailer which shall be brought into this state otherwise than in ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

(m) "Person." Every natural person, firm, partnership, association or corporation.

(n) "Owner." A person who holds the legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of 30 days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this act.

(o) "Nonresident." Every person who is not a resident of this state.

(p) "Manufacturer." Every person engaged in the business of manufacturing motor vehicles, trailers or semitrailers.

(q) "New vehicle dealer." Every person actively engaged in

the business of buying, selling or exchanging new motor vehicles, mobile homes, travel trailers, trailers or vehicles and who holds a dealer's contract therefor from a manufacturer or distributor and who has an established place of business in this state.

(r) "Used vehicle dealer." Every person actively engaged in the business of buying, selling or exchanging used vehicles, and having an established place of business in this state and who does not hold a dealer's contract for the sale of new motor vehicles, mobile homes, travel trailers, trailers or vehicles.

(s) "Highway." Every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term "highway" shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions.

(t) "Department" or "motor vehicle department" or "vehicle department." The division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents.

(u) "Commission" or "state highway commission." The director of vehicles of the department of revenue.

(v) "Manufactured home." A structure, transportable in one or more sections which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. When the term mobile home is used in article 1 of chapter 8 of Kansas Statutes Annotated it shall be synonymous with and means the same as manufactured home.

(w) "Travel trailer." Every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes and measuring eight feet or less in width.

(x) "Passenger vehicle." Every motor vehicle, as herein defined, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck.

(y) "Self-propelled farm implement." Every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

(z) "Farm trailer." Every trailer as defined in subsection (h) of this section and every semitrailer as defined in subsection (i) of this section, designed and used primarily as a farm vehicle.

(aa) "Motorized bicycle." Every device having two tandem wheels or three wheels, which may be propelled by either human power or helper motor, or by both, and which has: A motor which produces not more than 3.5 brake horsepower; a cylinder capacity of not more than 50 cubic centimeters; an automatic transmission; and the capability of a maximum design speed of no more than 30 miles per hour.

(bb) "All-terrain vehicle." Any motorized off-highway vehicle 45 inches or less in width, having a dry weight of 500 pounds or less, traveling on three or more low-pressure tires, and having a seat designed to be straddled by the operator. As used in this subsection, low-pressure tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(cc) "Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

- (1) A farm tractor;
- (2) a self-propelled farm implement;
- (3) a fertilizer spreader or nurse tank used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership.

Sec. 2. K.S.A. 1987 Supp. 8-128 is hereby amended to read as follows: 8-128. (a) *The following need not be registered under this act:*

- (1) ~~Farm tractors,~~ Implement of husbandry;

(2) all self-propelled farm implements including all-terrain vehicles when used for agricultural purposes;;

(3) fertilizers and spreaders designed and used exclusively for dispensing liquid or dust fertilizer, an off-highway truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;

(4) road rollers and road machinery temporarily operated or moved upon the highways;;

(5) municipally owned fire trucks;;

(6) privately owned fire trucks subject to a mutual aid agreement with a municipality and; or

(7) school buses owned and operated by a school district or a nonpublic school which have the name of the municipality, school district or nonpublic school plainly painted thereon need not be registered under this act. A truck mounted fertilizer spreader used or manufactured principally to spread animal dung is not a self-propelled farm implement for the purpose of this section or for the purpose of the act of which this section is a part.

Notwithstanding the other provisions of this subsection (a), no all-terrain vehicle shall be operated on any interstate highway, federal highway or state highway for agricultural purposes or any other purpose. No all-terrain vehicle may be operated within the limits of any first class city. No all-terrain vehicle shall be operated on any public highway, street or road between the hours of 1/2 hour after sunset until 1/2 hour before sunrise, unless equipped with lights as is required by law for motorcycles.

(b) Self-propelled cranes and earth moving equipment which are equipped with pneumatic tires may be moved on the highways of this state from one job location to another, or to or from places of storage delivery or repair, without complying with the provisions of the law relating to registration and display of license plates but shall comply with all the other requirements of the law relating to motor vehicles and shall not be operated on state maintained roads or highways on Sundays or any legal holidays except Lincoln's birthday, Washington's birthday or Columbus day.

Sec. 3. K.S.A. 1987 Supp. 8-126 and 8-128 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body April 29, 1988.

SENATE adopted Conference Committee report May 3, 1988.

ROBERT V. TALKINGTON

President of the Senate.

LU KENNEY

Secretary of the Senate.

Passed the HOUSE as amended April 29, 1988.

HOUSE adopted Conference Committee report May 3, 1988.

JAMES D. BRADEN

Speaker of the House.

GENEVA SEWARD

Chief Clerk of the House.

APPROVED May 17, 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 17th day of May, A.D. 1988.

BILL GRAVES

Secretary of State.

(SEAL)

State of Kansas

STATE EMPLOYEES HEALTH CARE COMMISSION

TEMPORARY ADMINISTRATIVE REGULATIONS

Article 1.—ELIGIBILITY REQUIREMENTS

108-1-1. Eligibility. (a) Subject to the provisions of subsection (b), the classes of persons eligible to participate in the health care benefits program established by the Kansas state employees Health Care commission shall be:

(1) those classes of persons qualified to receive group health insurance coverage obtained by the committee on surety bonds and insurance pursuant to the statutes contained in K.S.A. 1983 Supp. 75-4110, as such statutes were in existence immediately prior to their repeal or amendment by K.S.A. 75-6501; and

(2) persons participating under reduced service agreements.

(b) (1) Each person who is within a class listed in subsection (a) shall be eligible for group health insurance coverage, on the first day of the first month following completion of a 60-day waiting period beginning with the first day of work. Each person shall have 31 days after eligibility to elect health insurance coverage.

(2) The waiting period established in paragraph (1) shall not apply when the agency head, or the agency head's designee, certifies to the commission, or its designee, in writing that:

(A) a potential new employee is not entitled to continuation of health benefits available from existing or prior group health insurance coverage; and

(B) the waiting period poses, or will pose, an obstacle to recruitment.

(3) The Kansas state employees health care commission reserves the right to waive the waiting period as described in subsection (b) due to extraordinary circumstances.

(4) The provisions of subsection (b) shall take effect on and after May 1, 1988. (Authorized by K.S.A. 75-6510; implementing K.S.A. 75-6501; effective, T-85-22, July 16, 1984; effective May 1, 1985; amended, T-88-64, December 30, 1987; amended, T-89-12, May 1, 1988.)

H. EDWARD FLENTJE
Chairman

Doc. No. 006610

State of Kansas

DEPARTMENT OF REVENUE
TEMPORARY ADMINISTRATIVE
REGULATIONS

Article 19.—KANSAS RETAILERS'
SALES TAX

92-19-80. (Authorized by K.S.A. 79-3618; implementing K.S.A. 1986 Supp. 79-3602; 1986 Supp. K.S.A. 79-3603 as amended by L. 1987, Ch. 182, Sec. 108; effective May 1, 1988, revoked, T-89-16.)

HARLEY T. DUNCAN
 Secretary of Revenue

Doc. No. 006611

State of Kansas

DEPARTMENT OF HEALTH
AND ENVIRONMENT

TEMPORARY ADMINISTRATIVE
REGULATIONS

Article 50.—ASBESTOS CONTROL

28-50-9. Work practices for asbestos removal projects in areas to be reoccupied. (a) Each asbestos removal project that involves the removal of friable asbestos containing materials from a structural item or equipment that is located in any area that can be expected to subsequently be reoccupied by any person after the project is completed, or in an area that is only directly accessible from an area that is, or subsequently will be, occupied by any person other than persons directly involved in the project, shall be conducted in accordance with the following requirements:

(1) Each proposed work area shall be isolated from other areas of the building and outside areas by erecting airtight temporary partitions around the work area or by installing airtight seals over doorways, windows and ventilation system openings, except that doorways between the work area and decontamination facilities shall be closed off with a control curtain. Each wall surface on the work area side of temporary partitions shall be of rigid and airtight construction. Plastic sheeting used for the construction of airtight seals shall be not less than four mils thick. Whenever possible, each heating and ventilation system serving the work area shall be shut down and locked out. If these systems cannot be shut down, special provisions shall be made to assure that airborne contamination from the work area cannot enter the ventilation system and be carried to other areas of the building. Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent any person other than those persons having responsibilities directly related to the project from entering the area before final cleanup has been completed and approved in accordance with requirements applicable to the project.

(2) All movable furnishings, equipment and fixtures

in the proposed work area shall be precleaned with a HEPA filter equipped vacuuming device or wet cleaning methods. After cleaning, the items shall be removed from the work area and stored in an area that is not subject to contamination with asbestos fibers. The items shall not be returned to the work area until final room cleanup has been completed and approved in accordance with requirements applicable to the project.

(3) All wall and floor surface areas, other than those from which asbestos is to be removed, and all non-movable furnishings, equipment and fixtures remaining in the proposed work area shall be precleaned with a HEPA filter equipped vacuuming device or wet cleaning methods and covered with not less than four mil thick plastic sheeting, except that floors shall be covered with a minimum of two layers of six mil thick plastic sheeting that extends up the walls at least 12 inches. Plastic sheeting on walls shall be affixed to the wall in a manner that will assure that it will remain in position throughout the length of the project and shall overlap the floor sheeting at least 12 inches above the intersection of the walls with the floor. Any tears that are noted in the protective plastic sheeting required by this subsection shall be immediately repaired.

(4) HEPA filter equipped ventilation fans shall be installed in a manner that will continually exhaust air from all locations within the work area. The total capacity of the fans shall be sufficient to remove the entire volume of air contained in the workroom area within 15 minutes or less, unless a longer time period is specifically approved by the department. The removed air shall be discharged through a duct that has been installed through the plastic on the walls in a manner that will provide an airtight seal between the plastic and the outside surface of the duct. The exhausted air shall be discharged outside of the building whenever possible and shall not be discharged inside the building, unless this discharge is specifically approved by the department in writing. Each ventilation fan shall be continuously operated throughout the duration of the project until at least 24 hours after the action required by subsection (a)(11) of this regulation is completed. Each fan shall be operated in a manner that will establish and maintain a flow of air into the work area from all adjacent areas of the building as demonstrated by use of smoke producing tubes or other appropriate means. As a minimum, these determinations shall be made and the results recorded before asbestos removal operations are initiated and at the start of each day's operation.

(5) A decontamination facility shall be provided between the work area and building areas intended to remain uncontaminated with asbestos fibers generated by the asbestos removal operations. Each decontamination facility shall consist of the following designated areas which are each to be entered through a doorway that is covered by control curtains:

(A) A clean room that must be first entered by any persons entering the work area. This room shall be used for removing or putting on street clothing, putting on and fit testing respirators, and putting on protective clothing and other protective equipment

required to be worn in the work area. The clean room may also be used as a rest and eating area for employees after they have passed through the decontamination process.

(B) A shower room that must be first passed through by any person that moves from the work area into the clean room. These persons shall be required to shower before entering the clean room. Each shower room shall be provided with at least one shower head that is supplied with hot and cold or warm water. Adequate quantities of soap, hair shampoo and towels shall be provided to accommodate each person who emerges from the work area. Shower enclosures shall be leak proof and constructed of disposable or easily washable material. Shower water may be drained directly into the building's plumbing system or collected for subsequent disposal in accordance with the requirements of K.A.R. 28-50-14.

(C) An equipment room that must be passed through before the shower room can be entered from the work area. The equipment room shall be used for temporary storage of contaminated tools, equipment and protective clothing used in the work area. The floor and walls of the room shall be lined with not less than four mil thick plastic sheeting. Tools, equipment and protective clothing shall be free of gross contamination before removal from the work area into the equipment room.

(D) All decontamination facility areas shall be contiguous to each other and the work area unless connected to one another by enclosed passageways that are effectively isolated from areas intended to remain free of asbestos contamination.

(6) All exposed surfaces of friable asbestos containing materials shall be maintained in a wet condition while the material is being removed or cleaned from structural or equipment items. Any friable asbestos containing material shall be wetted with a water solution containing an effective wetting agent. The wetting solution shall be applied with a low pressure spraying system. The effectiveness of the solution in penetrating the asbestos containing materials shall be determined by applying it to a small representative sample of the material before the gross removal operation is initiated. The removed friable asbestos containing materials shall be maintained in a wet condition and placed in sealed containers as quickly as practicable. All accumulations of loose debris shall be removed from floors and other surfaces and placed in sealed bags or containers at least daily.

(7) After the asbestos containing materials have been removed from the structural or equipment items, all plastic sheeting, equipment and surfaces in the work area shall be cleaned with a HEPA filter equipped vacuuming device or by wet cleaning methods and shall be free of all visible residue, except that if more than one layer of plastic sheeting has been used on walls and floors this additional layer of sheeting may be removed and disposed of instead of being cleaned. Sheetting that is removed shall be enclosed in a six mil thick plastic bag or clean plastic sheeting and disposed of in compliance with the requirements of K.A.R. 28-50-14. Any liquid or material that has leaked

through these additional layers of sheeting shall be removed by wet cleaning methods.

(8) The surfaces from which the friable asbestos containing materials have been removed shall be covered with an effective sealing material before the final layer of plastic sheeting covering the floors, walls and non-movable items is removed.

(9) A minimum of 24 hours shall be allowed between application of the sealant and removal of the final layer of plastic sheeting. The removed plastic sheeting shall be enclosed in a six mil thick plastic bag or clean plastic sheeting and disposed of in compliance with the requirements of K.A.R. 28-50-14.

(10) After the plastic sheeting has been removed, all previously covered surfaces in the work area shall be cleaned with a HEPA filter equipped vacuuming device or by wet cleaning methods and shall be free of all visible debris.

(11) Not less than 24 hours after completing the cleanup required by subsection (a)(10) of this regulation, an air stream from a high speed leaf blower or equivalent device shall be swept across all cleaned surfaces for a period of not less than five minutes for each 1000 square feet of surface area.

(12) Each airtight seal provided for doors, windows and duct openings in accordance with subsection (a)(1) of this regulation shall remain in place for not less than 24 hours after completion of the actions required by subsection (a)(11) and until the cleanup is approved in accordance with any other special requirements applicable to the project.

(b) The department may waive any individual requirement of subsection (a) of this regulation for asbestos removal projects if the notification submitted in accordance with K.A.R. 28-50-8 identifies the requirements for which waiver is requested, the reason for requesting the waiver, and any alternate procedure that is proposed. A waiver shall not be granted unless the health and safety of the workers and building occupants are adequately protected. The following minimum requirements shall also be met:

(1) The work area in which the asbestos is to be removed shall be completely isolated from any other areas of the building by the construction or installation of airtight barriers that shall continually remain in place for the duration of the asbestos removal project until final cleanup is completed and approved in accordance with requirements applicable to the project.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area and access to the work area shall be restricted to only those persons that are required to enter it because of responsibilities directly related to the project until final cleanup is completed and approved in accordance with requirements applicable to the project.

(3) The surfaces from which the asbestos containing materials have been removed shall be cleaned and free of all visible residue and all visible asbestos containing debris shall be removed from the surfaces of all other structural items, furnishings, equipment and fixtures located in the work area by the time that the project is completed.

(continued)

(4) Asbestos contamination shall be removed from all persons that have been in the work area before they leave the premise or enter any area intended to remain free from asbestos contamination. All equipment used on the project shall be cleaned free of visible debris before it is removed from the work area.

(5) The waiver and all proposed alternative procedures shall be approved by the department in writing before the project is initiated, except that verbal approval may be provided in situations where the 10 day notification period has been waived in accordance with the provisions of K.A.R. 28-50-8(a).

(c) The department may waive the requirements of subsections (a) and (b) of this regulation for the removal of friable asbestos containing materials from the surface of pipes or other similar conduits if the notification submitted in accordance with the requirements of K.A.R. 28-50-8 demonstrates, to the satisfaction of the department, that the following requirements will be met:

(1) All friable asbestos containing materials proposed to be removed in the work area shall be removed using at least six mil thick leak proof glove bags in accordance with the manufacturer's instructions. A copy of these instructions shall be submitted to the department along with each notification.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent any person other than those persons that have responsibilities directly related to the project from entering the work area before final cleanup is completed and approved in accordance with requirements applicable to the project.

(3) Each person using the glove bag shall avoid damaging or otherwise causing the release of asbestos fibers from any other friable asbestos containing materials that are located within the work area, including any debris that may have accumulated in the area prior to the start of the project. Each section of the pipe or conduit from which damaged or loose hanging friable asbestos containing material is to be removed that is not immediately enclosed within a glove bag shall be tightly enclosed in six mil thick plastic sheeting until a glove bag is placed over it and the asbestos containing material is removed.

(4) Glove bags shall be sealed to pipe or conduit in a manner that provides an airtight seal around the area from which the asbestos is to be removed unless the air space within the bag is maintained at a lower air pressure than the air outside of the bag. Airtight seals shall be continuously maintained until the pipe or conduit surface that is enclosed within the glove bag has been cleaned and is free of all visible residue.

(5) All exposed surfaces of friable asbestos containing materials shall be wetted with a water solution containing an effective wetting agent while the material is removed and be maintained in a wet condition while it remains in the glove bag until the bag is sealed for final disposal in accordance with the requirements of K.A.R. 28-50-14.

(6) A sealing material shall be applied to all surfaces from which the asbestos containing material is removed and to all friable asbestos containing material

surfaces that become exposed as a result of this removal, by the time final cleanup is completed.

(7) At the completion of the project and before the warning signs required by subsection (c)(2) are removed and the area can be reoccupied by persons other than those having responsibilities directly related to the project, the work area shall be free of all visible asbestos containing debris, including accumulations that existed prior to the start of the project.

(8) Each project activity in the work area shall be immediately discontinued if any asbestos contamination of the general work area results from damage or improper use of the glove bags or damage to any other friable asbestos containing materials located within the area. Project activities shall not be resumed until all surfaces in the area that are likely to have become contaminated with asbestos fibers have been thoroughly cleaned with a HEPA filter equipped vacuuming device or by wet cleaning methods. Each person who is likely to be contaminated with asbestos fibers resulting from these sources, including the cleanup operation, shall remove or use a HEPA filter equipped vacuuming device or wet cleaning methods to clean all contaminated outer work clothing before leaving the work area. The department shall be notified of the date and nature of such occurrences and the cleanup measures that were used before the work area is approved for occupancy by persons other than those directly involved in the removal project. The department may require that additional cleaning be completed before the area is reoccupied.

(d) The department may waive the requirements of subsections (a) and (b) of this regulation for an asbestos removal project that involves the removal of friable asbestos containing materials from structural items or equipment that are installed in, and accessible from, outdoor areas, provided that the following requirements are met:

(1) Each door, window or other opening into enclosed areas that is adjacent to the work area shall be securely covered with not less than four mil thick plastic sheeting if the opening is located 100 feet or less from the work area.

(2) A person other than the persons that have responsibilities directly related to the project shall not be allowed to occupy or pass through any unenclosed area that is located 50 feet or less from the work area. This area shall be identified and defined by fences or other effective means. Appropriate warning signs shall be prominently posted at all entryways into the area until the project is completed.

(3) All exposed surfaces of friable asbestos containing material shall be wetted with a water solution that contains an effective wetting agent while the material is being removed. All removed material, including debris that falls on surfaces below the location from which the material is removed, shall be immediately placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14. Friable asbestos containing debris resulting from the removal operation shall not be allowed to accumulate in a dry condition. All friable asbestos containing debris including accumulations that existed prior to the start of

the project shall be removed from the work area before the warning signs required by subsection (d)(2) are removed and the area is permitted to be reoccupied by persons other than those having responsibilities directly related to the project.

(4) Each person who removes asbestos containing materials or otherwise occupies the restricted area identified in subsection (d)(2) of this regulation shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(e) The department may waive the requirements of subsections (a) and (b) of this regulation for an asbestos project that involves the removal of friable asbestos containing materials from structural items that are installed in, and accessible from, any structure or portion of a structure that is demolished after the material is removed, provided that the following requirements are met:

(1) A person other than the persons that have responsibilities directly related to the asbestos removal project shall not be allowed to occupy or pass through the work area until the project is completed. Appropriate warning signs shall be prominently posted at all entryways into the work area until the project is completed.

(2) Each window, door and other direct opening between any area where asbestos is to be removed and any other area of the structure that is not intended to be demolished shall be sealed airtight with securely fastened plastic sheeting until the project is completed. The plastic sheeting seals shall be not less than four mils thick.

(3) All exposed surfaces of friable asbestos containing material shall be maintained in a wet condition while the material is being removed. The material shall be wetted with a water solution containing an effective wetting agent. All removed friable asbestos containing material including debris that falls on surfaces below the location from which the material is removed shall be placed in sealed containers as quickly as practicable. Friable asbestos containing debris resulting from the removal operation shall not be allowed to accumulate in a dry condition. All friable asbestos containing debris including accumulations that existed prior to the start of the project shall be removed from the work area before the warning signs required by subsection (e)(1) are removed and the area is permitted to be reoccupied by persons other than those having responsibilities directly related to the project.

(4) Each person who removes asbestos containing materials or otherwise occupies the work area before the project is completed shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(5) Structural items from which friable asbestos containing material is removed shall not be sold or reused for any purpose unless the surfaces from which the material has been removed are free from visible

residue and have been covered with an effective sealing material, unless the sealing requirement is waived by the department in writing.

(f) Each person engaged in an asbestos removal project or entering an asbestos removal project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing.

This temporary rule and regulation shall be effective on May 1, 1988. (Authorized by and implementing K.S.A. 65-5303; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended T-89-8, March 18, 1988; amended May 1, 1988; amended, T-89-15, May 1, 1988.)

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

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