



Kansas Register

Bill Graves, Secretary of State

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State of Kansas

Legislature

Legislative Bills Introduced

The following numbers and titles of bills and resolutions have been recently introduced by the 1991 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, Topeka 66612, (913) 296-4096.

Bills Introduced May 2-5:

House Bills

HB 2652, by Committee on Appropriations: An act concerning the department of health and environment; relating to inspection and regulation of retail food stores under the Kansas food, drug and cosmetic act; requiring certain registrations and fees.

HB 2653, by Committee on Appropriations: An act concerning the contents of drivers' licenses; requiring such licenses contain certain statements; amending K.S.A. 1990 Supp. 8-243 and repealing the existing section.

HB 2654, by Committee on Appropriations: An act concerning medical care and services; providing for certification and regulation of private agencies reviewing such care and services for certain purposes; prohibiting discriminatory provisions in accident and sickness policies between certain health care facilities; prescribing penalties for certain acts.

House Concurrent Resolutions

HCR 5029, by Committee on Appropriations: A proposition to amend article 7 of the constitution of the state of Kansas by adding a new section thereto, relating to the levy of retailers' sales taxes for a period of five years for the creation of the Kansas Trust Fund for the financing of certain programs.

HCR 5030, by Representative Whiteman: A concurrent resolution relating to the 1991 regular session of the legislature, and providing for an adjournment thereof.

House Resolutions

HR 6128, by Representative Blumenthal: A resolution in memory of Arthur A. Lubben.

HR 6129, by Representatives Scott and Lloyd: A resolution designating the Kansas Vietnam Veterans Memorial at Heritage Park as the official State Vietnam Veterans Monument.

HR 6130, by Representative Sluiter, et al.: A resolution urging the Speaker of the House of Representatives, the House Leadership and the House Members to support the restoration of the Apple Committee.

HR 6131, by Representative Gatlin: A resolution congratulating and commending the Northern Valley High School football team and Coach Chuck Fessenden for winning the 1990 Eight-Man Division I State football Championship and the boys' basketball team and Coach Doug Reusink for winning the 1991 Class 1A State Basketball Championship in Kansas.

Senate Resolutions

SR 1894, by Senators Oleen and Montgomery: A resolution designating the Kansas Vietnam Veterans Memorial at Heritage Park as the official State Vietnam Veterans Monument.

SR 1895, by Senator Yost: A resolution congratulating and commending Jan Henrie Fry on being elected to the Steering Committee for the Council of Urban School Boards.

SR 1896, by Senators D. Kerr and Moran: A resolution congratulating and commending Brandon Petty for winning first place in the Kansas High School State Forensics Meet Competition.

SR 1897, by Senator Walker: A resolution congratulating and commending the Osawatomie State Hospital for receiving the highest national score on accreditation.

SR 1898, by Senator Montgomery: A resolution congratulating and commending David F. Lambertson on being named Ambassador to Thailand.

SR 1899, by Senators Montgomery and Oleen: A resolution congratulating and commending the last graduating class of Westmoreland High School.

SR 1900, by Senators Oleen and Montgomery: A resolution congratulating and commending the last graduating class and the retirement of teacher James Robison of St. George High School.

Doc. No. 010623

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PUBLISHED BY
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State of Kansas

Board of Pharmacy

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted from 1:30-2:30 p.m. Sunday, June 23, in Room 2049, Malott Hall, University of Kansas, Lawrence, to consider the adoption of proposed changes in existing regulations on a permanent basis.

All interested parties may submit written comments during this 30-day notice period to Tom Hitchcock, Executive Secretary, Kansas State Board of Pharmacy, Room 513, Landon State Office Building, 900 S.W. Jackson, Topeka 66612. All interested parties will be given a reasonable opportunity at the hearing to orally present their views 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 any oral presentation to five minutes.

Following the hearing, all written and oral comments submitted by interested parties will be considered by the Kansas State Board of Pharmacy as a basis for making changes to the proposed regulations.

Copies of the proposed regulations and economic impact statement may be obtained by contacting the board office at the address above, (913) 296-4056.

A summary of the regulations follows:

68-7-10. Changes the definition of unit dose container to include a multiple unit container. Updates the wording of medication profile record system. There is no anticipated economic impact on the board, other governmental agencies, registrants, or the general public.

68-9-1. Updates the wording of medication profile data. There is no anticipated economic impact on the board, other governmental agencies, registrants, or the general public.

68-20-15a. Prohibits the distribution of controlled substances on a gratuitous basis. There may be a minimal economic impact on the general public. There is no anticipated economic impact on the board, other governmental agencies, or registrants.

68-20-18. Requires written controlled substance prescriptions to be manually signed. Requires written controlled substance prescriptions to contain name and address of patient. There is no anticipated economic impact on the board, other governmental agencies, registrants, or the general public.

68-20-19. Allows for partial filling of Schedule II parenteral solution prescriptions for a period not to exceed 60 days. There may be a small savings for pharmacies. There is no anticipated economic impact on the board, other governmental agencies, other registrants, or the general public.

Tom Hitchcock
Executive Secretary

Doc. No. 010628

State of Kansas

Attorney General

Opinion No. 91-46

Agriculture—Agricultural Society and Fairs—Counties Having Fair Associations; Tax Levy; Aggregate Limitations.

Taxation—Aggregate Tax Levy Limitations—Authority to Levy Taxes in Addition to Aggregate Levy Limits; County Fair Associations. Richard A. Boeckman, Barton County Counselor, Great Bend, May 2, 1991.

A county fair association properly utilizing levy authority pursuant to K.S.A. 2-131b must comply with the provisions of K.S.A. 1990 Supp. 79-5021 *et seq.*, unless that association has exempted itself or the levy from the act pursuant to K.S.A. 1990 Supp. 79-5036, K.S.A. 79-5029, 79-5030 or K.S.A. 1990 Supp. 79-5032, until such time as the aggregate tax levy limitation is sunsetted, repealed or otherwise amended. Cited herein: K.S.A. 2-131b; K.S.A. 1990 Supp. 79-5021; 79-5022; 79-5028; K.S.A. 79-5029; K.S.A. 1990 Supp. 79-5032; 79-5036; 79-1947. MJS

Opinion No. 91-47

Roads and Bridges; Roads—County and Township Roads; County Road Unit System—Maintenance of Former Township Roads in County Road Unit System. Charles D. Kugler, Counsel for Prairie Township, Kansas City, May 2, 1991.

Townships within counties which have adopted the county road unit system have no authority to maintain former township roads. Responsibility for road maintenance of all roads within the county road unit system lies with the county. If a county considers removal of dead animals from roads to be a part of road maintenance, such removal should be done uniformly throughout the county. Cited herein: K.S.A. 1990 Supp. 68-516; K.S.A. 65-516a; 68-516b. CN

Opinion No. 91-48

Fire Protection—Fire Safety and Prevention—Adoption of Rules and Regulations, Procedure; Applicability of "State Action" Exemption From Federal Anti-Trust Laws. Ross B. Griggs, Andover City Attorney, Andover, May 2, 1991.

The provision of K.S.A. 1990 Supp. 31-134(b), that "nothing in this act shall be construed to impair the power of any municipality . . . to prohibit or regulate the sale, handling, use or storage of fireworks within its boundaries," does not constitute a clear articulation of an anti-competitive policy and, therefore, does not bring municipal actions based on the statute within the "state action" exemption from the federal antitrust laws. Cited herein: K.S.A. 1990 Supp. 31-134; Kan. Const., art. 12, § 5; 15 U.S.C. § 1 *et seq.* TRH

Robert T. Stephan
Attorney General

Doc. No. 010634

State of Kansas

**State Employees Health Care
Commission**

Public Notice

The Health Care Commission of the State of Kansas intends to issue a request for proposals on May 15 for its insured indemnity and HMO plans which now cover 37,029 active state employees and 7,680 retired state employees. The 1992 premium for this plan is expected to exceed \$145,000,000. The deadline for receipt of proposals is 5 p.m. June 28.

The plan has been substantially strengthened the last three years by lessening the adverse selection caused by HMOs and by including over 21,000 of the indemnity plan participants in a managed care program. As a result, the claims experience has become much more predictable. The estimated claims loss ratio for 1990 was 81.4 percent.

If interested, please forward your request to Dave Charay, Health Benefits Administration, State of Kansas, Room 553, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, (913) 296-7483.

Dave Charay
Health Benefits Administrator

Doc. No. 010629

(Published in the Kansas Register, May 16, 1991.)

**Notice of Redemption
Shawnee County, Kansas
Industrial Revenue Bonds, Series 1981-A)
(Maisel & Associates of Michigan)
(K Mart Corp. Sub Lessee-Guarantor)
CUSIP #820560AA8**

Notice is hereby given that \$45,000 principal amount of bonds as listed below are called for redemption June 15, 1991, at the price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date:

50 64 149 165 236 251 259 329 418.

On June 15, 1991, all bonds designated for redemption will become due and payable upon presentation thereof at the address given below. On and after June 15, 1991, interest on the principal amount called for redemption shall cease to accrue.

The bonds may be presented for payment, along with an IRS Form W-9 verifying owner's taxpayer identification number, in person or by mail at the following address: Merchants National Bank of Topeka, 800 Jackson, P.O. Box 178, Topeka, Kansas 66601.

Shawnee County, Kansas

Doc. No. 010637

State of Kansas

Kansas Public Disclosure Commission

Advisory Opinion No. 91-15

Written April 17, 1991, to Ernest W. Reynolds, Department of SRS, Wichita Area Office.

This opinion is in response to your letter of March 14, 1991, in which you request an opinion from the Kansas Public Disclosure Commission concerning the state conflict of interest laws (K.S.A. 46-215 *et seq.*).

We understand you request this opinion in your capacity as an Administrator III and Chief of Social Services with the responsibility for oversight of all SRS programs in Wichita. You advise us that your wife is an Income Maintenance Worker II also with SRS.

The question of potential conflict arises from your involvement in the planning and development of a group home for pregnant girls which is being explored by the Pawnee Avenue Church of God, where you have attended for 29 years, and the General Federated Women's Club, of which your wife is president. You have been minimally involved in the planning of the group home, as your role has been primarily to provide support and some information about statistics and resources to your wife. Your wife's role has been much more involved, as she has taken responsibility for chairing the advisory board appointed by the church to oversee the progress of the concept. In addition to support to your wife on this project, you are also a member of the Pawnee Avenue Church of God Council, which has responsibility for planning and oversight of all programs of the church. You serve on the council in the capacities of chairman of the Board of Christian Education and vice-chairman of the council.

You state it is your intention to minimize your involvement in the planning and development of the group home, as this is primarily a project undertaken by your wife and your church. If necessary, you would request that any licensing or contracting activity that might develop with the home be handled from another office. You would also avoid involvement in making referrals to the facility.

You ask for guidance on how this situation is affected by the conflict of interest laws.

Two sections of the act might apply to this situation. K.S.A. 46-233 deals with contracts and K.S.A. 46-286 deals with contracts and licensure, regulations and inspection.

It is difficult to apply these sections to the situation you have described because it is unknown what legal form the group home will ultimately take and what role you or your wife will play in that ultimate form. Simply put, if neither you nor your wife are employed by, hold a substantial interest in (including serving on the board of directors) or hold a position with the girls' home in its final form, then the above sections do not apply and there would be no prohibitions.

On the other hand, if there is an involvement of the type just described, then you should not participate in the making of contracts between the state and the girls' home nor should you participate in licensure, inspec-

tion or enforcement of rules and regulations concerning the home.

We would suggest when the planning stage becomes operational that you contact our staff for further guidance.

Advisory Opinion No. 91-16

Written April 17, 1991, to Richard Douglas Iliff, M.D., Topeka.

This opinion is in response to your letter of March 21, 1991, in which you request an opinion from the Kansas Public Disclosure Commission concerning the state conflict of interest laws.

We understand that you and your associate recently served as "Doctors of the Day" during this legislative session and have offered to provide free medical services to legislators (other than those from Topeka) while they are in Topeka in their legislative capacity. You state that you would refrain from lobbying during any professional contact.

You ask how the conflict of interest laws would relate to the situation you have described.

K.S.A. 46-237(a) states:

No state officer or employee or candidate for state office shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$100 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

This commission has consistently viewed any gifts given to legislators, when not given to others, as drawing inference that this section applies. Thus, we suggest that any services to a particular legislator must be limited to less than \$100 in a calendar year. Of course, this inference would not be drawn when emergency services are provided.

Advisory Opinion No. 91-17

Written April 17, 1991, to Tim W. Ryan, Ryan & Ryan, P.A., Clay Center.

This opinion is in response to your letter of April 4, 1991, in which you request an opinion from the Kansas Public Disclosure Commission concerning the local conflict of interest laws (K.S.A. 75-4301 *et seq.*).

We understand you request this opinion in your capacity as attorney for the Board of Education for U.S.D. 379, Clay County, Kansas. You advise us that a member of the board is on its negotiating team concerning teacher's contracts while his spouse is a teacher on the teacher's negotiating team.

You ask whether a member of the board may participate in the negotiation of a contract on behalf of the board when his spouse is a teacher subject to the contract.

K.S.A. 75-4304 prohibits a local governmental officer from participating in the making of any contract with "any person or business by which the officer or em-

ployee is employed or in whose business the officer or employee has a substantial interest." Thus, the initial question is whether a school district is a "person or business" as defined by this act. Unlike the state level conflicts law where governmental units are specifically included in the definition of "business," the local act does not include governmental units in the definition. Thus, it is our opinion, under the local act, that the situation you described is permissible. Obviously, if this were a state level issue the result would be different.

Advisory Opinion No. 91-18

Written April 17, 1991, to Alice Knatt, Chief of Operations, Department on Aging, Topeka.

This opinion is in response to your letter of April 2, 1991, in which you request an opinion from the Kansas Public Disclosure Commission concerning the state conflict of interest laws (K.S.A. 46-215 *et seq.*).

We note that this commission's jurisdiction is limited to the application of the above law. Thus, whether some other statutory system, common law, or agency rules and regulations relate to your question is not covered by this opinion.

We understand you request this opinion in your capacity as Chief of Operations for the Department on Aging. You advise us that you have a staff member who is assigned to serve on the Advisory Council for the Older Adult's Resource Center (OARC). OARC is a non-profit agency in Kansas dedicated to bringing a quality life experience to older adults. Its mission is to help educate, prepare and enable both professional and lay persons to better understand and address the spiritual, emotional and physical needs of older adults.

The OARC Advisory Council provides information and expertise to the OARC board members in their efforts to establish a resource base wherein education, training, research materials and experience can be brought together in the context of a caring and supportive environment. The advisory council also assists in networking functions.

You also advise us that OARC wishes to hire your staff member who serves on the advisory council to locate and prepare grant applications. We understand these grants would not be submitted to the department.

You ask whether the situation you have described is permissible or should the staff member resign as the department's representative for OARC.

Two sections of the act, K.S.A. 46-233 and K.S.A. 46-286, might apply to the situation you have described. Applying these sections, it is our opinion, so long as your employee did not participate in the making of any contract between the Department on Aging and OARC during the last two years, and will not during her time as a consultant with OARC participate as a state employee in licensure, inspection, the enforcement of any rules or regulations on any contracts between the department and OARC, that the situation you have described is permissible.

Ruth A. Schrum
Chairwoman

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

Applications set for hearing are to be heard on the date indicated before the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka, at 9:30 a.m. unless otherwise noticed.

This list does not include cases previously assigned hearing dates for which parties of record have received notice.

Questions concerning applications for hearing dates should be addressed to the State Corporation Commission, 1500 S.W. Arrowhead Road, Topeka 66604-4027, (913) 271-3196 or 271-3149.

Your attention is invited to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

Applications set for June 4, 1991

Application for Extension of Certificate of Convenience and Necessity:

L.L.L. Transport, Inc.) Docket No. 149,011 M
Route 2)
Brookfield, MO 64628) MC ID No. 124066
Applicant's Attorney: John Jandera, P.O. Box 237, Topeka, KS 66601-0237

Commodities in bulk,

Between points and places in the state of Kansas.

Application for Abandonment of Certificate of Convenience and Necessity:

Mesa Transportation, Inc.) Docket No. 152,959 M
2216 Railroad)
Great Bend, KS 67530) MC ID No. 127575
Applicant's Attorney: None

Application for Extension of Certificate of Convenience and Necessity:

Mo-Kan Distribution) Docket No. 137,407 M
Service, Inc.)
1700 N. Jackson)
Kansas City, MO 64120) MC ID No. 116181
Applicant's Attorney: John Jandera, P.O. Box 237, Topeka, KS 66601-0237

General commodities (except household goods, classes A and B explosives and commodities in bulk),

Between points and places in the state of Kansas.

Application for Transfer of Certificate of Convenience and Necessity:

M. Duane Oblander, dba) Docket No. 138,465 M
Goddard Wrecker Service)
20410 W. Kellogg)
Goddard, KS 67062) MC ID No. 117075

TO:

Ralph E. Thompson, dba
Goddard Wrecker Service
2105 S. Broadway
Wichita, KS 67211

Applicant's Attorney: Warner Moore, Century Plaza Building, Suite 790, 111 W. Douglas Ave., Wichita, KS 67202-3273

Wrecked and disabled motor vehicles,

Between all points and places in Sedgwick, Kingman, Reno and Butler counties, Kansas, on the one hand, and all points and places in the state of Kansas, on the other.

Application for Certificate of Convenience and Necessity:

Robert V. Russell and) Docket No. 175,689 M
Estel Vaughn Russell, dba)
Russell's Auto Body)
601 Aline Drive)
Spring Hill, KS 66083) MC ID No. 140114

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

Wrecked, disabled, repossessed and replacement motor vehicles, trailers, recreational vehicles, recreational trailers, golf carts, campers, pick-up toppers, boats and motorcycles,

Between points and places in the Franklin, Johnson, Wyandotte, Miami, Linn, Anderson, Bourbon, Leavenworth, Douglas and Jefferson counties, Kansas. Also,

Between points and places in the above-described counties, on the one hand, and points and places in the state of Kansas, on the other hand.

Application for Certificate of Convenience and Necessity:

Eldon Wiens, dba) Docket No. 175,688 M
E & L Trucking)
Route 2, Box 86)
Hillsboro, KS 67063) MC ID No. 140113

Applicant's Attorney: Clyde Christey, Southwest Plaza Building, Suite 202, 3601 W. 29th, Topeka, KS 66614

Hay, grain, feed, feed ingredients, dry fertilizer ingredients, fertilizer (except anhydrous ammonia), seeds, salt, building and construction materials, fencing materials, lime slurry (restricted, however, to transport no hazardous materials),

Between all points and places in the state of Kansas.

Don Carlile
Administrator
Transportation Division

Doc. No. 010626

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

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, a tentative permit has been prepared for the water pollution abatement facilities for the feedlot 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 Kansas water pollution control facility and/or a national pollutant discharge elimination system permit.

Name and Address of Applicant	Legal Description	Receiving Water
DeKalb Swine Breeders, Inc. (Crossing Farm #1) P.O. Box 429 Plains, KS 67869	N½ Sec. 16, T. 30S., R. 34W., Meade County, Kansas	Cimarron River Basin

Kansas Permit No: A-CIME-H002 Federal Permit No. KS-0088200
The proposed facility will have capacity for approximately 3,240 swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will provide in excess of minimum requirements.

Compliance Schedule: None, existing control adequate.

Written comments on the proposed permit may be submitted to Angela Buie, Bureau of Environmental Quality, Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620-0001. All comments received prior to June 15 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-91-29) 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 also may be obtained at the address above.

Stanley C. Grant
Acting Secretary of Health and Environment

Doc. No. 010633

State of Kansas

State Corporation Commission

Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 9 a.m. Thursday, June 20, in the Conservation Division hearing room, third floor, 200 Colorado Derby Building, 202 W. 1st, Wichita, to consider the adoption of a proposed permanent regulation for the conservation of crude oil and natural gas.

The 30-day notice period from the date of this publication to the date of the public hearing constitutes a public comment period for the purpose of receiving written public comments on the proposed regulation. Comments may be submitted to the State Corporation Commission, Attn: Shari Feist Albrecht, Deputy Director, 200 Colorado Derby Building, 202 W. 1st, Wichita 67202.

Copies of the proposed regulation and the economic impact statement may be obtained at the address above. Persons requesting a copy of the proposed regulation and economic impact statement, in accordance with K.S.A. 45-219, will be required to compensate the State Corporation Commission for the cost of reproduction. All interested parties will be given a reasonable opportunity at the hearing to present their views, orally, or in writing, in regard to the adoption of the proposed regulation.

All written or oral comments submitted by interested parties will be considered by the commission as a basis for making changes to the proposed permanent regulation. The following is a brief summary of the proposed regulation and its economic impact statement:

K.A.R. 82-3-307 (Permanent regulation). The amendment raises the assessment on natural gas production from 4.0 mils per thousand cubic feet (Mcf) to 4.3 mils per Mcf.

Economic Impact: The amendment would add 0.3 mil per Mcf of natural gas produced in expense to gas producers. Based on a two-year average of Kansas gas production, this increase would generate approximately \$174,018 in commission revenue each year. This increase is proposed in order that the commission can increase the number of temporary gas testers it employs each year for gas testing in the Hugoton and Panoma Council Grove gas fields. The increase in the number of testers is proposed to better effectuate service to the industry and to enable testing to be completed before the peak demand for natural gas.

Judith McCornell
Executive Director

Doc. No. 010635

State of Kansas

Department of Health
and Environment

Notice Concerning Kansas
Water Pollution Control Permits

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 limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Name and Address of Applicant	Waterway	Type of Discharge
City of Bennington City Hall Bennington, KS 67422 Ottawa County, Kansas	Solomon River via Sand Creek	Secondary wastewater treatment facility
Kansas Permit No: M-S006-0001 Fed. Permit No. KS-0031038		
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.		

Name and Address of Applicant	Waterway	Type of Discharge
Forbes Field Wastewater Treatment Plant c/o Metropolitan Topeka Airport Authority Box 19053 Topeka, KS 66619 Shawnee County, Kansas	Shunganunga Creek via south branch Shunganunga Creek	Secondary wastewater treatment facility
Kansas Permit No: M-KS72-1004 Fed. Permit No. KS-0029386		
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.		

Name and Address of Applicant	Waterway	Type of Discharge
Kansas Department of Transportation Wabaunsee County Rest Area I-70 c/o Carroll Morgenson Design Department—Landscape Section Docking State Office Building Topeka, KS 66612 Wabaunsee County, Kansas	Mill Creek via tributary	Secondary wastewater treatment facility
Kansas Permit No: M-KS57-0001 Fed. Permit No. KS-0080241		
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.		

Name and Address of Applicant	Waterway	Type of Discharge
City of Logan c/o City Clerk City Hall	North fork Solomon River	Secondary wastewater treatment facility

Logan, KS 67646
Phillips County, Kansas
Kansas Permit No: M-S025-0001 Fed. Permit No. KS-0116891
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
McAdam Construction Co., Inc. Bill's Coal Tipple Route 1, Box 49 Moran, KS 66755-9712 Bourbon County, Kansas	Marmaton River via Dry Wood Creek via unnamed tributary	Lime-treated water from an abandoned coal tipple facility
Kansas Permit No: I-MC61-P001 Fed. Permit No. KS-0087980		
Description of Facility: Abandoned coal tipple facility undergoing reclamation. 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
City of Norton c/o City Clerk 301 E. Washington Norton, KS 67654 Norton County, Kansas	Republican River via Prairie Dog Creek	Secondary wastewater treatment facility
Kansas Permit No: M-UR16-0001 Fed. Permit No. KS-0022446		
Description of Facility: This facility is designed for the treatment of domestic sewage. This is an existing facility. Proposed effluent limitations are pursuant to Kansas Surface Quality Standards, K.A.R. 28-16-28(b-f), and are technology based.		

Written comments on the proposed permits may be submitted to Bethel Spotts, Permit Clerk, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments received prior to June 14 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-91-90/95) and the 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. Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

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 also may be obtained at the Division of Environment.

Stanley C. Grant
Acting Secretary of Health
and Environment

Doc. No. 010639

State of Kansas

State Conservation Commission

Notice of Meeting

The State Conservation Commission will meet at 9:30 a.m. Monday, May 20, in Conference Room 500, State Conservation Commission office, 109 S.W. 9th, Topeka. A copy of the agenda can be obtained by contacting Donna Meader, Suite 500, 109 S.W. 9th, Topeka 66612, (913) 296-3600.

Kenneth F. Kern
Executive Director

Doc. No. 010621

State of Kansas

Wichita State University

Notice to Bidders

The Wichita State University is accepting bids on the following item:

Composite Repair/Curing Unit (Hot-Bonder)

Quotation #910513-H
Closing May 24, 1991

Bids must be submitted to The Wichita State University, Office of Purchasing, Morrison Hall, Room 021, 1845 N. Fairmount, Wichita 67208, by 2 p.m. C.D.T. on the above specified closing date. Please refer to the above quotation number on all correspondence. For additional information contact the Office of Purchasing, (316) 689-3080.

Gary D. Link
Director of Purchasing

Doc. No. 010638

State of Kansas

Department of Health and Environment

Corrected Notice Concerning Kansas Water Pollution Control Permit

This public notice is a correction of the public notice published in the Kansas Register on May 9, 1991, application number KS-AG-91-25/28.

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, a tentative permit has been prepared for the water pollution abatement facilities for the feedlot 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 Kansas water pollution control facility and/or a national pollutant discharge elimination system permit.

Name and Address of Applicant

Witham Farms Feed Yard, Inc.
Route 2, Box 200
Leoti, KS 67861

Legal Description

E½ Sec. 34,
T.17S., R.38W.,
Wichita County,
Kansas

Receiving Water

Smoky Hill River
Basin

Kansas Permit No. A-SHWH-C001 Fed. Permit No. KS-0040631

Description of Facility: The facility has capacity for approximately 18,000 cattle with expansion planned for an additional 2,000 cattle and a contributing drainage area of approximately 227 acres. This is an expansion of an existing facility.

Runoff Control Facilities: Feedlot runoff is impounded for subsequent disposal upon agricultural land. Storage capabilities are provided for 82 acre-feet of runoff. Storage capacity is 4.5 acre-feet less than the minimum required 86.4 acre-feet.

1. Wastewater impoundment capacity for portions of the feeding facility is less than the minimum required amount. Additionally, dewatering capacity is less than the required capacity for the expanded facility. Plans for upgrading wastewater storage capacity and wastewater pumping and application capacity shall be submitted to the department by December 1, 1991. The plans shall be implemented within six months of approval by the department.
2. A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practice used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas of application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Written comments on the proposed permits may be submitted to Angela Buie, Bureau of Environmental Quality, Kansas Department of Health and Environment, Forbes Field, Topeka 66620-0001. All comments received prior to June 8 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-91-25/28) 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 also may be obtained at the address above.

Stanley C. Grant
Acting Secretary of Health and Environment

Doc. No. 010632

State of Kansas

Department of Health and Environment

Notice Concerning Underground Injection Control Permits

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for the continued use of Class I non-hazardous waste injection wells, within the state of Kansas, for the applicants described below.

Name and Address of Applicant: Enron Gas Processing Company, Well Identification #2, Route 1, Box 5A, Bushton, KS 67427. Well Location: SW SW NE 31-17-9W, Ellsworth County, Kansas, 2970' fsl and 2310' fel of SE Corner. Kansas Permit No. KS-01-053-001. Description of Facility: The facility is a hydrocarbon processing plant and underground storage facility.

Name and Address of Applicant: Enron Gas Processing Company, Well Identification #3, Route 1, Box 5A, Bushton, KS 67427. Well Location: SE NE SE 31-17-9W, Ellsworth County, Kansas, 1740' fsl and 430' fel of SE Corner. Kansas Permit No. KS-01-053-002. Description of Facility: The facility is a hydrocarbon processing plant and underground storage facility.

Name and Address of Applicant: Enron Gas Processing Company, Well Identification #4, Route 1, Box 5A, Bushton, KS 67427. Well Location: NW NW NE 31-17-9W, Ellsworth County, Kansas, 4750' fsl and 2250' fel of SE Corner. Kansas Permit No. KS-01-053-003. Description of Facility: The facility is a hydrocarbon processing plant and underground storage facility.

Name and Address of Applicant: Enron Gas Processing Company, Well Identification #5, Route 1, Box 5A, Bushton, KS 67427. Well Location: NE NE SE 31-17-9W, Ellsworth County, Kansas, 2110' fsl and 440' fel of SE Corner. Kansas Permit No. KS-01-053-004. Description of Facility: The facility is a hydrocarbon processing plant and underground storage facility.

Name and Address of Applicant: Enron Gas Processing Company, Well Identification #6, Route 1, Box 5A, Bushton, KS 67427. Well Location: NE SE SE 31-17-9W, Ellsworth County, Kansas, 1465' fsl and 289' fel of SE Corner. Kansas Permit No. KS-01-053-005. Description of Facility: The facility is a hydrocarbon processing plant and underground storage facility.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments received prior to June 14 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-EG-91-32/36) and the 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. Media coordination (newspapers, radio) for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

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 also may be obtained at the Division of Environment.

Stanley C. Grant Acting Secretary of Health and Environment

Doc. No. 010640

State of Kansas Department of Administration Division of Purchases

Notice to Bidders

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

Tuesday, May 28, 1991

- 27142 Statewide—Plumbing fittings 27458 Statewide—Linens 27596 Statewide—Water softener salt 28488 Kansas Correctional Industries—Rental or trailer or truck mounted HEPA vacuum unit and operator 28490 University of Kansas—Elemental analysis services 88137 University of Kansas—Microcomputer 88138 University of Kansas—Centrifuges/rotor 88236 Department of Transportation—Bituminous mixture, various locations 88237 Department of Education—Math manipulatives 88280 Topeka State Hospital, Larned State Hospital, and Kansas Neurological Institute—Vehicles 88281 University of Kansas—Asphalt overlay

Wednesday, May 29, 1991

- 27066 Department of Transportation—Pavement marking tape
- 27157 Statewide—1992 calendars
- 27284 Department of Transportation—Glass beads for traffic paint
- 27474 University of Kansas Medical Center—July (1991) meat products
- 27524 University of Kansas—July (1991) meat products
- 28005 Statewide—Asbestos abatement supplies
- 88149 Department of Corrections—Automotive and shop tools, El Dorado
- 88150 Department of Transportation—Press, Salina
- 88151 Department of Transportation—Pothole patcher
- 88160 Parsons State Hospital—Chemistry analyzer
- 88161 University of Kansas Medical Center—AA spectrometer
- 88162 University of Kansas Medical Center—Gas chromatograph
- 88163 University of Kansas Medical Center—HPLC system
- 88164 Department of Corrections—Furnish and install gasoline pipe, Norton
- 88165 Department of Corrections—Detention equipment, Norton
- 88166 Osawatomie State Hospital—Cafeteria service line system
- 88182 Department of Transportation—Communications service monitor
- 88183 Kansas State University—80386/33MHZ microcomputers
- 88184 Department of Corrections—Recreation equipment, El Dorado
- 88185 Department of Corrections—Automotive tools, El Dorado
- 88261 Department of Transportation—Conveyor

Thursday, May 30, 1991

- A-6437 Osawatomie State Hospital—Condensate line replacement
- A-6580 Pittsburg State University—Roof replacement, Student Health Center

- 27516 Statewide—July (1991) meat products
 - 88190 Kansas State University—HPLC system
 - 88191 University of Kansas Medical Center—Furnish and install water softening system
 - 88192 Department of Social and Rehabilitation Services—Furnish and install new equipment for vending facility
 - 88219 Department of Administration—Fuel tank monitoring system
 - 88238 Department of Transportation—Grading box blade, Chanute
 - 88239 University of Kansas Medical Center—Asphalt overlay
 - 88240 University of Kansas—Recondition web press
 - 88279 Kansas State University—High speed copier
- Friday, May 31, 1991
- A-6631 Fort Hays State University—Cunningham Hall roof repair expansion joints
 - 28493 Emporia State University—Boiler life and safety studies
 - 28494 Department of Corrections—Boiler water chemicals and services, Wichita
 - 88220 Department of Transportation—Tool boxes, various locations
 - 88221 University of Kansas—Toro mower parts
 - 88222 Osawatomie State Hospital—Tractor and implements
 - 88223 Department of Transportation—Pavement repair sealant, Iola
 - 88224 Wichita State University—Waste compactors
 - 88225 Kansas State University—Plain paper photocopier
 - 88226 Kansas Board of Agriculture—Glassware washers
 - 88227 Department of Transportation—Radio equipment shelter
 - 88228 University of Kansas Medical Center—Furnish and install exterior signage
 - 88229 University of Kansas—Improve air conditioning, Learned Hall
 - 88241 Kansas State University—High speed copier
 - 88242 Kansas State University—High speed copier

(continued)

88243
University of Kansas—Spectrometer data system upgrade

88244
Kansas Board of Agriculture—Liquid chromatograph system

88245
Department of Transportation—Lab oven, Garden City

88277
Kansas State University—Computerized pharmacy system

88278
Kansas Bureau of Investigation—Body armor

88284
Emporia State University—Rotary files

88292
Department of Human Resources—Steel shelving

88297
University of Kansas—Graduate catalog

88298
University of Kansas—Undergraduate viewbook

Monday, June 3, 1991
28492
Department of Administration—Refuse collection services

88275
University of Kansas Medical Center—Electronystagmograph (ENG) system

88276
University of Kansas Medical Center—Hearing testing equipment

88286
Wichita State University—Furnish and install lighting system

Tuesday, June 4, 1991
88246
Department of Administration, DISC—Mainframe database utilities

88247
University of Kansas—Mainframe printing management software

88287
Wichita State University and University of Kansas Medical Center—Ethernet equipment

88288
Department of Corrections—Furnish and install radio system, El Dorado

Wednesday, June 5, 1991
A-6221, A-6226, A-6457
Youth Center at Atchison—Architectural projects at various buildings

A-6399
Kansas State University—Reroof various buildings

A-6461
Youth Center at Topeka—New floor finishes in school building and refurbish restrooms in various cottages

A-6605
Kansas State School for the Visually Handicapped—Replace condensing unit

A-6625
Adjutant General's Department—Partial reroof, Marysville Armory

A-6626
Adjutant General's Department—Reroof National Guard Armory, Holton

27074
Department of Social and Rehabilitation Services—Reciprocating chiller maintenance contract

27156
Department of Administration—UPS maintenance contract

27169
Department of Administration—Diesel generator maintenance contract

88248
Kansas State University—Mainframe magnetic tape units

88285
Wichita State University—Mainframe DISK subsystem

Thursday, June 6, 1991
A-6497, A-6498, A-6503
Department of Transportation—Insulate and weatherproof sub-area buildings, various locations

A-6500, A-6501, A-6502
Department of Transportation—Insulte and weatherproof sub-area buildings, various locations

A-6511
Department of Transportation—Electronic repair shop, Norton

Friday, June 7, 1991
A-6417 (Rev.)
Department of Social and Rehabilitation Services—Landscape and parking improvements to Wichita State Office Building

Monday, June 10, 1991
88289
Kansas College of Technology—Electronic test equipment

88290
University of Kansas—Premise distribution system extension

Tuesday, June 11, 1991
88291
Pittsburg State University—Furnish and install dormitory wiring project

Request for Proposals

Tuesday, June 4, 1991

28491

Kansas consumer travel incentive program for the Department of Commerce, Travel and Tourism Development Division

Nicholas B. Roach
Director of Purchases

Doc. No. 010636

State of Kansas

Kansas State University

Notice to Bidders

Sealed bids for items listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (913) 532-6214 for additional information.

Wednesday, May 29, 1991

#10192

Digital correlator, transputer board, and preamplifier/discriminator

William H. Sesler
Director of Purchasing

Doc. No. 010631

State of Kansas

Secretary of State

Notice of Corporations Forfeited

In accordance with K.S.A. 17-7510, the articles of incorporation of the following corporations organized under the laws of Kansas and the authority of the following foreign corporations authorized to do business in Kansas were forfeited April 15, 1991, for failure to timely file an annual report and pay the annual franchise tax as required by the Kansas general corporation code:

Domestic Corporations

- ABC Child Care Center, Inc., Andover, KS.
- Alpha Tau Omega Fraternity of Lawrence, Kansas, Lawrence, KS.
- Alpine Properties, Inc., Cheney, KS.
- Alvamar, Inc., Lawrence, KS.
- Amarado Mortgage, Inc., Wichita, KS.
- Ark Valley Feeders, Inc., Arkansas City, KS.
- Automatic Doors of Kansas City, Inc., Parkville, MO.
- B.J.B., Inc. of Kansas, Kansas City, KS.
- B-Four Enterprises, Inc., Pleasanton, CA.
- Bailey Mfg. Co., Inc., Wichita, KS.
- Ball & Son Assurance, Inc., McPherson, KS.
- Big Sky Marketing, Inc., Lenexa, KS.
- Bill Pugh Enterprises, Inc., Junction City, KS.
- Bob Jordan Associates, Inc., Topeka, KS.
- Buller Manufacturing, Inc., Hillsboro, KS.
- Burson-Parsons, Inc., Overland Park, KS.
- Business Connection, Inc., Lenexa, KS.
- C & P Meers, Inc., Wathena, KS.
- C.A.R.S.—USA, Inc., Merriam, KS.
- Caliendo Investment Corporation, Wichita, KS.
- Carter Contractors Corp., Shawnee, KS.
- Casson Construction Co., Inc., Denver, CO.
- C.B.V. Incorporated, Inc., Pittsburg, KS.
- Century Office Products, Inc., Lawrence, KS.
- Championship Pocket Billiards Inc., Kansas City, KS.
- Cimarron Motor Supply, Inc., Cimarron, KS.
- Computer Supply Source, Inc., Lawrence, KS.

- Coordinated Planning Service, Inc., Overland Park, KS.
- D & A, Inc., Wichita, KS.
- D-L Enterprises, Inc. (A Close Corporation), Salina, KS.
- Dance Gallery, Inc., Lenexa, KS.
- Dewey Freight System, Inc., Kansas City, MO.
- Dickinson Publishing, Inc., Kansas City, KS.
- Disney, Inc., Ellis, KS.
- Dunn & Associates, Ltd. (A Close Corporation), Wichita, KS.
- Family Tradition, Inc., Bonner Springs, KS.
- Fibernet Industries, Inc., Florence, KS.
- Fidelity Equities Corporation, Wichita, KS.
- Financial Concepts, Inc., Overland Park, KS.
- First Auburn Co., Wichita, KS.
- First Financial Management Group, Inc., Hays, KS.
- Flowers, Inc., Independence, KS.
- Footfitter's Inc., Topeka, KS.
- Formation Testing Services, Inc., Hays, KS.
- Fragrance Farms of Kansas, Inc., Kingman, KS.
- Fred Stein Laboratories, Inc., Atchison, KS.
- Free State Holding Co., Inc., Lawrence, KS.
- G-B Trenching & Backhoe Service, Inc., McPherson, KS.
- Gary R. Raccuglia, D.D.S., P.A., Olathe, KS.
- Gastroenterology & Internal Medicine Consultants of Topeka, P.A., Topeka, KS.
- Glenn Berry Mfrs., Inc., Commerce, OK.
- Gragg Cabinet Company, Inc., Cherryvale, KS.
- Grain Machinery America Corporation, Kansas City, KS.
- Great Plains, Inc., Lamar, MO.
- Griffin Sheet Metal, Inc., Stilwell, KS.
- Gum Drops & Jelly Beans, Ltd., Topeka, KS.
- H & H Supply, Inc. (A Close Corporation), Russell, KS.
- H. F. Nelson Studio, Inc., Lenexa, KS.
- Hair Management, Inc., Lenexa, KS.
- Hauck Media, Inc. (A Close Corp.), Oskaloosa, KS.
- Hays Masonic Board of Trustees, Inc., Hays, KS.
- Hertzler Affiliates, Inc., Halstead, KS.
- HIVK, Inc., Pittsburg, KS.
- Hotwire Labs, Inc. (A Close Corporation), Wichita, KS.
- HSA, Inc., Overland Park, KS.
- Huskey, Inc., Olathe, KS.
- Inn Conference, Inc., Topeka, KS.
- J and D Automotive Inc., Shawnee, KS.
- J. P. Enterprises, Inc., Olathe, KS.
- J. T. Hines Piping & Fitting Company, Hutchinson, KS.
- J-V Enterprises, Inc., Salina, KS.
- KBT, Inc., Shawnee, KS.
- K.C. Golf & Games, Inc., Wilton, CT.
- Kan-Trol, Inc., Russell, KS.
- Kappa Alpha Theta—Delta Eta Educational Foundation, Manhattan, KS.
- Knight Moves, Incorporated, A Close Corporation, Kansas City, MO.
- Logo-Serv, Inc., Overland Park, KS.
- Lonnie Bosley Tire, Inc. (A Close Corporation), Wichita, KS.

(continued)

- Love's Rental, Inc., Caney, KS.
 Lowmaster Engineering, Inc., Independence, KS.
 M.P.H. Industries, Inc., Owensboro, KY.
 Maintenance Supply Company, Inc.,
 Independence, KS.
 Mande, Inc., Topeka, KS.
 Marlin Mason, Inc., South Haven, KS.
 Martin Construction Company, Incorporated,
 Eureka, KS.
 Mayfield Farms, Ltd., Short Hills, NJ.
 McPherson Cleaning Services, Inc., McPherson, KS.
 Metropolitan Electronic Billing Service, Inc.,
 Overland Park, KS.
 Mid-America Graphics, Inc., Wichita, KS.
 Midwestern Marketing of Kansas, Inc.,
 Lawrence, KS.
 National Refueler Leasing Corp., Kansas City, KS.
 National Termite and Pest Control, Inc.,
 Haysville, KS.
 Neosho Construction Company, Incorporated,
 Overland Park, KS.
 Neosho Incorporated, Council Grove, KS.
 Nolan Securities, Inc., Overland Park, KS.
 Officeplus Corporation of Corporate Woods,
 St. Louis, MO.
 Omni Business Forms, Inc., Wichita, KS.
 Omni Business Services Incorporated, Topeka, KS
 Overland Diamond, Inc. (A Close Corporation),
 Kansas City, KS.
 Overseas Direct Marketing, Inc., Lawrence, KS.
 P O K Mfrs., Inc., Oswego, KS.
 Papa John's, Inc., Dodge City, KS.
 Parsons Railway Shops, Inc., Council Grove, KS.
 Patrician Management, Inc., Overland Park, KS.
 Patrician Realty Associates I, L.P.,
 Overland Park, KS.
 Pet Stop, Inc., Shawnee, KS.
 PFB, Inc., Pleasanton, CA.
 Pharmaceutical Management Consultants, Inc.,
 Overland Park, KS.
 Philsco Products Co., Inc. (A Close Corporation),
 Larned, KS
 Plumbing, Heating and Air Conditioning Services,
 Inc., Wichita, KS.
 Premier Housekeeping Systems, Inc. (A Close
 Corporation), Stilwell, KS.
 Professional Rehabilitative Services, Incorporated,
 P.A., Shawnee, KS.
 Pro-Mill Co., Inc., Wellington, KS.
 Product Development Company, Inc.,
 Overland Park, KS.
 Progressive Homes, Inc., Topeka, KS.
 Raymond F. Dillon, Jr. Construction Co., Inc.,
 Kansas City, KS.
 Riley Development, Inc., Riley, KS.
 RJC Construction Company, Overland Park, KS.
 Robert Winston's, Inc., Wichita, KS.
 Roland R. Bell, Builder, Inc., Lawrence, KS.
 Rosie Shields Realtors, Inc., Wichita, KS.
 Shanghai Gardens, Inc., Overland Park, KS.
 Shawnee Automotive Services, Inc., Topeka, KS.
 Signature Homes, Inc., Wichita, KS.
 Silk Scapes Town West, Inc., Mulvane, KS.
 Solid Tech, Inc., Shawnee Mission, KS.
 Southeast Football Boosters Club, Inc., Wichita, KS.
 Starkey Developmental Center, Inc., Wichita, KS.
 Sun Diversified Services, Inc., Kansas City, KS.
 Sundance Steel, Inc., Broomfield, CO.
 S & W Waterproofing, Inc., Overland Park, KS.
 Taylor Roofing Co., Inc., Topeka, KS.
 The End Zone Club, Inc., Chanute, KS.
 The Farmers Elevator Cooperative Company,
 Bavaria, KS.
 The Happy Painters, Inc., Ulysses, KS.
 The Sign Store, Inc., Overland Park, KS.
 The Transportation Group, Inc., Overland Park, KS.
 Time Petroleum Corporation, Wichita, KS.
 Total Office Products, Inc., Kansas City, KS.
 Tractor 6055, Inc., Fort Scott, KS.
 Tractor 6059, Inc., Fort Scott, KS.
 Tractor 6064, Inc., Fort Scott, KS.
 Tractor 6195, Inc., Auburn, WA.
 Tractor 6198, Inc., Fort Scott, KS.
 Tractor 6280, Inc., Fort Scott, KS.
 Tractor 6349, Inc., Auburn Hills, MI.
 Tractor 6350, Inc., Fort Scott, KS.
 Tractor 6352, Inc., Fort Scott, KS.
 Tractor 6362, Inc., Topeka, KS.
 Tractor 6411, Inc., Fort Scott, KS.
 Tractor 6415, Inc., Gary, IN.
 Tractor 6423, Inc., Fort Scott, KS.
 Tractor 6462, Inc., Fort Scott, KS.
 Tractor 6475, Inc., Fort Scott, KS.
 Tractor 6478, Inc., Fort Scott, KS.
 Tractor 6504, Inc., Fort Scott, KS.
 Tractor 6537, Inc., Fort Scott, KS.
 Tractor 6554, Inc., Fort Scott, KS.
 Tractor 6556, Inc., Walnut, CA.
 Tractor 6596, Inc., Fort Scott, KS.
 Tractor 6614, Inc., Fort Scott, KS.
 Tractor 6616, Inc., Fort Scott, KS.
 Tractor 6626, Inc., Fort Scott, KS.
 Tractor 6820, Inc., Fort Scott, KS.
 Tractor 6927, Inc., Fort Scott, KS.
 Tri-County Feedlot, Inc., Abilene, KS.
 Venture Capital of Kansas, Inc., Great Bend, KS.
 Western States General Agency, Inc., Wichita, KS.
 Westhoff Sand Company, Inc., Great Bend, KS.
 Whip-Stitch, Inc., Baxter Springs, KS.
 21, Inc., Syracuse, KS.

Foreign Corporations

- Adco Systems, Incorporated, Edwardsville, IL.
 Aero Space Controls Co., Wichita, KS.
 Aion Maintenance and Investment Corporation,
 Dallas, TX.
 American International Import-Export Company,
 Kansas City, MO.
 Amrecorp Realty Inc., Dallas, TX.
 Analytical Surveys, Inc., Colorado Springs, CO.
 Argonaut Construction Company, Inc.,
 Blue Springs, MO.
 Arrow Stage Lines, Inc., Norfolk, NE.
 Assembly of God Expression of Marriage Encounter,
 Inc., Springfield, MO.
 Bonanza Buildings, Inc., Charleston, IL.

- Bonnie Ruth and Associates, Ltd., Denver, CO.
 Builders Equipment & Tool Company, Houston, TX.
 Buschart Office Products, Inc., Wilmington, DE.
 Buschart Office Products, Inc., St. Louis, MO.
 C & L Body Shop, Inc., Riverside, MO.
 Cadwell Construction Company, Inc.,
 Lexington, NE.
 Campbell-Mithun-Esty, Inc., Minneapolis, MN.
 Centennial Finance, Inc., Overland park, KS.
 Ceraxa U.S. Corporation, Vancouver, British
 Columbia.
 Chronister Oil Company, Springfield, IL.
 Community Health Care Corporation,
 Kansas City, MO.
 Con Chem Co. of Texas, Inc., Pampa, TX.
 Containers Unlimited, Inc., Overland Park, KS.
 Cryogenic Carriers, Inc., Cleveland, OH.
 D.H.L. Airways, Inc., San Francisco, CA.
 Deep Rock Energy, Inc., Oklahoma City, OK.
 Delta Truck Body Company, Inc., Skippack, PA.
 Dewey Leasing System, Inc., Kansas City, MO.
 Dewey System, Inc., Kansas City, MO.
 Dun & Bradstreet Receivable Management Services,
 Inc., New York, NY.
 Dun's Marketing Services, Inc., New York, NY.
 Easy Living Investments, Ltd., Lawrence, KS.
 EFCO Constructors, Inc., Monett, MO.
 ELCO Metal Products Corporation, Clayton, NM.
 Embassy Suites, Inc., Memphis, TN.
 Energy Capital Resources, Inc., Dallas, TX.
 Enron Gas Gathering, Inc., Houston, TX.
 Express Parcel Service, Inc., Kansas City, MO.
 Feyh, Brown & Greene, Certified Public
 Accountants, P.C., Springfield, MO.
 First Kansas City Securities Incorporated,
 Kansas City, MO.
 First Step Distributing, Inc., Tulsa, OK.
 Ford Bacon & Davis Sealants, Inc.,
 Monroe, LA.
 Freezer Services, Inc. of Texas, Omaha, NE.
 Gibco Sheet Metal, Inc., Lee's Summit, MO.
 Golden Age-Preferred Health Services, Inc.,
 Shawnee, KS.
 Harbor Financial Mortgage Corporation,
 Houston, TX.
 Heinz Office Supply, Inc., Burlington, CO.
 Insulation Sales & Service, Inc., Baton Rouge, LA.
 J.C. Hallman, Inc., Waterloo, Ontario.
 Jackson Jordan, Inc., Ludington, MI.
 Jamco, Ltd., Littleton, CO.
 James M. Montgomery, Consulting Engineers,
 Incorporated, Pasadena, CA.
 Johnson-Bowles Company, Inc., Salt Lake City, UT.
 Kansas City Elevator, Inc., Kansas City, MO.
 KD & Western Co., Inc., Spencer, IA.
 Kensu Holdings, Inc., Overland Park, KS.
 King Heating and Cooling, Inc., Kansas City, KS.
 Knogo Corporation, Hauppauge, NY.
 Kretschmar Brands, Inc., St. Louis, MO.
 Lely Southwest, Inc., Temple, TX.
 M M Resources, Inc., Enid, OK.
 Mai Systems Corporation, Tustin, CA.
 McAbee Construction, Inc., Tuscaloosa, AL.
 Mechanical Construction, Inc., Kansas City, MO.
 Mercury Company of Norwood, Inc.,
 Newton Center, MA.
 Metro Delivery, Inc., Benton, AR.
 Millstone Coffee, Inc., Everett, WA.
 Missouri Valley Orthotic & Prosthetic Center, Inc.,
 Wayne, PA.
 Mitchell Transport, Inc., Cleveland, OH.
 Mountain Plains Construction, Inc., Kansas City, KS.
 Noihsaf Inc., Lenexa, KS.
 Patrician Realty, Inc., Kansas City, MO.
 Pediatric Nursing Specialists of Kansas City, Inc.,
 Nashville, TN.
 Personalized House Cleaning, Inc.,
 Independence, MO.
 Pisces Construction Company, Shawnee, KS.
 Porta-Pattern, Incorporated, Olathe, KS.
 Premier Resources, Ltd., Denver, CO.
 Production Operators, Inc., Houston, TX.
 Program Administrative Services, Inc.,
 Overland Park, KS.
 Remco Enterprises, Inc., Houston, TX.
 Richfield Securities, Inc., Englewood, CO.
 Rufenachts Floral & Interiors, Inc.,
 Overland Park, KS.
 Russell Broadcasting, Ltd., Tulsa, OK.
 Sentinel Property Management Corp.,
 New York, NY.
 Shelter America Corporation, Denver, CO.
 Soderberg Masonry, Inc., Fort Collins, CO.
 Sovereign Group 1984-15, Ltd., Philadelphia, PA.
 Sprockets Video Transfer Center, Inc., Topeka, KS.
 Stasi Transportation Company, Inc.,
 Kansas City, MO.
 SunAmerica Securities, Inc., Dallas, TX.
 Sunbelt Scaffold Erectors, Inc., Houston, TX.
 Telenova Distribution Company, Inc.,
 Mt. Laurel, NJ.
 Texas Ibex, Inc., Topeka, KS.
 The Hoffman Partnership, Inc., St. Louis, MO.
 Toyota Motor Distributors, Inc., Torrance, CA.
 Trav Corporation, Denver, CO.
 Tri-City Baptist Church, Kansas City, MO.
 Two Rivers Pipeline & Construction Company, Inc.,
 Odessa, TX.
 Two-Way Communications, Inc., Kansas City, MO.
 VHA Consulting Services, Inc., Irving, TX.
 Weaver Popcorn Company, Inc., Van Buren, IN.
 Williams Industrial Services, Inc.,
 Stone Mountain, GA.
 Woodbine Petroleum, Inc., Dallas, TX.
 XL/Systems Support, Inc., Hinsdale, IL.

Bill Graves
 Secretary of State

Doc. No. 010593

State of Kansas

Employee Award Board

Notice of Meeting

The Employee Award Board will meet at 1 p.m. Wednesday, May 22, in the Division of Personnel Services, Room 951-S, Landon State Office Building, 900 S.W. Jackson, Topeka.

Ben Barrett
Chairperson

Doc. No. 010630

State of Kansas

Department of Corrections
Kansas Correctional Industries

Notice to Bidders

Sealed bids for state of Kansas surplus property (Quotation No. 910006) will be received by State Surplus Property, Building 344, Forbes Air Industrial Park, P.O. Box 19226, Topeka 66619-0226, until 4:30 p.m. Wednesday, May 29, and will be publicly opened at 8 a.m. Thursday, May 30. Interested bidders may call (913) 296-2334 for additional information.

Steven R. Magee
Manager, State Surplus Property

Doc. No. 010622

State of Kansas

Department of Education

Permanent Administrative
Regulations

Article 31.—ACCREDITATION

91-31-7. Staff. (a) District school administrator.

(1) Each school in a district shall be under the supervision of a district school administrator who holds a valid certificate with the appropriate endorsement for that assignment. Each district school administrator shall be assigned at least one-half time to administration and supervision of the schools in the district.

(2) Any school district with an enrollment of fewer than 400 students may also assign the district school administrator as elementary and high school building administrator if the district school administrator is also certified as a building administrator.

(b) Building administrators. Each board of education shall employ building administrators under a written contract, and except as provided in subsection (a)(2), each building administrator shall hold a valid certificate with the appropriate endorsements for the level or levels of assignment.

(c) Assistant building administrator. In schools where the building administrator requires assistance because of administrative responsibilities, the staff shall include an assistant building administrator.

(d) Alternative administrative plan; management by objectives. As an alternative to S.B.R. 91-31-12a(b) and

91-31-14a(d), any board of education may develop and disseminate an administrative plan based upon management by objectives. The plan shall be in writing and set out the goals, objectives and expected outcomes for the administrative assignment. There shall be broad-based community involvement in the plan. The plan shall provide for the services of a building administrator who shall be assigned the necessary time to perform administrative responsibilities, and shall indicate the amount and kinds of supportive services available to supplement particular administrative responsibilities. The plan shall be approved by and filed with the state board.

(e) Teachers. Each teacher shall hold a valid certificate with the appropriate endorsement or endorsements for the subject and level of assignment.

(f) Aides. Non-certified personnel may be employed to supervise pupils in noninstructional activities and shall work under the supervision of certified personnel. Each instructional paraprofessional hired as a special teacher in special education services shall be authorized to assist certified personnel in the instruction of exceptional children as provided by K.S.A. 1987 Supp. 72-962 and K.A.R. 91-12-61, and any amendments.

(g) Substitutes. Each person holding a substitute teaching endorsement shall teach not more than 90 days in any school year, unless a time of emergency has been declared by the state board. If the state board has declared a time of emergency, any person holding a substitute teaching endorsement may teach for the duration of the time of emergency in a position made vacant by reason of the emergency.

(h) Emergency substitute. Each person holding an emergency substitute teaching endorsement shall teach not more than 30 days in one semester, unless a time of emergency has been declared by the state board. If the state board has declared a time of emergency, any person holding an emergency substitute teaching endorsement may teach for the duration of the time of emergency in a position made vacant by reason of the emergency.

(i) If a teacher holding a valid certificate with an appropriate elementary, secondary K-12 or substitute endorsement is not available, any school district may:

(A) Use a substitute teacher holding a valid Kansas certificate at any level and in any field or subject; or
(B) employ persons who have been certified by the state board as emergency substitute teachers.

(j) Report staff assignments. The names of each certified staff member shall be reported on the certified personnel report or the supplemental certified personnel report. Each certified personnel staff change that occurs between September 15 and the end of the school year shall be reported on a form prescribed by the state board within 30 days of the staff change. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective May 1, 1983; amended May 1, 1987; amended July 1, 1989; amended July 1, 1991.)

Dr. Lee Droegemueller
Commissioner of Education

Doc. No. 010627

State of Kansas

**Department of Revenue
Division of Alcoholic Beverage Control**

**Permanent Administrative
Regulations**

Article 13.—RETAIL LIQUOR DEALER

14-13-5. Retailers; registration of employees, responsibility for conduct of business and of employees. (a) Each retailer shall register all employees with the director within five days after the employee begins work for the retailer and upon each renewal of the retailer's license. The registration shall be submitted on the forms provided by the director.

(b) Each retailer shall be responsible for the conduct of the retailer's business and shall be directly responsible for violations of the liquor control act or these regulations by any employee engaged in and acting in the course of employment.

(c) A retailer shall not employ:

(1) any person who is an employee of a licensed distributor or any person who is the spouse of an employee of a licensed distributor;

(2) any person who has been convicted of a felony; or

(3) any person who is under the age of 21 years. (Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-311, 41-312, 41-713; effective May 1, 1988; amended July 1, 1991.)

14-13-9. Transactions prohibited, agreements and deliveries by retailer for sale or resale off licensed premises, registration of vehicle. (a) Except as provided in subsection (c) of this regulation, each retailer shall sell and deliver alcoholic liquor only upon the licensed premises of the retailer for consumption off of the licensed premises.

(b) A retailer shall not sell any alcoholic liquor upon the following days or at the following times:

(1) during the hours the polls are open on any national, state, county or city election day, including primary elections;

(2) on Sunday;

(3) on Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day; and

(4) on any other day of the year prior to nine o'clock a.m. or after eleven o'clock p.m.

(c) Any retailer may sell and deliver alcoholic liquor to a club, drinking establishment or caterer if:

(1) all deliveries of alcoholic liquor are made to the licensed premises of a club or drinking establishment and to the principal place of business of a caterer;

(2) all deliveries are made by a registered employee of the retailer;

(3) all deliveries are made in a registered vehicle of the retailer;

(4) the retailer provides a sales slip or voucher for each item delivered as required by K.A.R. 14-13-10;

(5) the retailer receives payment for all deliveries prior to or at the time of the deliveries;

(6) the retailer has first obtained a federal wholesale basic permit and displays a sign on the licensed prem-

ises that states the retailer is a "Wholesale Liquor Dealer Under Federal Law";

(7) all deliveries of alcoholic liquor are made on those days and during those hours that a retailer may sell alcoholic liquor as provided in subsection (b) of this regulation; and

(8) all deliveries originate from the licensed premises of the retailer.

(d) Each retailer who desires to transport alcoholic liquor shall register each vehicle to be used for such purpose with the director, upon forms provided by the director and shall maintain in each vehicle an identification card issued by the director. The registered delivery vehicle may have displayed upon the front door panels of the vehicle the retail licensee's business name, address and phone number in plain block lettering. Letters or figures in the sign shall not be more than four inches high or three inches wide. If more than one line is used, the lines shall be not more than one inch apart.

(e) Any retailer may sell alcoholic liquor to a temporary permit holder if:

(1) sales are made only upon the licensed premises of the retailer;

(2) no deliveries are made to a temporary permit holder or an event sponsor; and

(3) the retailer provides a sales slip or voucher as required by K.A.R. 14-13-10.

(f) Except as otherwise provided in this regulation, a retailer shall not engage, directly or indirectly, in any conspiracy, transaction or agreement having as its object the sale or resale, away from or off of the licensed premises, of any alcoholic liquor owned, sold or delivered by that retailer. Retailers shall not sell or deliver any alcoholic liquor to any person with knowledge of, or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the same for the purpose of peddling or reselling the alcoholic liquor in violation of these regulations, the liquor control act or the club and drinking establishment act.

(g) Retailers shall not engage, directly or indirectly, in any conspiracy, transaction or agreement having as its object the sale, resale or delivery of alcoholic liquor before the legal opening hour or after the legal closing hour or on any day when sales are prohibited.

(h) All alcoholic liquor of a retail licensee shall be stored upon the licensed premises of the licensee. Alcoholic liquor shall not be stored upon the licensed premises after the sale thereof.

(i) A retailer shall not sell any alcoholic liquor at less than the acquisition cost of the alcoholic liquor. This shall not apply to those retailers who have received a permit from the director to close out an item of alcoholic liquor, sell a damaged or deteriorated product or sell a retailer's inventory pursuant to a court order. (Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-308, K.S.A. 41-712; effective May 1, 1988; amended Aug. 6, 1990; amended July 1, 1991.)

(continued)

**Article 14.—MANUFACTURERS; DISTRIBUTORS;
NONBEVERAGE USERS; FARM WINERIES;
MICROBREWERIES**

14-14-5. Franchises. (a) Definitions. As used in this regulation, the following terms shall have the meanings ascribed to them:

(1) "Sale or distribution" includes the act of leasing, renting or consigning.

(2) "Goods" means any personal property, real property, or any combination thereof.

(3) "Other property" means a franchise, license, distributorship or other similar right, privilege or interest.

(4) "Franchise" means a written arrangement in which a supplier grants to a distributor a license to use a trade name, trademark, service mark, or related characteristic, and in which there is a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement or otherwise, including a commercial relationship subject to termination pursuant to K.S.A. 1989 Supp. 41-410. The arrangement grants the distributor the right to offer, sell and distribute within this state or any designated area, the supplier's brands of alcoholic liquors, cereal malt beverages, non-alcoholic malt beverages or all of them as may be specified.

(b) Franchise discrimination is prohibited.

(1) If more than one franchise for the same brand or brands of alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages is granted to different distributors in this state, the supplier shall not discriminate in regard to price or availability of alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages between distributors.

(2) A supplier shall not encourage, solicit, cause or conspire with a distributor to circumvent any laws or regulations of the state of Kansas relating to intoxicating liquor. A supplier shall not directly or indirectly threaten to remove or remove a line or brand from a distributor because of the refusal or failure of the distributor to evade or disobey any laws or regulations of the state of Kansas relating to intoxicating liquor. A supplier shall not, directly or indirectly, threaten to change distributors in retaliation against a distributor who refuses to circumvent any laws or regulations of the state of Kansas relating to intoxicating liquor.

(c) All ownership interest in a distributor's business shall be disclosed to the director.

(1) No person shall have, own or enjoy any ownership interest in, share in the profits from or otherwise participate in the business of any distributor in Kansas unless a full description of the interest is furnished to the director at the time the interest arises. The distributor shall report to the director within 20 days, any change in any interest in the distributor's business including:

(A) Any division of the profits;

(B) any division of net or gross sales for any purpose whatsoever;

(C) any change in the payment of rents;

(D) any change in the ownership of any lease or building;

(E) any change in the ownership of any corporation

that has any interest in the business or the change of management of that corporation; or

(F) any loss or damage to goods which results in a claim against an insurance policy.

(2) If there is common ownership or financial interest in wholesale businesses licensed to distribute spirits or wine, either directly or indirectly, all of these businesses shall be deemed a controlled ownership group.

(3) The statement of disclosure required by this regulation shall be on a form provided by the director, shall be signed under oath and notarized and shall be an amendment to the licensee's permanent license application on file with the director.

(4) Each license issued by the director shall be valid as long as the licensee is actively engaged in business. If the licensee ceases to be actively engaged in business, the license shall be invalid and the licensee shall immediately notify the director and return the license.

(d) Each supplier and distributor shall file a summary of any franchise agreement with the director. The summary shall contain:

(1) a statement identifying each party entering into the agreement by name, address and license number;

(2) a statement describing each geographic territory agreed upon between the distributor and supplier for which the distributor is to sell to retailers one or more brands of the supplier's alcoholic liquor, cereal malt beverages or non-alcoholic malt beverages;

(3) a map outlining each geographical territory agreed to; and

(4) a statement listing all brands to be covered by the agreement.

(e) No manufacturer, vintner, importer, or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory. For purposes of identification and recognition, multiple franchises for the distribution of spirits or wine issued to one or more persons or to two or more corporations where an interlocking directorate exists or the same individuals are officers or stockholders in more than one of the corporations, shall be considered one franchise.

(f) Each spirits distributor's franchise agreement shall describe the franchise territory by naming each county unit encompassed. A territory shall not be smaller than a single county, but may encompass as few as one or as many as all 105 Kansas counties. Agreements for distribution throughout the entire state shall not name each county by name.

(g) Each wine and beer distributors' franchise agreement shall describe the franchise territory using readily identifiable geographic boundaries.

(h) The terms, conditions and requirements of this regulation are expressly made a part of the terms of each authority to do business in Kansas granted by the director to suppliers, distillers, manufacturers, importers, producers, shippers, or brokers.

(i)(1) Each supplier, importing into this state to a licensed distributor, shall apply to the director not later than 45 days in advance for a permit to import alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages for which the distributor does not have a franchise to sell.

(2) Each request for a permit shall specifically identify the brand, type and quantity of the alcoholic liquor, cereal malt beverage or non-alcoholic malt beverages to be imported into the state. Alcoholic liquor, cereal malt beverage and non-alcoholic malt beverages imported in accordance with this permit shall not be resold by the distributor.

(3) A copy of the permit issued by the director shall be attached to all records and reports required by K.A.R. 14-14-8 and 14-14-10. (Authorized by K.S.A. 1989 Supp. 41-210; implementing K.S.A. 1989 Supp. 41-306a, 41-332, 41-409, 41-410, and 41-1101; effective, T-89-2, Jan. 7, 1988; effective Oct. 1, 1988; amended Jan. 1, 1989; amended July 1, 1991.)

Article 19.—CLASS A CLUBS

14-19-24. Employees; registration of same; prohibitions. (a) Each club shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor. The registration shall be submitted on forms supplied by the director, within five days after the employee begins work for the club and upon each renewal of the club's license.

(b) A club shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and is not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor, or retailer, in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor. This shall not apply to a distributor or a retailer who is an officer, director or board member of a class A club if the distributor or retailer sells no alcoholic liquor to the class A club. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-19-36. Public functions upon licensed premises; when allowed; approval of director. (a) A club shall not open any part of its licensed premises to the public unless it has first received the written approval of the director. All requests for written approval of the director to open the licensed premises to the public shall be accompanied by a sworn statement containing:

(1) The days of the week and hours of those days for which the application is made;

(2) a description of the exact area of the club to be open to the general public;

(3) the statement that no alcoholic liquor or cereal malt beverage will be sold, dispensed or consumed by anyone in the area described during the time indicated;

(4) the date and time that normal club activities will be resumed in the described areas; and

(5) a description of the type of activity to be conducted and by whom.

(b) Written approval shall not be required for a class A club holding a bona fide bingo license to operate bingo games which are open to the public, pursuant to K.S.A. 79-4703 and amendments thereto. Application for and acceptance of a bingo license by a class A club shall be considered as consent by the class A club licensee to comply with the public functions requirements of this regulation.

(c) The use of the licensed premises by the general public shall not remove the area from the jurisdiction of the director. The licensee may be suspended, revoked or fined for any violations of chapter 41 of the Kansas statutes during any public function held on its licensed premises. (Authorized by and implementing K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1989.)

Article 20.—CLASS B CLUBS

14-20-25. Temporary memberships; granting, records, and billing. (a) (1) Each class B club located on the premises of a "hotel," or "RV resort," or each class B club that enters into a contract with a hotel or RV resort to issue temporary memberships to that hotel's or RV resort's guests, shall keep a record of temporary memberships granted by the club to registered nonresident guests of that hotel or RV resort. The term "hotel" shall have the meaning as provided in K.S.A. 36-501. The term "RV resort" shall have the meaning as provided in L. 1990, Ch. 179, Sec. 5.

(2) Only clubs shall issue temporary memberships. The hotel or RV resort management shall not issue or handle temporary memberships. A temporary membership card shall be issued to each temporary member setting forth, on its face, the effective dates, the name of the club and the name of the member. The hotel or RV resort may handle billings if all funds are accounted to the club and if the hotel or RV resort keeps a permanent record of all charges and payments due to the club which the hotel or RV resort handles.

(3) The hotel or RV resort shall provide to each guest who desires to become a temporary club member a preprinted form or statement on its business letterhead, signed by an authorized employee or official, setting forth the name of the guest, the date or dates on which the bearer is a registered guest at the hotel or RV resort and certifying that the guest does not permanently reside in the same county as the hotel or RV resort or the private club.

(b) Each class B club located on property which is owned or operated by a municipal airport authority shall keep a record of all temporary memberships

(continued)

granted to air travelers. Each temporary membership shall be granted only upon the licensed club premises by club management after receipt of an application form and shall be valid only for the day on which the air traveler's ticket is valid. Each temporary membership card issued shall state on its face the name of the club, the name of the temporary member, the name of the airline and flight number on which that member will be a passenger and the effective date or dates of the membership.

(c) Each class B club located in a racetrack facility where races with parimutuel wagering are conducted under the Kansas parimutuel racing act may establish rules whereby persons may file an application for temporary membership in the club only for the day the person is attending races at the race track facility.

(d) Records of all temporary memberships issued pursuant to subsections (a), (b) and (c) shall be maintained on licensed club premises for a period of one year from date of issuance. (Authorized by K.S.A. 1989 Supp. 41-2634 as amended by L. 1990, Ch. 179, sec. 6; implementing K.S.A. 1989 Supp. 41-2641; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

14-20-26. Employees; registration of same; prohibitions. (a) Each club shall register with the director all employees who will mix, sell, serve or dispense alcoholic liquor. The registration shall be submitted on forms supplied by the director, within five days after the employee begins work for the club and upon each renewal of the club's license.

(b) A club shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and is not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor or retailer, in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

Article 21.—DRINKING ESTABLISHMENTS

14-21-9. Employees; registration of same; prohibitions. (a) Each drinking establishment shall register

with the director all employees who will mix, sell, serve or dispense alcoholic liquor on forms supplied by the director, within five days after each employee begins work for the drinking establishment and upon each renewal of the drinking establishment's license.

(b) A drinking establishment shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor or cereal malt beverage;

(2) who is under the age of 21 to mix or dispense drinks containing alcoholic liquor or cereal malt beverage;

(3) who is under the age of 21 years and not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor or cereal malt beverage; or

(6) who is a manufacturer, distributor or retailer, or who is an officer, agent, or employee of a manufacturer, distributor or retailer in the capacity of a person registered to mix, serve, sell, or dispense alcoholic liquor. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

Article 22.—CATERER

14-22-6. Events; filings; notice; food sales required.

(a) Each caterer, under this article, may offer for sale, sell and serve alcoholic liquor for consumption at an event.

(b) Each caterer shall notify the director not less than 10 days in advance of each event at which the caterer will sell alcoholic liquor by the individual drink.

(c) For each event to be catered in an incorporated city, the caterer shall file with the law enforcement agency for the city in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (e).

(d) For each event to be catered outside an incorporated city, the caterer shall file with the sheriff of the county in which the event will be held, a notice that an event will be held. The notice shall contain that information required by subsection (e).

(e) Each notice required by subsections (c) or (d) shall contain:

(1) a copy of the catering contract, in force or proposed, with the sponsor of an event, if applicable;

(2) a clear description of the event premises which shall be in enough detail that the event premises are identifiable;

(3) disclosure of all personnel who will be mixing or dispensing alcoholic liquor at the event; and

(4) a statement of the dates the event will be conducted and the hours of operation on each date.

(f) The licensee shall prominently display at each event, upon a poster or other device located at the entrance to the event premises:

- (1) the caterer's name;
- (2) the caterer's license;
- (3) the name of the sponsor; and
- (4) a copy of the notice required by subsections (c) or (d).

(g) A caterer shall not:

(1) conduct an event upon licensed premises unless the caterer also holds the license for the licensed premises;

(2) conduct an event for longer than seven days, unless the director first approves the longer duration;

(3) deny access to an event to any law enforcement officer;

(4) operate an event between the hours of 2:00 A.M. and 6:00 A.M.; or

(5) sell cereal malt beverage or non-alcoholic malt beverages at an event.

(h) For each event, the caterer shall keep records for three years which:

(1) demonstrate the ratio of food sales to alcoholic beverage sales is not less than 30% in a 12 month period. This shall not apply to events conducted in a county which has eliminated this requirement;

(2) demonstrate that all excise taxes have been paid; and

(3) demonstrate that all sales taxes have been paid. (Authorized by K.S.A. 41-2634, 79-3618, 79-41a03; implementing K.S.A. 1989 Supp. 41-2613, K.S.A. 1989 Supp. 41-2614, 41-2634, K.S.A. 79-3609, and K.S.A. 79-41a07 as amended by L. 1990, Ch. 179, Sec. 7; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1990; amended July 1, 1991.)

14-22-9. Employees; registration of same; those prohibited. (a) Each caterer shall register the caterer's employees who will mix, sell, serve, or dispense alcoholic liquor with the director, on forms supplied by the director, within five days after the employee begins work for the caterer and upon each renewal of the caterer's license.

(b) A caterer shall not employ or continue to employ any person:

(1) who is under the age of 18 years to serve alcoholic liquor;

(2) who is under the age of 21 years to mix or dispense drinks containing alcoholic liquor;

(3) who is under the age of 21 years and is not supervised by the licensee or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge in Kansas, any other state or the United States to dispense, mix or serve alcoholic liquor;

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor; or

(6) who is a manufacturer, distributor or retailer or an employee of a manufacturer, distributor or retailer in the capacity of a person registered to mix, serve,

sell or dispense alcoholic liquor. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2610 and K.S.A. 1989 Supp. 41-2632; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended July 1, 1991.)

Article 23.—TEMPORARY PERMITS

14-23-4. Issuance of permit. (a) A temporary permit shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a temporary permit may be rejected by the director if:

(1) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any type of temporary permit, club, drinking establishment or caterer's license, and at the time the previous temporary permit or license was surrendered, the temporary permit holder or licensee had been ordered to appear and show cause why the temporary permit or license should not be revoked or suspended;

(2) the applicant has been granted four permits in the current calendar year;

(3) the applicant has designated an area for an event which was the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(4) the applicant has had a license or permit revoked under the club and drinking establishment act or has been convicted of a violation of the club and drinking establishment act, the liquor control act, K.S.A. 41-2701 et seq. or K.S.A. 79-41a01 et seq.; or

(5) the application is not filed with the director at least 14 days prior to the event. (Authorized by K.S.A. 1989 Supp. 41-2634; implementing 1989 Supp. K.S.A. 41-2645 as amended by L. 1990, Ch. 179, Sec. 8; effective, T-88-22, July 1, 1987; effective May 1, 1988; effective July 1, 1990; amended July 1, 1991.)

Robert Engler
Director, Division of
Alcoholic Beverage Control

Doc. No. 010625

State of Kansas

Social and Rehabilitation Services

Permanent Administrative
Regulations

Article 4.—PUBLIC ASSISTANCE PROGRAM

30-4-41. Assistance planning. (a) Definitions.

(1) "Family group" means the applicant or recipient and all individuals living together in which there is a relationship of legal responsibility or a caretaker relative relationship.

(2) "Mandatory filing unit" means all persons in the family group whose needs or resources are required to be considered in determining eligibility and amount of payment as outlined in K.A.R. 30-4-74 for ADC purposes and K.A.R. 30-4-90 for GA purposes. If the agency is unable to determine who is required to be a member of the mandatory filing unit as a result of an applicant's or recipient's failure to cooperate in providing necessary information or in complying with an eligibility requirement that is within the applicant's or recipient's control, those persons who would otherwise be required to be in the mandatory filing unit had the applicant or recipient cooperated shall be ineligible for assistance.

(3) "Caretaker relative" means the relative who is assigned the primary responsibility for the care and control of the child, either singly, or as in the case of two parents, jointly. Caretaker relative status shall be extended to the adult relative of a minor parent when assistance is requested for the child of a minor parent.

(4) "Eligible relative" means a caretaker relative who is considered in the plan with the child. A stepparent shall not be considered as an eligible relative unless the stepparent is the only caretaker relative in the home and is financially eligible.

(5) "Legally responsible relative" means the person who has the legal responsibility to provide support for the person in the plan.

(6) "Essential person" means an individual in the home who does not otherwise qualify for ADC and who is:

(A) A spouse of an ADC eligible caretaker relative;

(B) a child who meets the age and school requirements of K.A.R. 30-4-72 and is a sibling of an ADC eligible child;

(C) the parent of a child of an ADC eligible caretaker relative when such parent has no legal relationship to the caretaker and all individuals are living together; or

(D) an individual who provides one of the following services:

(i) Child care which enables a caretaker relative to work on a full-time basis outside of the home;

(ii) care for an incapacitated family member in the home;

(iii) child care that enables a caretaker relative to receive training on a full-time basis;

(iv) child care that enables a caretaker relative to attend high school or general education development classes on a full-time basis; or

(v) child care for a period not to exceed two months

that enables a caretaker relative to participate in an agency-approved work-related activity.

(7) "Nonessential person" means an individual who does not meet the ADC criteria for eligible relative or essential person. Nonessential person shall not include an individual who is eligible for ADC.

(b) The assistance plan shall consist of those members of the mandatory filing unit and any other persons in the family group for whom assistance is requested and eligibility is determined. Any individual excluded from the assistance plan shall not be eligible in a separate assistance plan. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 1990 Supp. 39-708c; implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-88-14, July 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended July 1, 1989; amended July 1, 1991.)

30-4-112. Income exempt from consideration as income and as a cash asset. The following income shall be exempt, except as provided in K.A.R. 30-4-110(b):

(a) Grants to any undergraduate student for educational purposes that are made or insured under any programs administered by the commissioner of education;

(b) grants obtained and used for purposes of meeting needs not related to current living costs;

(c) the value of the coupon allotment under the food stamp program;

(d) the value of the U.S. department of agriculture donated foods;

(e) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(f) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(g) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(h) distributions to natives under the Alaska native claims settlement act;

(i) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of domestic service act of 1973;

(j) payments to individual volunteers under title I, sec. 404(g) of Public Law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(k) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(l) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefit is used toward the cost of burial;

(m) a one-time payment or a portion of a one-time payment from a cash settlement for repair or replacement of property or for legal services, or medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(n) money which VA determines may not be used for subsistence needs held in trust by VA for a child;

(o) retroactive corrective assistance payments in the month received or in the following month;

(p) income directly provided by vocational rehabilitation;

(q) benefits from special government programs at the discretion of the secretary, including energy assistance programs, and VA aid and attendance and housebound allowances;

(r) assistance provided by another agency or organization that complements, but does not duplicate assistance provided by the agency;

(s) reimbursements for out-of-pocket expenses in the month received and the following month; and

(t) proceeds from any bona fide loan requiring repayment;

(u) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under Title I of Public Law 100-383;

(v) payments granted to certain Aleuts under Title II of Public Law 100-383;

(w) agent orange settlement payments;

(x) foster care and adoption support payments; and

(y) the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and the following month. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 1990 39-708c; implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended May 1, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 1, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended May 1, 1991; amended July 1, 1991.)

30-4-113. Income exempt as applicable income. The following income shall be exempt as applicable income in the determination of the budgetary deficit:

(a) Earned income of a recipient child if the child is under the age of 18 years and a full-time student or if the child is a part-time student and is not a full-time employee;

(b) earned income of a recipient child who is 18 years of age and a full-time student;

(c) irregular, occasional or unpredictable monetary gifts not to exceed \$30.00 per person in any calendar quarter, except this subsection is not applicable to gifts in excess of \$30.00;

(d) unearned income-in-kind;

(e) shelter cost participation payments. In shared living arrangements in which two families contribute toward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(f) tax refunds and rebates, except for earned income tax credits in accordance with K.A.R. 30-4-112(y);

(g) incentive payments received by renal dialysis patients;

(h) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, non-profit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(i) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(j) housing assistance from federal housing programs;

(k) assistance payments in the month received;

(l) the first \$50.00 of child support or child support in combination with spousal support received in a month; and

(m) support payments received following the effective date of the assignment of support rights to the agency. However, reported current support which is in excess of the amount exempted in subsection (l) of this section and which, if prospectively treated as non-exempt income, would result in ineligibility, or a support refund disbursed by the agency to the recipient, shall not be exempt income. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 1990 Supp. 39-708c; implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended May 1, 1991; amended July 1, 1991.)

Article 5.—PROVIDER PARTICIPATION, SCOPE OF SERVICES, AND REIMBURSEMENTS FOR THE MEDICAID (MEDICAL ASSISTANCE) PROGRAM

30-5-58. Definitions. (a) The following words and terms, when used in this part, shall have the following meanings, unless the context clearly indicates otherwise:

(1) "Accept medicare assignment" means accept the medicare allowed payment rate as payment in full for services provided to a recipient.

(2) "Accrual basis accounting" means reporting rev-

(continued)

enue in the period when it is earned, regardless of when it is collected, and reporting expenses in the period in which they are incurred, regardless of when they are paid.

(3) "Acquisition cost" means the allowable reimbursement price determined by the Kansas department of social and rehabilitation services for each covered drug, supply or device in accordance with federal regulations.

(4) "Activities of daily living" means basic activities necessary for daily self care.

(5) "Admission" means the condition of entry into a hospital for the purpose of receiving inpatient medical treatment.

(6) "Ambulance" means a state-licensed vehicle equipped for emergency transportation of injured or sick recipients to facilities where medical services are rendered.

(7) "Arm's length transaction" means a transaction between unrelated parties.

(8) "Border cities" mean those communities outside of the state of Kansas but within a 50-mile range of the state border.

(9) "Case conference" means a scheduled face-to-face meeting involving two or more persons to discuss problems associated with the treatment of the facility's patient or patients. Persons involved in the case conference may include treatment staff, collaterals or other agency representatives of the client or clients.

(10) "Capitation reimbursement" means a reimbursement methodology establishing payment rates, per program recipient or eligible individual, for a designated group of services.

(11) "Change of ownership" means:

(A) A change that involves an arm's length transaction between unrelated parties; and

(B)(i) The dissolution or creation of a partnership when no member of the dissolved partnership or the new partnership retains ownership interest from the previous ownership affiliation;

(ii) a transfer of title and property to another party if the transfer is an arm's length transaction, and if the property is owned by a sole proprietor;

(iii) the change or creation of a new lessee, acting as a provider of pharmacy services; or

(iv) the consolidation of two or more corporations that creates a new corporate entity. However, the transfer of participating provider corporate stock shall not in itself constitute a change of ownership. Similarly, a merger of one or more corporations with a participating provider corporation surviving shall not constitute a change of ownership.

(12) "Common control" means that an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or facility.

(13) "Common ownership" means that an individual or individuals possess significant ownership or equity in the provider and the facility or organization serving the provider.

(14) "Comparable outpatient service" means a service that is provided in a hospital that is comparable to

a service provided in a physician's office or ambulatory surgical center.

(15) "Comparison per diem rate" means the per diem rate as adjusted by deducting the teaching cost for approved intern, resident and nursing programs divided by the total hospital inpatient days in the hospital fiscal year ending in 1981.

(16) "Concurrent care" means services rendered simultaneously by two or more eligible providers.

(17) "Consultation" means an evaluation which requires another examination by a provider of the same profession, a study of records, and a discussion of the case with the physician primarily responsible for the patient's care.

(18) "Contract loss" means the excess of contract cost over contract income.

(19) "Cost finding" means the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered.

(20) "Cost outlier" means a general hospital inpatient stay with an estimated cost which exceeds the cost outlier limit established for the respective diagnosis related group.

(21) "Cost outlier limit" means the maximum cost of a general hospital inpatient stay established according to a methodology specified by the secretary for each diagnosis related group.

(22) "Cost-related reimbursement" means reimbursement based on analysis and consideration of the historical operating costs required to provide specified services.

(23) "Covered service" means a medical service for which reimbursement will be made by the medicaid/medikan program. The agency may limit coverage on the basis of prior authorization.

(24) "Day outlier" means a general hospital inpatient length of stay which exceeds the day outlier limit established for the respective diagnosis related group.

(25) "Day outlier limit" means the maximum general hospital inpatient length of stay established according to a methodology specified by the secretary for each diagnosis related group.

(26) "Diagnosis related group (DRG)" means the classification system which arranges medical diagnoses into mutually exclusive groups.

(27) "Diagnosis related group (DRG) adjustment percent" means a percentage assigned by the secretary to a diagnosis related group for purposes of computing reimbursement.

(28) "Diagnosis related group (DRG) daily rate" means the dollar amount assigned by the secretary to a diagnosis related group for purposes of computing reimbursement when a rate per day is required.

(29) "Diagnosis related group (DRG) reimbursement system" means a reimbursement system in the Kansas medicaid/medikan program for general hospital inpatient services which uses diagnosis related groups for determining reimbursement on a prospective basis.

(30) "Diagnosis related group (DRG) weight" means the numeric value assigned to a diagnosis related group for purposes of computing reimbursement.

(31) "Discharge" means the condition of release from

a hospital. A discharge shall occur when the recipient leaves the hospital or dies. A transfer to another unit within a hospital, except to a swing bed, and a transfer to another general or special hospital shall not be a discharge.

(32) "Discharging hospital" means, in instances of the transfer of a recipient, the hospital which discharges the recipient admitted from the last transferring hospital.

(33) "Disproportionate share hospital" means a hospital that has:

(A) 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 a hospital with a low-income utilization rate exceeding 25%; and

(B) at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to medicaid/medikan eligible individuals. 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. The only exceptions to this shall be:

(i) A hospital with inpatients who are predominantly under 18 years of age; or

(ii) a hospital which did not offer non-emergency obstetric services as of December 21, 1987.

(34) "Drug, supply or device" means:

(A) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them;

(B) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings;

(C) articles intended to affect the structure or any function of the bodies of human beings; and

(D) articles intended for use as components of any articles specified in clause (A), (B) or (C) of this paragraph.

(35) "Durable medical equipment (DME)" means equipment which will:

(A) Withstand repeated use;

(B) not generally be useful to a person in the absence of an illness or injury;

(C) be primarily and customarily used to serve a medical purpose;

(D) be appropriate for use in the home; and

(E) be rented or purchased as determined by designees of the secretary.

(36) "Election period" means the period of time for the receipt of hospice care, beginning with the first day of hospice care as provided in the election statement and continuing through any subsequent days excluding any days of hospice care earlier than the date the election statement is signed.

(37) "Election statement" means the revokable statement signed by a recipient which is filed with a particular hospice and which consists of:

(A) Identification of the hospice selected to provide care;

(B) acknowledgement that the recipient has been given a full explanation of hospice care;

(C) acknowledgement by the recipient that other medicaid services are waived;

(D) effective date of the election period; and

(E) the recipient's signature or the signature of the recipient's legal representative.

(38) "Emergency services" means those services provided after the sudden onset of a medical condition manifested by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(39) "Estimated cost" means the cost of general hospital inpatient services provided to a recipient which are computed using a methodology set out in the Kansas medicaid state plan.

(40) "Formulary" means a listing of drugs, supplies or devices.

(41) "Free-standing inpatient psychiatric facility" means an inpatient psychiatric facility licensed to provide services only to the mentally ill.

(42) "General hospital" means an establishment with an organized medical staff of physicians, with permanent facilities that include inpatient beds, with medical services, including physician services and continuous registered professional nursing services for not less than 24 hours of every day, and which provides diagnosis and treatment for nonrelated patients who have a variety of medical conditions.

(43) "General hospital group" means the category to which a general hospital is assigned for purposes of computing reimbursement.

(44) "General hospital inpatient beds" mean the number of beds as reported by the general hospital on the hospital and hospital health care complex cost report form excluding those beds designated as skilled nursing facility or intermediate care facility beds. For hospitals not filing the hospital and hospital health care complex cost report form, the number of beds shall be obtained from the provider application for participation in the Kansas medicaid/medikan program form.

(45) "Group reimbursement rate" means the dollar value assigned by the secretary to each general hospital group for a diagnosis related group weight of one.

(46) "Health maintenance organization" means an organization of providers of designated medical services which makes available and provides these medical services to eligible enrolled individuals for a fixed periodic payment which is determined in advance. Referral to outside specialists is limited.

(47) "Historical cost" means actual allowable costs incurred for a specified period of time.

(48) "Home health aide service" means the direct care provided by a person with minimum training, and who is under the supervision of a registered nurse employed by a home health agency, to recipients who are unable to care for themselves or who need assistance in accomplishing the activities of daily living.

(49) "Hospice" means a public agency or private

(continued)

organization, or a subdivision of either, that primarily engages in providing care to terminally ill individuals, which meets the medicare conditions of participation for hospices, and which has enrolled to provide hospice services pursuant to K.A.R. 30-5-59.

(50) "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.

(51) "Independent laboratory" means a laboratory that performs laboratory tests that are ordered by a physician, and that is in a location other than the physician's office or a hospital.

(52) "Ineligible provider" means a provider who is not enrolled in the medicaid/medikan program because of reasons set forth in K.A.R. 30-5-60, or because of commission of civil or criminal fraud in another state or another program.

(53) "Interest expense" means the cost incurred for the use of borrowed funds on a loan made for a purpose related to patient care.

(54) "Kan Be Healthy program participant" means an individual under the age of 21 who is eligible for medicaid, and who has undergone a Kan Be Healthy medical screening in accordance with a specified screening schedule in order to ascertain physical and mental defects and to provide treatment which corrects or ameliorates defects and chronic conditions found.

(55) "Kan Be Healthy dental-only participant" means an individual under the age of 21 who is eligible for medicaid, and who has undergone only a Kan Be Healthy dental screening in accordance with a specified screening schedule in order to ascertain dental defects and to provide treatment which corrects or ameliorates dental defects and chronic dental conditions found.

(56) "Kan Be Healthy vision-only participant" means an individual under the age of 21 who is eligible for medicaid, and who has undergone only a Kan Be Healthy vision screening in accordance with a specified screening schedule in order to ascertain vision defects and to provide treatment which corrects or ameliorates vision defects and chronic vision conditions found.

(57) "Length of stay as an inpatient in a general hospital" means the number of days an individual remains for treatment as an inpatient in a general hospital from and including the day of admission, to and excluding the day of discharge.

(58) "Lock-in" means the restriction of a recipient's access to medical services because of abuse through limitation of the use of the medical identification card to designated medical providers.

(59) "Low-income utilization rate for hospitals" means the rate which is defined in accordance with the omnibus budget reconciliation act, public law 100-203, Section 4112, effective July 1, 1988, which is adopted by reference.

(60) "Managerial capacity" means an individual, including a general manager, business manager, administrator, or director, who exercises operational or managerial control over the provider, or who directly or indirectly conducts the day to day operations of the provider.

(61) "Maternity center" means a facility licensed as a maternity hospital which provides delivery services for normal uncomplicated pregnancies.

(62) "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.

(63) "Medical necessity" means a decision by a medical practitioner that a therapy, treatment, drug, item or service prescribed or provided is essential to treat or diagnose a specific physical or psychiatric condition.

(64) "Medical necessity in psychiatric situations" means that there is medical documentation which indicates that the person could be harmful to himself or herself or others if not under psychiatric treatment, or the person is disoriented in time, place or person.

(65) "Medical supplies" means supplies not generally useful to a person in the absence of illness or injury which are prescribed by a physician and used in the home and certain institutional settings.

(66) "Metropolitan statistical area (MSA)" means a geographic area designated as such by the United States executive office of management and budget as set out in the Federal Register, Vol. 53, No. 244, December 20, 1988, which is adopted by reference.

(67) "Necessary interest" means interest expense incurred on a loan made to satisfy a financial need of the facility. Loans which result in excess funds or investments shall not be considered necessary.

(68) "Net cost" means the cost of approved educational activities less any reimbursements from grants, tuition, and specific donations.

(69) "Non-covered services" mean services for which medicaid/medikan will not provide reimbursement, including services that have been denied due to the lack of medical necessity.

(70) "Occupational therapy" means the provision of treatment by an occupational therapist registered with the American occupational therapy association. The treatment shall be:

(A) Rehabilitative and restorative in nature;

(B) provided following physical debilitation due to acute physical trauma or physical illness; and

(C) prescribed by the attending physician.

(71) "Orthotics and prosthetics" mean devices which are:

(A) Reasonable and necessary for treatment of an illness or injury;

(B) prescribed by a physician;

(C) necessary to replace or improve functioning of a body part; and

(D) provided by a trained orthotist or prosthetist.

(72) "Out-of-state provider" means any provider that is physically located more than 50 miles beyond the border of Kansas, except those providing services to children who are wards of the secretary. Nursing facilities, intermediate care facilities, community mental health centers, partial hospitalization service providers, and alcohol and drug program providers shall be considered out-of-state providers if they are physically located beyond the border of Kansas.

(73) "Outpatient treatment" means services provided

by the outpatient department of a hospital, a facility that is not under the administration of the hospital, or a physician's office.

(74) "Over-the-counter" means any item available for purchase without a prescription order.

(75) "Owner" means a sole proprietor, member of a partnership or a corporate stockholder with 5% or more interest in the corporation. The term "owner" shall not include minor stockholders in publicly-held corporations.

(76) "Partial hospitalization program" means an ambulatory treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, and daily living skills treatment modalities based upon a treatment plan.

(77) "Participating provider" means any individual or entity that has in effect an agreement with the Kansas department of social and rehabilitation services to furnish medicaid services.

(78) "Pharmacy" means the premises, laboratory, area or other place:

(A) Where drugs are offered for sale, the profession of pharmacy is practiced and prescriptions are compounded and dispensed;

(B) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries," or any combinations of these words or words of similar import; and

(C) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" are exhibited. The term "premises" as used in this subsection refers only to the portion of any building or structure leased, used, or controlled by the registrant in the conduct of the business registered by the board at the address for which the registration was issued.

(79) "Pharmacist" means any person duly licensed or registered to practice pharmacy by the state board of pharmacy or by the regulatory authority of the state in which the person is engaged in the practice of pharmacy.

(80) "Physical therapy" means treatment which:

(A) Is provided by a physical therapist registered in the jurisdiction where the service is provided or by the Kansas board of healing arts;

(B) is rehabilitative and restorative in nature;

(C) is provided following physical debilitation due to acute physical trauma or physical illness; and

(D) is prescribed by the attending physician.

(81) "Physician extender" means a person registered as a physician's assistant or licensed advanced registered nurse practitioner in the jurisdiction where the service is provided and who is working under supervision as required by law or administrative regulation.

(82) "Plan of care" means a document which states the need for care, the estimated length of program, the prescribed treatment, modalities, and methodology to be used, and the expected results.

(83) "Practitioner" means any person licensed to practice medicine and surgery, dentistry or podiatry, or any other person licensed, registered or otherwise authorized by law to administer, prescribe and use

prescription-only drugs in the course of professional practice.

(84) "Prescribed" means the issuance of a prescription order by a practitioner.

(85) "Prescription" means, according to the context, either a prescription order or a prescription medication.

(86) "Prescription medication" means any drug, supply or device, including label and container according to context, which is dispensed pursuant to a prescription order.

(87) "Prescription-only" means an item available for purchase only with a prescription order.

(88) "Primary care network" means a service delivery control system in which physicians, in independent or group practices, local health departments, or clinics act as primary care providers and are responsible for initiating or approving specified medical services for participating recipients.

(89) "Primary diagnosis" means the most significant diagnosis related to the services rendered.

(90) "Prior authorization" means the approval of a request to provide a specific service before the provision of the service.

(91) "Professional fee" means the reimbursement rate assigned to each individual pharmacy provider for provision of pharmacy services.

(92) "Program" means the Kansas medicaid/medikan program.

(93) "Proper interest" means interest incurred at a rate not in excess of what a prudent borrower would have had to pay under market conditions existing at the time the loan was made.

(94) "Prospective, reasonable cost-related reimbursement" means present and future reimbursement, based on analysis and consideration of the historical cost that is related to patient care, in the operation of facilities and programs.

(95) "Qualified medicare beneficiary (QMB)" means an individual who is entitled to medicare hospital insurance benefits under part A of medicare, whose income does not exceed a specified percent of the official poverty level as defined by the United States executive office of management and budget, and whose resources do not exceed twice the supplemental security income resource limit.

(96) "Readmission" means the subsequent admission of a recipient as an inpatient into a hospital within 30 days of discharge as an inpatient from the same or another DRG hospital.

(97) "Related parties" means that one party of a transaction has the ability to significantly influence another party in the transaction to the extent that either of their own separate interests may not be fully pursued. Related parties include those related by family, by business or financial association, or by common ownership or control.

(98) "Related to the community mental health center" means that the agency or facility furnishing services to the community mental health center is directly associated or affiliated with the community mental health center by formal agreement, or that it governs

(continued)

the community mental health center, or is governed by the community mental health center.

(99) "Residence for the payment of hospice services" means a hospice recipient's home or the nursing facility in which a hospice recipient is residing.

(100) "Revocation statement" means the statement signed by the recipient which revokes the election of hospice service.

(101) "Special hospital" means an establishment with an organized medical staff of physicians, with permanent facilities that include inpatient beds, with medical services, including physician services and continuous registered professional nursing services for not less than 24 hours of every day, and which provides diagnosis and treatment for nonrelated patients who have specified medical conditions, or which are located within the state of Kansas and at least 10 percent of the historic cost of the hospital is incurred for teaching physicians or nurses.

(102) "Speech therapy" means treatment provided by a speech pathologist who has a certificate of clinical competence from the American speech and hearing association. The treatment shall be rehabilitative and restorative in nature, shall be provided following physical debilitation due to acute physical trauma or physical illness, and shall be prescribed by the attending physician.

(103) "Standard diagnosis related group (DRG) amount" means the amount computed by multiplying the group reimbursement rate for the general hospital by the diagnosis related group weight.

(104) "Stay as an inpatient in a general hospital" means the period of time spent in a general hospital from admission to discharge.

(105) "Swing bed" means a hospital bed that can be used interchangeably as either a hospital, skilled nursing facility, or intermediate care facility bed, with reimbursement based on the specific type of care provided.

(106) "Targeted case management services" means those services to assist medicaid recipients in gaining access to medically necessary care, and which are provided by a case manager with credentials specified by the department of social and rehabilitation services.

(107) "Technology-assisted child" means a chronically ill or medically fragile child younger than 16 years whose illness or disability, in the absence of home care services, would require admission to or prolonged stay in a hospital. The technology-assisted child needs both a medical device to compensate for the loss of a vital body function and substantial continuous care by a nurse or other caretaker under the supervision of a nurse in order to avert death or further disability. A technology-assisted child shall require substantial and ongoing care by a nurse, and be dependent at least part of each day on mechanical ventilators for survival, require prolonged intravenous administration of nutritional substances or drugs, or require other medical devices to compensate for the loss of a vital body function.

(108) "Terminally ill" means the medical condition of an individual whose life expectancy is six months or less as determined by a physician.

(109) "Timely filing" means the receipt by the Kansas

department of social and rehabilitation services or its fiscal agent of a claim for payment from a provider for services provided to a medicaid program recipient which is no later than six months after the date the claimed services were provided.

(110) "Transfer" means the movement of an individual receiving general hospital inpatient services from one hospital to another hospital for additional related inpatient care after admission to the previous hospital or hospitals.

(111) "Transferring hospital" means the hospital which transfers a recipient to another hospital. There may be more than one transferring hospital for the same recipient until discharge.

(112) "Uncollectable overpayment to an out-of-business provider" means:

(A) Any amount which is due from a provider of medical services who has ceased all practice or operations for any medical services as an individual, a partnership or a corporate identity, and who has no assets capable of being applied to any extent toward a medicaid overpayment; or

(B) any amount due which is less than its collection and processing costs.

(113) "Urgent" means situations which require immediate admission, but not through the emergency room.

(b) The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended, T-30-7-29-88, July 29, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended, T-30-12-28-89, Jan. 1, 1990; amended Jan. 2, 1990; amended, T-30-2-28-90, Feb. 28, 1990; amended Aug. 1, 1990; amended Jan. 7, 1991; amended, T-30-3-1-91, March 1, 1991; amended July 1, 1991.)

30-5-77. Scope of home- and community-based services for technology-assisted children. The scope of home- and community-based services for technology-assisted children shall consist of those services provided under the authority of a federally approved waiver. Home- and community-based services shall be provided in accordance with a written plan of care by a home health agency and approved by the Kansas Department of social and rehabilitation services. (a) Services may include one or more of the following:

(1) An average of 10 hours per month of case management services;

(2) a maximum of seven days or 168 hours per calendar year of respite care provided in the home; and

(3) medical equipment and supplies not otherwise covered under the medicaid program and approved in the plan of care.

(b) Reimbursement for services for technology-assisted children shall be based upon reasonable fees as related to customary charges, except no fee shall be paid in excess of the range maximum. The range of charges shall provide the base for computations. The effective date of this regulation shall be July 1, 1991.

(Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective, T-30-3-1-91, March 1, 1991; effective July 1, 1991.)

30-5-81. Scope of hospital services. (a) Each hospital shall be medicare-certified, and shall annually update medicaid enrollment information.

(b) Outpatient services shall be covered with the following limitations:

(1) Services shall be ordered by an attending physician who is not serving as an emergency room physician, except for those services related to emergency situations. Orders shall be related specifically to the present diagnosis of the recipient.

(2) Prosthetic devices shall replace all or part of an internal body organ, including the replacement of these devices.

(3) Rehabilitative therapies shall be restorative in nature, shall be provided following physical debilitation due to acute physical trauma or physical illness and shall be prescribed by the attending physician.

(4) Services provided in the emergency department shall be emergency services.

(5) Elective surgery shall not be covered, except for sterilization operations or for Kan Be Healthy program participants.

(6) Ambulance services shall not be covered.

(7) Non-emergency visits in place of physician office visits shall be considered as physician office visits and shall be counted against the physician office visit limitation pursuant to K.A.R. 30-5-88.

(8) Outpatient hospital assessment of the need for emergency service is non-covered.

(c) Inpatient services shall be covered, subject to the following limitations:

(1) Services shall be ordered by a physician and shall be related specifically to the present diagnosis of the recipient.

(2) Transplant surgery shall be limited to prior authorized liver and heart transplants performed at the Kansas university medical center, unless the medical staff of the Kansas university medical center recommends another location, and corneal, kidney and bone marrow transplants and related services.

(3) Inpatient services shall be limited to those provided on days of stay that are determined to be medically necessary. A recipient of general hospital inpatient services shall not be billed for those days determined to be medically unnecessary. If a recipient refuses to leave a hospital after the recipient's physician writes a discharge order, the days after discharge that the recipient remains in the hospital may be billed to the recipient.

(4) Reimbursement shall not be made for services provided on days of discharge.

(5) Long term care services in swing beds shall be provided pursuant to 42 CFR 405 subpart K and 442 subpart F, revised October 1, 1988, which are adopted by reference.

(6) Therapeutic and diagnostic surgical services, and related services that can be performed on an outpatient basis, shall not be reimbursed on an inpatient basis unless medical necessity is documented.

(7) Inpatient services shall be subject to utilization review which shall determine whether services are medically necessary, are furnished at the appropriate level of care and are of a quality that meets professionally recognized standards. Utilization review shall also determine whether a discharge is premature, a transfer is necessary, and if procedure and diagnosis coding on a claim are correct.

(8) Psychotherapy, directed by a psychiatrist or approved hospital staff under the direction of a psychiatrist, shall be provided to each psychiatric patient on a daily basis.

(9) Substance abuse treatment services shall be limited to three treatment admissions per recipient's lifetime regardless of the type of provider.

(10) Inpatient acute care related to substance abuse treatment services shall be limited to those patients who are in need of acute detoxification.

(11) Elective surgery shall not be covered, except for sterilization operations or for Kan Be Healthy program participants. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1981; modified, L. 1982, ch. 469, May 1, 1982; amended May 1, 1983; amended, T-84-7, March 29, 1983; amended, T-84-11, July 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended, T-85-24, Sept. 18, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1987; amended May 1, 1988; amended, T-89-24, May 27, 1988; amended Sept. 26, 1988; amended T-30-10-28-88, Oct. 28, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended, T-30-7-29-89, July 29, 1989; amended Nov. 24, 1989; amended Aug. 1, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991.)

30-5-86. Scope of services by community mental health centers. (a) Community mental health center services shall be available to program recipients in:

(1) Outpatient treatment programs licensed by mental health and retardation services;

(2) approved inpatient treatment programs;

(3) partial hospitalization units approved by mental health and retardation services pursuant to K.A.R. 30-5-110; and

(4) the recipient's private residence with prior authorization.

(b)(1) During a calendar year, outpatient psychotherapy shall be limited to 32 hours per recipient unless the recipient is a Kan Be Healthy program participant. Outpatient psychotherapy shall be limited to 40 hours per calendar year for Kan Be Healthy program participants unless provided pursuant to a plan approved by the agency and prior authorized.

(2) Drug and alcohol treatment shall not exceed 200 hours during a lifetime.

(3) Outpatient psychotherapy shall not be covered when provided concurrently by the same provider with both targeted case management services and partial hospitalization services.

(c) Four hours of psychological testing and evaluation shall be allowed every two consecutive calendar years for medicaid program recipients regardless of

(continued)

provider except that Kan Be Healthy program participants shall be allowed six hours. Admission evaluations shall not exceed five hours per calendar year and may include a physical examination.

(d) Inpatient psychotherapy shall be available pursuant to K.A.R. 30-5-81. Case conferences may be considered as individual therapy if the definition in K.A.R. 30-5-58 is met. Group therapy shall be reimbursable only if it is rendered on a day when group therapy has not been a part of partial hospitalization.

(e) Targeted case management services shall be limited to an amount per calendar year per recipient as specified by the secretary.

(f) Services shall be provided by a psychiatrist, a licensed psychologist with a doctoral degree or a registered master's level psychologist, master's degree social worker, master's degree psychiatric nurse, or individuals certified by the Kansas association of community mental health center directors' professional standards committee and approved by the agency, unless the approval would be contrary to law or regulation. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; modified, L. 1983, ch. 361, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-29, Nov. 1, 1986; amended May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Aug. 1, 1990; amended July 1, 1991.)

30-5-88. Scope of physician services. (a) Except as set forth in subsection (b), the program shall cover medically necessary services recognized under Kansas law provided to program recipients by physicians who are licensed to practice medicine and surgery in the jurisdiction in which the service is provided.

(b) The following services shall be excluded from coverage under the program, except as noted:

(1) Visits. The following types of visits shall be excluded:

(A) Office visits when the only service provided is an injection or some other service for which a charge is not usually made;

(B) non-psychiatric office visits which exceed 12 per calendar year;

(C) psychotherapy services when provided concurrently by the same provider with both targeted case management services and partial hospitalization services;

(D) psychotherapy services which exceed an average of 32 hours of individual therapy or 32 hours of group therapy or any combination of these per calendar year per recipient, unless the recipient is a Kan Be Healthy program participant and:

(i) Psychotherapy services do not exceed 40 hours per calendar year per Kan Be Healthy program participant; or

(ii) psychotherapy services are being rendered pursuant to a plan approved by the agency. Prior authorization for the plan shall be required. The plan shall not exceed a two-year period and shall be subject to a reimbursement limit established by the secretary.

Quarterly progress reports shall be submitted to the division of medical programs;

(E) inpatient hospital visits in excess of those allowable days for which the hospital is paid or would be paid if there were no spenddown requirements; and

(F) nursing home visits in excess of one per month unless medical necessity is documented.

(2) Consultations. Consultations shall be excluded as follows:

(A) Consultations which are absent a written report;

(B) inpatient hospital consultations in excess of one per condition per 10-day period unless written documentation confirming medical necessity is attached to the claim; and

(C) other consultations in excess of one per condition per 60-day period unless written documentation confirming medical necessity is attached to the claim.

(3) Surgical procedures. Surgical procedures shall be excluded as follows:

(A) Procedures that are experimental, pioneering, cosmetic, or designated as non-covered;

(B) transplants, other than prior authorized liver transplants and heart transplants performed at the Kansas university medical center unless the medical staff of the Kansas university medical center recommends another location, and corneal, kidney and bone marrow transplants and related services;

(C) services of a surgical assistant when surgery is determined not to require an assistant; and

(D) elective surgery, except for sterilization operations, or for Kan Be Healthy program participants.

(4) Miscellaneous procedures. Miscellaneous procedures shall be excluded as follows:

(A) Diagnostic radiological and laboratory services unless the services are medically necessary to diagnose or treat injury, illness or disease;

(B) physical therapy unless:

(i) Performed by a physician or registered physical therapist under the direction of a physician; and

(ii) prescribed by the attending physician.

(C) medical services of medical technicians unless the technicians are under the direct supervision of a physician; and

(D) inpatient services which were provided on days of hospital stay which are determined to not be medically necessary.

(5) Family planning services and materials.

(A) Family planning services and materials shall be excluded unless:

(i) The services are provided by a physician, family planning clinic, or county health department;

(ii) written informed consent is obtained as necessary; and

(iii) the scope of services provided is in compliance with applicable federal and state statutes and regulations.

(B) Reverse sterilizations shall be excluded.

(6) Concurrent care. Concurrent care shall be excluded unless the patient:

(A) Has two or more diagnoses involving two or more systems; and

(B) the special skills of two or more physicians are essential in rendering quality medical care. The occa-

sional participation of two or more physicians in the performance of one procedure shall be recognized. Each physician involved shall submit that physician's usual charge only for that portion of the procedure for which the physician is actually responsible.

(7) Psychological services for an individual entitled to receive these services as a part of care or treatment from a facility already being reimbursed by the program or by a third party payor shall be excluded.

(8) Services provided by physician extenders shall be covered. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-9, April 11, 1984; amended May 1, 1985; amended May 1, 1986; amended May 1, 1988; amended, T-89-24, May 27, 1988; amended Sept. 26, 1988; amended, T-30-10-28-88, Oct. 28, 1988; amended Jan. 2, 1989; amended July 1, 1989; amended, T-30-7-29-89, July 29, 1989; amended Nov. 24, 1989; amended Aug. 1, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991.)

30-5-104. Scope of psychological services. Psychological services shall be covered for medicaid recipients when provided by clinical psychologists who are licensed by the behavioral sciences regulatory board. (a) Psychotherapy services shall be limited to 40 hours per calendar year for Kan Be Healthy program participants.

(b) Psychotherapy services shall be limited to 32 hours per calendar year for those not participating in the Kan Be Healthy program.

(c) Psychotherapy shall not be covered when provided concurrently by the same provider with both partial hospitalization and case management.

(d) Special psychological services for Kan Be Healthy program participants shall be rendered pursuant to a plan approved by the Kansas department of social and rehabilitation services. The plan shall require prior authorization, and shall not exceed a two-year period. Quarterly progress reports shall be submitted to the department upon request.

(e) Inpatient hospital visits shall be limited to those visits ordered by the recipient's physician, and shall not exceed those allowable days for which the hospital is paid or would be paid if there were no spenddown requirements.

(f) Visits to nursing facilities by the psychologist as part of the plan of care shall be ordered by the recipient's physician. Visits to intermediate care facilities for mental retardation shall be limited to psychological testing and evaluation. Visits to nursing facilities for mental health shall be limited to program consultation.

(g) Four hours of psychological testing and evaluation shall be allowed every two consecutive calendar years for medicaid program recipients regardless of provider except that Kan Be Healthy program participants shall be allowed six hours. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708; effective May 1, 1981; amended May 1, 1982; modified, L. 1983, ch. 361, May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended, T-87-5, May 1, 1986; amended

May 1, 1987; amended May 1, 1988; amended Jan. 2, 1989; amended Aug. 1, 1990; amended Jan. 2, 1991; amended July 1, 1991.)

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

30-6-77. Poverty level pregnant women and children; determined eligibles. Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50 and the specific eligibility requirements set forth below. (a) Pregnant women. Each eligible woman shall be medically determined to be pregnant. Assistance under this provision shall continue for two calendar months following the month in which the pregnancy terminates.

(b) Infants. Each eligible infant shall be under one year of age. Assistance under this provision shall continue:

(1) Through the month in which the child turns age one; or

(2) if receiving inpatient services in the month in which the child turns age one:

(A) Through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age one.

(c) Other young children. Each eligible child shall be at least one year of age, but no older than six years of age. Assistance under this provision shall continue:

(1) Through the month in which the child turns age six; or

(2) if receiving inpatient services in the month in which the child turns age six:

(A) Through the calendar month in which that inpatient care ends; or

(B) through the calendar month following the month the care begins, whichever is sooner. If the inpatient care will exceed that time period, eligibility for the child under this provision shall end on the last day of the calendar month in which the child turns age six.

(d) Older children. Each eligible child shall be at least six years of age and be born on or after October 1, 1983.

(e) Persons whose needs are to be considered in determining eligibility.

(1) For pregnant women, the needs of the pregnant woman, the unborn child and the father of the unborn child shall be considered if living together. If the pregnant woman is a minor, the needs of her parents shall also be included if living together with the minor.

(2) For all children, the needs of the child and the child's parents shall be considered if living together.

(3) Other pregnant women and children in the family group for whom assistance is requested shall be included in the assistance plan if otherwise eligible.

(f) Financial eligibility. A percentage of the official federal poverty income guidelines as established in K.A.R. 30-6-103 shall be used as the protected income

(continued)

level for the number of persons in the plan and any other persons in the family whose income is being considered. Total applicable income to be considered in the eligibility base period shall be compared against the poverty level for the base period. To be eligible under this provision, the total applicable income shall not exceed the poverty level established for the base period. Ownership of excess nonexempt real or personal property shall not result in ineligibility.

(g) Continuous eligibility. A pregnant woman who becomes eligible for assistance under this regulation shall continue to be eligible throughout her pregnancy and the two calendar months following the month her pregnancy terminates without regard to any changes in family income. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 1990 Supp. 39-708c; implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective, T-30-7-1-88, July 1, 1988; effective Sept. 26, 1988; amended July 1, 1989; amended, T-30-3-29-90, April 1, 1990; amended, T-30-7-2-90, Aug. 1, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991.)

30-6-82. Technology-assisted child; determined eligibles. (a) Each applicant or recipient shall meet the general eligibility requirements of K.A.R. 30-6-50 and the requirements set forth below to be eligible as a technology-assisted child.

(1) Each child shall be under the age of 16.

(2) Each child shall, if not for the provision of home- and community-based services, require the level of care provided in a hospital.

(3) Each child shall require substantial and ongoing care by a nurse and:

(A) Be dependent at least part of each day on mechanical ventilators for survival;

(B) require prolonged intravenous administration of nutritional substances or drugs; or

(C) need some other medical device to compensate for the loss of a vital body function.

(b) Eligibility shall be determined based on the financial eligibility standards and methodologies applicable to persons in home- and community-based services arrangements.

(c) The need for care and receipt of home- and community-based services under this provision shall be subject to approval by the division of medical programs. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 1990 Supp. 39-708c; implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective, T-30-3-1-91, March 1, 1991; effective July 1, 1991.)

30-6-103. Determined eligibles; protected income levels. (a) Independent living and home- and community-based services arrangements.

(1) The protected income level for persons in independent living arrangements and in the home- and community-based services program shall be based on the total number of persons in the assistance plan and any other persons in the family group whose income is being considered.

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

(A) Enters a medicaid-approved facility, except that this provision shall not apply in situations where only one spouse of a married couple enters an institutional living arrangement; or

(B) is absent from the home for medical care for a period not to exceed two months to allow for maintaining the applicant's or recipient's independent living arrangements.

(3) Except as provided in paragraphs (4), (5), (6), (7) and (8) below, the following table shall be used to determine the protected income level for persons in independent living.

PERSONS IN INDEPENDENT LIVING
(Per Month)

1	2	3
\$407.00	\$460.00	\$465.00

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

(4) In determining eligibility for pregnant women and for infants under the provisions of K.A.R. 30-6-77(a) and (b), 150% of the official federal poverty income guidelines shall serve as the protected income level.

(5) In determining eligibility for other young children under the provisions of K.A.R. 30-6-77(c), 133% of the official federal poverty income guidelines shall serve as the protected income level.

(6) In determining eligibility for older children under the provisions of K.A.R. 30-6-77(d), 100% of the official federal poverty income guidelines shall serve as the protected income level.

(7) In determining eligibility for medicare beneficiaries under the provisions of K.A.R. 30-6-86, 100% of the official federal poverty income guidelines shall serve as the protected income level.

(8) In determining eligibility for working disabled individuals under the provisions of K.A.R. 30-6-87, 200% of the official federal poverty income guidelines shall serve as the protected income level.

(b) Institutional living arrangements. For persons residing in institutional settings, the protected income level shall be \$30.00 except as noted in paragraph (2) of subsection (a). The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended, T-83-17, July 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-36, Dec. 21, 1983; amended May 1, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985; amended, T-86-19, July 1, 1985; amended, T-86-42, Jan. 1, 1986; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended, T-88-2, Feb. 1, 1987; amended May 1, 1987; amended, T-88-10, May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended July

1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-12-28-89, Jan. 1, 1990; amended, T-30-3-29-90, April 1, 1990; revoked, T-30-7-2-90, July 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended Jan. 7, 1991; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991.)

30-6-106. General rules for consideration of resources, including real property, personal property, and income. (a) Legal title shall determine ownership for assistance purposes. In the absence of legal title, possession shall determine ownership.

(b) Resources, to be real, shall be of a nature that the value can be defined and measured. The objective measures set forth in paragraphs (1) and (2) below shall establish the resources' value.

(1) Real property. The value of real property shall be initially determined by the latest uniform statewide appraisal value of the property which shall be adjusted to reflect current market value. If the property has not been appraised or if the market value as determined above is not satisfactory to the applicant or recipient or the agency, an estimate or appraisal of its value shall be obtained from a disinterested real estate broker. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(2) Personal property. The market value of personal property shall be initially determined using a reputable trade publication. If a publication is not available, or if there is a difference of opinion regarding the value of the property between the agency and the individual, an estimate from a reputable dealer shall be used. The cost of obtaining an estimate or appraisal shall be borne by the agency.

(c) (1) Resources shall be considered available both when actually available and when the applicant or recipient has the legal ability to make them available. A resource shall be considered unavailable when there is a legal impediment that precludes the disposal of the resource. The applicant or recipient shall pursue reasonable steps to overcome the legal impediment unless it is determined that the cost of pursuing legal action would be more than the applicant or recipient would gain or the likelihood of succeeding in the legal action would be unfavorable to the applicant or recipient.

(2) For the purpose of this subsection, a revocable or irrevocable trust shall be considered available to the applicant or recipient up to the maximum value of the funds which may be made available under the terms of the trust on behalf of the applicant or recipient if:

(A) The trust is established by the applicant, the recipient, the applicant or recipient's spouse, or the applicant or recipient's guardian or legal representative who is acting on the applicant or recipient's behalf;

(B) that applicant or recipient is a beneficiary; and

(C) the trustees are permitted to exercise any discretion with respect to distribution to the applicant or recipient.

This provision shall not be applicable if the applicant or recipient is a mentally retarded individual who is residing in an intermediate care facility for the mentally retarded provided the trust was established prior to

April 7, 1986 and is solely for the benefit of that applicant or recipient.

(3) For SSI, real property shall be considered unavailable for so long as it cannot be sold because:

(A) The property is jointly owned and its sale would cause undue hardship due to the loss of housing for the other owner or owners; or

(B) the owner's reasonable efforts to sell the property have been unsuccessful.

(d) The resource value of property shall be that of the applicant's or recipient's equity in the property. Unless otherwise established, the proportionate share of jointly-owned real property and the full value of jointly-owned personal property shall be considered available to the applicant or recipient. Resources held jointly with a non-legally responsible person may be excluded from consideration if the applicant or recipient can demonstrate that the applicant or recipient has no ownership interest in the resource, has not contributed to the resource, and that any access to the resource by the applicant or recipient is limited to those duties performed while the applicant or recipient is acting as an agent for the other person.

(e) Nonexempt resources of all persons in the assistance plan and the nonexempt resources of persons who have been excluded from the assistance plan pursuant to K.A.R. 30-6-74(b) and K.A.R. 30-6-79(c) shall be considered.

(f) (1) The combined resources of husband and wife, if they are living together, shall be considered in determining eligibility of either or both for the medical assistance program, unless otherwise prohibited by law.

(2) A husband and wife shall be considered to be living together if they are regularly residing in the same household. Temporary absences of either the husband or the wife for education or training, working, securing medical treatment or visiting shall not be considered to interrupt the couple's living together.

(3) A husband and wife shall not be considered as living together when they are physically separated and not maintaining a common life, or when one or both enter into an institutional living arrangement, including either a medicaid-approved or non-approved medical facility or a home- and community-based services care arrangement. If only one spouse enters an institutional living arrangement, the provisions of subsection (m) below apply. If both spouses enter an institutional living arrangement, the combined resources of the husband and wife shall be considered available to both for the month in which the institutional arrangement begins.

(g) The resources of an ineligible parent shall be considered in determining the eligibility of a minor child for the medical assistance program if the parent and child are living together, except that such resources shall not be considered for children in an institutional or home- and community-based services arrangement beginning with the month following the month the arrangement begins.

(h) When any individual in the household, who does not have the responsibility to support a person

(continued)

in the plan, voluntarily and regularly contributes cash to the recipient toward household expenses, including maintenance costs, the amount of the contribution to be counted shall be the net income realized by the household.

(i) Despite subsections (e), (f), and (g) above, the resources of an SSI beneficiary shall not be considered in the determination of eligibility for medical assistance of any other person.

(j) The conversion of real and personal property from one form to another shall not be considered as income to the applicant or recipient except for the proceeds from a contract for the sale of property.

(k) Income shall not be considered both as income and as property in the same month.

(l) Despite subsection (e) above, the resources of a child whose needs are met through foster care payments shall not be considered.

(m) When one spouse enters an institutional living arrangement and the other spouse remains in the community, and an application for medical assistance is made on behalf of the institutionalized spouse, the following provisions apply:

(1) The separate income of each spouse shall not be considered available to the other beginning in the month the institutional arrangement begins. Unless otherwise established, $\frac{1}{2}$ of the income which is paid in the names of both spouses shall be considered available to each. Income which is paid in the name of either spouse, or in the name of both spouses and the name of another person or persons, shall be considered available to each spouse in proportion to the spouse's interest, unless otherwise established.

(2) A monthly income allowance for the community spouse shall be deducted from the income of the institutionalized spouse in determining eligibility. The income allowance for the community spouse, when added to the income already available to that spouse, shall not exceed 133% of the official federal poverty income guideline for two persons plus the amount of any excess shelter allowance. The excess shelter allowance is defined as the amount by which the community spouse's expenses for rent or mortgage payments, taxes and insurance for the community spouse's principal residence plus the \$175.00 food stamp standard utility allowance exceeds 30% of the 133% federal poverty income guideline amount referred to above. The maximum income allowance which can be provided under this provision shall be \$1,662.00. The \$1,662.00 limitation shall be increased annually to reflect the percentage increase in the consumer price index for all urban consumers. If a greater income allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(3) A monthly income allowance for each dependent family member shall also be deducted from the income of the institutionalized spouse in determining eligibility. A dependent family member is defined as a minor or dependent child, dependent parent or dependent sibling of either spouse who lives with the community spouse. The allowance for each member shall be equal to $\frac{1}{3}$ of 133% of the official federal poverty income

guideline for two persons. An allowance shall not be provided if the family member's gross income is in excess of the 133% federal poverty income guideline for two persons.

(4) If the spouse is institutionalized on or after September 30, 1989, the real and personal property of both spouses shall be considered in determining the eligibility of the institutionalized spouse in the month of application based on the amount of property in excess of the community spouse property allowance as set forth in paragraph (m) (6) below. Following the month in which the institutionalized spouse is determined eligible, the property of each spouse shall not be considered available to the other.

(5) If the spouse was institutionalized before September 30, 1989, the real and personal property of each spouse shall be considered available to the other in the month in which the institutional arrangement began. Thereafter, the property of each spouse shall not be considered available to the other.

(6) The institutionalized spouse may make available to the community spouse a property allowance which, when added to the property already available to the community spouse, would be equal to $\frac{1}{2}$ of the total value of the property owned by both spouses as of the first period of continuous institutionalization beginning on or after September 30, 1989. This allowance may not exceed \$66,480.00, but shall be no less than \$13,296.00. Both the \$13,296.00 and \$66,480.00 standards shall be increased annually to reflect the percentage increase in the consumer price index for all urban consumers. If a greater property allowance is provided under a court order of support or through the fair hearing process, that amount shall be used in place of the above limits.

(7) The amount of property received by the community spouse as a result of the property allowance determined in paragraph (m) (6) shall not be considered in determining the eligibility of the institutionalized spouse except as provided in paragraph (m)(4) above. If the institutionalized spouse will be eligible based upon transferring sufficient property to the community spouse to equal the amount of the property allowance, the institutionalized spouse shall be given up to 90 days from the date of application to transfer the property. Additional time may be allowed for good cause. Pending disposition of the property, the institutionalized spouse shall be deemed to be temporarily eligible during this time period if all other eligibility factors are met. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended, T-87-20, Sept. 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended April 1, 1990; amended, T-30-10-1-90, Oct. 1, 1990; re-

voked; T-30-11-29-90, Jan. 2, 1991; amended Jan. 7, 1991; amended, T-30-12-28-90, Jan. 2, 1991; amended, T-30-3-1-91, March 1, 1991; amended May 1, 1991; amended July 1, 1991.)

30-6-107. Property exemption. Ownership of otherwise nonexempt real or personal property shall not affect eligibility if the aggregate resource value is not in excess of \$2,000.00 for one person or \$3,000.00 for two or more persons whose nonexempt resources are considered available to a person in the assistance plan. (a) For non-SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance, except for pregnant women and children who meet the provisions of K.A.R. 30-6-77. However, if there is ineligibility due to excess real property, assistance shall be provided for a period of up to nine months if the applicant or recipient is making a bona fide and documented effort to dispose of the property.

(b) For SSI, ownership of property with a resource value in excess of the amounts above shall render the assistance family group ineligible for medical assistance except that, for medicare beneficiaries who meet the provisions of K.A.R. 30-6-86 and working disabled individuals who meet the provisions of K.A.R. 30-6-87, the resource value shall be in excess of two times the amounts above before the assistance family group is rendered ineligible. If the applicant or recipient is making a bona fide and documented effort to dispose of the excess property at a reasonable market value, assistance shall be provided not to exceed nine months. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-11, June 17, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-33, Dec. 19, 1984; amended, T-85-34, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-43, Jan. 1, 1987; amended May 1, 1987; amended, T-88-59, Dec. 16, 1987; amended May 1, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended Jan. 2, 1989; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended July 1, 1991.)

30-6-112. Income exempt from consideration as income and as a cash asset. Exempted income shall be: (a) Grants to any undergraduate student for educational purposes that are made or insured under any programs administered by the commissioner of education;

(b) grants obtained and used for purposes of meeting needs not related to current living costs;

(c) the value of the coupon allotment under the food stamp program;

(d) the value of the U.S. department of agriculture-donated foods;

(e) the value of supplemental food assistance received under the child nutrition act of 1966, as amended, and the special food service program for children under the national school lunch act, as amended;

(f) benefits received under title VII, nutrition program for the elderly, of the older Americans act of 1965, as amended;

(g) Indian funds distributed or held in trust, including interest and investment income accrued on such funds while held in trust and initial purchases made with such funds;

(h) distributions to natives under the Alaska native claims settlement act;

(i) payments provided to individual volunteers serving as foster grandparents, senior health aides and senior companions, and to persons serving in the service corps of retired executives and active corps of executives under titles II and III of domestic service act of 1973;

(j) payments to individual volunteers under title I, sec. 404(g) of Public Law 93-113 when the director of ACTION determines that the value of such payments, adjusted to reflect the number of hours such volunteers are serving, is less than the federal minimum wage;

(k) payments received under the uniform relocation assistance and real property acquisition policies act of 1970;

(l) death benefits from SSA, VA, railroad retirement, or other burial insurance policy when the benefit is used toward the cost of burial;

(m) money held in trust by VA for a child which VA determines may not be used for subsistence needs;

(n) retroactive corrective assistance payments in the month received or in the following month;

(o) income directly provided by vocational rehabilitation;

(p) benefits from special government programs at the discretion of the secretary, including energy assistance programs and VA aid and attendance and housebound allowances;

(q) reimbursements for out-of-pocket expenses in the month received and the following month;

(r) proceeds from any bona fide loan requiring repayment;

(s) payments granted to certain U.S. citizens of Japanese ancestry and resident Japanese aliens under Title I of Public Law 100-383;

(t) payments granted to certain eligible Aleuts under Title II of Public Law 100-383;

(u) agent orange settlement payments;

(v) for non-SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within six months of its receipt;

(w) for non-SSI, assistance provided by another agency or organization that complements but does not duplicate assistance provided by the agency;

(x) for non-SSI, foster care and adoption support payments;

(y) for non-SSI, the amount of any earned income tax credit received. Such credit shall not be regarded as a cash asset in the month of receipt and in the following month;

(continued)

(z) for SSI, a one-time payment or a portion of a one-time payment from a cash settlement for the repair or replacement of property or for legal services, medical costs or other required obligations to a third party, if the payment is expended or committed to be expended for the intended purpose within nine months of its receipt. This time period may be extended for good cause;

(aa) for SSI, in kind support, vouchers, or cash assistance for food, clothing, or shelter provided by public or private organizations or agencies, if the assistance is based on need;

(bb) for SSI, income necessary for fulfillment of an approved plan to achieve self-support established for a blind or disabled person;

(cc) for SSI, assistance furnished in connection with a presidentially declared disaster and any interest earned on the assistance for the first nine months;

(dd) for SSI, interest which is paid on excluded burial funds and left to accumulate;

(ee) for SSI, housing assistance from federal housing programs operated by state and local subdivisions;

(ff) for SSI, any portion of any financial assistance funded under Title IV of the higher education act of 1965, as amended, or under bureau of Indian affairs student assistance programs which is made available for tuition, fees, books, supplies, transportation and miscellaneous personal supplies;

(gg) for SSI, payments occasioned by the death of another person to the extent that the payments have been expended or committed to be expended for purposes of the deceased person's last illness and burial;

(hh) for SSI, payments received from a state-administered victims' compensation fund. Such payments shall not be regarded as a cash asset for the nine months following the month of receipt; and

(ii) for SSI, relocation assistance provided by a state or local government which is comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970. Such assistance shall not be regarded as a cash asset for the nine months following the month of receipt. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c, as amended by 1990 HB 3085, K.S.A. 1989 Supp. 39-709, effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended Jan. 2, 1990; amended, T-30-7-2-90, July 2, 1990; revoked, T-30-8-14-90, Oct. 1, 1990; amended Oct. 1, 1990; amended May 1, 1991; amended July 1, 1991.)

30-6-113. Income exempt as applicable income. The following income shall be exempt as applicable income in the determination of eligibility: (a) Unearned income in kind;

(b) shelter cost participation payments. In shared living arrangements in which two families contribute to-

ward the shelter obligations, any cash paid toward the shared shelter obligation by one family to the second family in the shared arrangement shall not be considered as income to the second family. This exemption shall not be applicable in a bona fide, commercial landlord-tenant arrangement;

(c) assistance payments in the month received;

(d) home energy assistance furnished by a federal or state regulated entity whose revenues are primarily derived on a rate-of-return basis, by a private, non-profit organization, by a supplier of home heating oil or gas, or by a municipal utility company which provides home energy, if the assistance provided is based on need;

(e) income of a child received from a youth program funded by the job training partnership act of 1982, except that earned income received under the program shall only be exempt for a period of six months;

(f) incentive payments received by renal dialysis patients;

(g) irregular, occasional, or unpredictable monetary gifts not to exceed \$30.00 per person in any calendar quarter, except this subsection is not applicable to gifts in excess of \$30.00;

(h) tax refunds and rebates, except for earned income tax credits for non-SSI in accordance with K.A.R. 30-6-112(y);

(i) for non-SSI, earned income of a recipient child if the child is under the age of 18 years and a full-time student or if the child is a part-time student and is not a full-time employee;

(j) for non-SSI, earned income of a recipient child who is 18 years of age and a full-time student;

(k) for non-SSI, support payments covered by an assignment of support rights related to ADC and ADC-FC and forwarded to the agency. However, a support refund, disbursed by the agency to the client, shall not be exempt;

(l) for non-SSI, housing assistance from federal housing programs;

(m) for non-SSI, the first \$50.00 of child support or child support in combination with spousal support received in a month;

(n) for SSI, refund of taxes paid on real property or on food purchases;

(o) for SSI, $\frac{1}{3}$ of child support payments received by an eligible child from an absent parent;

(p) for SSI, earnings of an unmarried child who is a student under 22 years of age up to \$400.00 a month. This exemption shall not exceed \$1,620.00 a year;

(q) for SSI, work expenses of a blind recipient;

(r) for SSI, impairment-related work expenses of a disabled recipient;

(s) for SSI, incentive allowances and reimbursements for individuals in training to provide support services under the jobs training partnership act (JTPA) program administered by state and local subdivisions;

(t) for SSI, the difference between the social security benefit entitlement in August, 1972, and the entitlement in September, 1972, for persons who were receiving cash assistance through the programs of AABD or ADC in September, 1972 and who were entitled to a social security benefit in September, 1972. This ex-

emption shall apply only if the exemption establishes eligibility without a spenddown;

(u) for SSI, the amount of all social security cost of living adjustments for a person who was concurrently receiving SSI and social security after April, 1977 and who would be eligible for SSI if the cost of living adjustments received since that person was last eligible for SSI were not considered as income;

(v) for SSI, income allocated and expended by an adult in an institutional living arrangement for the support of the adult's minor children if the adult does not have a spouse who continues to live in the community. The income allocation shall not exceed the amount necessary to bring their income up to the protected income level appropriate to their living arrangement;

(w) for SSI, SSI payments to which the person is not legally entitled that are subject to SSI recovery;

(x) for SSI, child support collected by the agency and paid as a \$50.00 or less pass-through of child support;

(y) for SSI, the amount of the December, 1983 increase in social security disabled widow or widower benefits resulting from the changes in the actuarial reduction formula and all subsequent cost of living adjustments for a person who was concurrently receiving SSI and social security disabled widow and widower benefits under section 202(e) or 202(f) of the social security act provided that:

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

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

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

(4) the person applied for medical assistance under this provision prior to July 1, 1988;

(z) for SSI, reparation payments made under the Republic of Germany's federal law for compensation of nationalist socialist persecution;

(aa) for SSI, the amount of the social security adult disabled child benefit for an otherwise eligible SSI person age 18 or older who:

(1) Was receiving SSI benefits that began prior to age 22; and

(2) lost SSI eligibility due solely to the person becoming eligible for the adult disabled child benefits or an increase in the adult disabled child benefits;

(bb) for SSI, the amount of social security early widow or widower benefits under section 202(e) or (f) of the social security act provided that:

(1) The person became ineligible for SSI because of the receipt of such benefits;

(2) the person would be currently eligible for SSI in the absence of such benefits; and

(3) the person is not entitled to hospital insurance benefits under Part A of title XVIII of the social security act;

(cc) for SSI, the income of an SSI recipient which exceeds the protected income level for institutionalized persons for three months following the month of admission when the social security administration deter-

mines that the stay in the institution is temporary and the person needs to continue to maintain and provide for the expenses of the home or other living arrangement to which the person may return;

(dd) for SSI, the income of an applicant's or recipient's spouse or parent which was counted or excluded in determining the amount of a public assistance payment, if such spouse or parent is not an applicant for or recipient of SSI;

(ee) for SSI, the income of an applicant's or recipient's spouse or parent which is used to make support payments under a court order or title IV-D support order, if such spouse or parent is not an applicant for or recipient of SSI;

(ff) for SSI, the amount of VA pension received by a single veteran with no dependents if the pension has been reduced to \$90.00 or less because the veteran resides in a medicaid-approved nursing facility; and

(gg) for SSI, foster care and adoption support payments. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c, 39-709; effective May 1, 1981; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-84-11, July 1, 1983; amended, T-84-25, Sept. 19, 1983; amended May 1, 1984; amended, T-85-26, Oct. 15, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-15, July 1, 1986; amended May 1, 1987; amended, T-88-14, July 1, 1987; amended, T-88-59, Jan. 1, 1988; amended May 1, 1988; amended, T-89-13, April 26, 1988; amended, T-30-7-1-88, July 1, 1988; amended Sept. 26, 1988; amended July 1, 1989; amended Oct. 1, 1989; amended, T-30-12-28-90, Jan. 2, 1991; amended May 1, 1991; amended July 1, 1991.)

Article 7.—COMPLAINTS, APPEALS AND FAIR HEARINGS

30-7-65. Notice to recipients of intended action. (a) (1) "Adequate" means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended agency action, the specific policies supporting the action, explanation of the individual's right to request a fair hearing, and the circumstances under which assistance is continued if a hearing is requested.

(2) "Timely" means that the notice shall be mailed at least 10 days, including Saturdays, Sundays and legal holidays, before the date upon which the action would become effective.

(b) In cases of intended action to discontinue, terminate, suspend or reduce assistance, the agency shall give timely and adequate notice, except as set forth in section (c) of this regulation.

(c) The agency may dispense with timely notice but shall send adequate notice not later than the date of action when:

(1) The agency has factual information confirming the death of a recipient or of the ADC payee when there is no relative available to serve as new payee;

(2) the agency receives a clear written statement signed by a recipient that the recipient no longer

(continued)

wishes assistance or that gives information which requires termination or reduction of assistance, and the recipient has indicated, in writing, an understanding that termination or reduction of assistance shall be the consequence of supplying the information;

(3) the recipient has been admitted or committed to an institution, and further payments to that individual are not authorized by program regulations as long as the person resides in the institution;

(4) the recipient has been placed in skilled nursing care, intermediate care or long-term hospitalization;

(5) the recipient's whereabouts are unknown and agency mail directed to the recipient has been returned by the post office indicating no known forwarding address. The check shall, however, be made available to the recipient if the recipient's whereabouts become known during the payment period covered by a returned check;

(6) a recipient has been accepted for assistance in a new jurisdiction and that fact has been established by the agency;

(7) a child is removed from the home as a result of a judicial determination, or voluntarily placed in foster care by the child's legal guardian;

(8) a change in level of medical care is prescribed by the recipient-patient's physician;

(9) a special allowance granted for a specific period is terminated and the recipient has been informed in writing at the time of initiation that the allowance shall automatically terminate at the end of the specified period; or

(10) the agency takes action because of information the recipient furnished in a monthly status report or because the recipient has failed to submit a complete or a timely monthly status report without good cause. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended July 1, 1991.)

30-7-75. Agency's summary. Within 15 days after notification of the request for fair hearing the agency shall furnish the appellant and the administrative hearings section with a summary setting forth the following information:

- (a) Name and address of the appellant;
- (b) a summary statement concerning why the appellant is filing a request for a fair hearing;
- (c) a brief chronological summary of the agency's action in relationship to the appellant's request for a fair hearing;
- (d) a statement of the basis of the agency's decision;
- (e) a citation of the applicable policies relied upon by the agency;
- (f) a copy of the notice which notified appellant of the decision in question;
- (g) applicable correspondence; and
- (h) the name and title of the person or persons who will represent the agency at the hearing. The effective date of this regulation shall be July 1, 1991. (Authorized by K.S.A. 75-3304; implementing K.S.A. 75-3306; effective July 1, 1989; amended July 1, 1991.)

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

30-10-15a. Reimbursement. Payment for services.

(a) Providers with a current signed provider agreement shall be paid a per diem rate for services furnished to medicaid/medikan eligible residents. Payment shall be for the type of medical or health care required by the beneficiary as determined by:

(1) The attending physician's or physician extender's certification upon admission; or

(2) inspection of care review teams, as provided for in K.A.R. 30-10-8.

However, payment for services shall not exceed the type of care the provider is certified to provide under the medicaid/medikan program. The type of care required by the beneficiary may be verified by the agency prior to and after payment. No payment shall be made for care or services determined to be the result of unnecessary utilization.

(b) Payment for routine services and supplies, pursuant to K.A.R. 30-10-1a, shall be included in the per diem reimbursement and such services and supplies shall not be otherwise billed or reimbursed.

(1) The following durable medical equipment, medical supplies and other items and services shall be considered routine and shall not be billed or reimbursed separately from the per diem rate:

- (A) Alternating pressure pads and pumps;
- (B) armboards;
- (C) bedpans, urinals and basins;
- (D) bed rails, beds, mattresses and mattress covers;
- (E) canes;
- (F) commodes;
- (G) crutches;
- (H) denture cups;
- (I) dialysis, including supplies and maintenance;
- (J) dressing items, including applicators, tongue blades, tape, gauze, bandages, band-aids, pads and compresses, ace bandages, vaseline gauze, cotton balls, slings, triangle bandages, pressure pads and tracheostomy care kits;
- (K) emesis basins and bath basins;
- (L) enemas and enema equipment;
- (M) facial tissues and toilet paper;
- (N) footboards;
- (O) footcradles;
- (P) gel pads or cushions;
- (Q) geri-chairs;
- (R) gloves, rubber or plastic;
- (S) heating pads;
- (T) heat lamps and examination lights;
- (U) humidifiers;
- (V) ice bags and hot water bottles;
- (W) intermittent positive pressure breathing (IPPB) machines;
- (X) I.V. stands and clamps;
- (Y) laundry, including personal laundry;
- (Z) lifts;
- (AA) nebulizers;
- (BB) occupational therapy;

- (CC) oxygen masks, stands, tubing, regulators, hoses, catheters, cannulae and humidifiers;
 (DD) parenteral and enteral infusion pumps;
 (EE) patient gowns, pajamas and bed linens;
 (FF) physical therapy;
 (GG) restraints;
 (HH) sheepskins and foam pads;
 (II) speech therapy;
 (JJ) sphygmomanometers, stethoscopes and other examination equipment;
 (KK) stretchers;
 (LL) suction pumps and tubing;
 (MM) syringes and needles, except insulin syringes and needles for diabetics that are covered by the pharmacy program;
 (NN) thermometers;
 (OO) traction apparatus and equipment;
 (PP) underpads and adult diapers, disposable and non-disposable;
 (QQ) walkers;
 (RR) water pitchers, glasses and straws;
 (SS) weighing scales;
 (TT) wheelchairs;
 (UU) irrigation solution, i.e. water and normal saline;
 (VV) lotions, creams and powders, including baby lotion, oil and powders;
 (WW) first-aid type ointments;
 (XX) skin antiseptics such as alcohol;
 (YY) antacids;
 (ZZ) mouthwash;
 (AAA) over-the-counter analgesics;
 (BBB) two types of laxatives;
 (CCC) two types of stool softeners;
 (DDD) nutritional supplements; and
 (EEE) blood glucose monitors and supplies;
 (FFF) extra nursing care and supplies;
 (GGG) compressors;
 (HHH) orthoses and splints to prevent or correct contractures; and
 (III) maintenance care for head-injured recipients.
- (2) Urinary supplies. Urinary catheters and accessories shall be covered services in the medicaid/medikan program when billed through the durable medical equipment or medical supply provider. This expense shall not be reimbursed in the per diem rate of the cost report
- (3) Nutritional therapy. Total nutritional replacement therapy shall be prior authorized to qualify for reimbursement.
- (4) For medicare-certified facilities, the cost of occupational, physical and speech therapy shall be adjusted by both the ratio of medicaid units of service to total units of service and the ratio of total resident days to medicaid days. The facility shall report the total expense on the cost report and the total and medicaid units of service in an attachment. Adult services or its designee will calculate the adjustment. If the required information is not provided, the medicare revenue shall be offset against the expense, but not below zero.
- (c) Payment for ancillary services, as defined in

K.A.R. 30-10-1a, shall be billed separately when the services or supplies are required.

(d) Payment for a day activity program for an NF-MH facility shall be included in the per diem reimbursement.

(e) Payment shall be limited to providers who accept, as payment in full, the amount paid in accordance with the fee structure established by the medicaid/medikan program.

(f) Payment shall not be made for allowable non-routine services and items unless prior authorized.

(g) Private rooms for recipients shall be covered when medically necessary or at the discretion of the facility, and the costs shall be reflected in the facility's cost report. If a private room is not medically necessary or is not occupied at the discretion of the facility, a family member, guardian, conservator or other third party may reimburse the difference between the usual and customary charge and the medicaid payment rate. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1985; amended May 1, 1988; amended Jan. 2, 1989; amended Jan. 2, 1990; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991.)

30-10-16. This rule and regulation shall expire on July 1, 1991. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective May 1, 1987; amended Jan. 2, 1989; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; revoked July 1, 1991.)

30-10-23a. Non-reimbursable costs. (a) Costs not related to resident care, as set forth in K.A.R. 30-10-1a, shall not be considered in computing reimbursable costs. In addition, the following expenses or costs shall not be allowed:

- (1) Fees paid to non-working directors and the salaries of non-working officers;
- (2) bad debts;
- (3) donations and contributions;
- (4) fund-raising expenses;
- (5) taxes, including:
 - (A) Federal income and excess profit taxes, including any interest or penalties paid thereon;
 - (B) state or local income and excess profits taxes;
 - (C) taxes from which exemptions are available to the provider;
 - (D) taxes on property which is not used in providing covered services;
 - (E) taxes levied against any patient or resident and collected and remitted by the provider;
 - (F) self-employment taxes applicable to individual proprietors, partners, or members of a joint venture; and
 - (G) interest or penalties paid on federal and state payroll taxes;
 - (6) insurance premiums on lives of officers and owners;
 - (7) the imputed value of services rendered by non-paid workers and volunteers;
 - (8) utilization review;

(continued)

(9) costs of social, fraternal, and other organizations which concern themselves with activities unrelated to their members' professional or business activities;

(10) oxygen;

(11) vending machine and related supplies;

(12) board of director costs;

(13) resident personal purchases;

(14) barber and beauty shop expenses;

(15) advertising for patient utilization;

(16) public relations expenses;

(17) penalties, fines, and late charges;

(18) prescription drugs;

(19) items or services provided only to non-medicare/medicaid residents and reimbursed from third party payors;

(20) automobiles and related accessories in excess of \$25,000.00. Buses and vans for resident transportation shall be reviewed for reasonableness and may exceed \$25,000 in costs;

(21) airplanes;

(22) therapeutic beds.

(b) The following contract cost limitations under the NF-MH day activity program shall not be allowed:

(1) Recipient salaries and FICA match;

(2) all material costs, including sub-contracts;

(3) all costs related to securing contracts; and

(4) 50% of the cost of the following items:

(A) Cost of equipment lease;

(B) maintenance of equipment;

(C) purchase of small tools under \$100.00; and

(D) depreciation of production equipment. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 39-708c; effective May 1, 1985; amended May 1, 1988; amended, T-30-10-1-90, Oct. 1, 1990; amended Jan. 30, 1991; amended July 1, 1991.) *

Article 41.—LICENSING OF NON-MEDICAL COMMUNITY BASED AGENCIES PROVIDING SERVICES TO HANDICAPPED ADULTS

30-41-1. Definitions. (a) "Administration" means the executive segment of an agency responsible for planning, organizing, coordinating, directing, and controlling the agency within all applicable laws, regulations, and agency policies.

(b) "Adult day care" means day care services provided to elderly and disabled adults for the purpose of preventing institutionalization, allowing individuals to remain in their own home or the least restrictive environment, protecting against abuse, neglect and exploitation, and enabling family members to obtain and remain in employment.

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

(d) "Agency" means any private person, group, association or corporation, or any community or local governmental department operating as or undertaking to become a provider of services within the meaning of these regulations.

(e) "Annual goal" means a statement of expected results or conditions which can realistically be accomplished by the end of a 12-month period.

(f) "Applicant" means any agency which applies for a license issued by the department to provide services to handicapped adults.

(g) "Board of directors" means the legally constituted governing body of an agency which formulates basic policies, manages programs, establishes facilities and services, maintains fiscal responsibility and appoints an executive director.

(h) "Community living program" means the provision of habilitative and rehabilitative training activities on a 24-hour basis for persons 16 years old and older in a non-medical, homelike environment which promotes development of acceptable patterns of behavior for living in the community in the least restrictive manner or environment.

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

(j) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in the property owned, operated or maintained by an agency under these regulations.

(k) "Group living" means community living program services provided to 15 persons or less for the purpose of improving life skills and personal-social adjustment of disabled individuals who need daily, but non-medical, supervision and support to enable them to become more self-sufficient in the community.

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

(m) "Independent living" means community living program services provided to disabled individuals for the purpose of increasing personal self-determination through the provision of direct services or through advocacy and referral to other community services. Independent living does not include centers for independent living.

(n) "In-service training" means post-employment training offered or required by an agency to augment or enhance the service skills or related knowledge of agency employees.

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

(p) "Objective" means a statement of expected results or conditions leading to achievement of a goal which can be realistically accomplished within one to 12 months.

(q) "Respite care" means community living program services provided to families of disabled persons for the purpose of providing, through direct service delivery or case coordination services, relief for emergencies or for planned periods. Respite care may be provided either out of the disabled person's home or in the home.

(r) "Semi-independent living" means community

living program services provided to disabled individuals who require minimal supervision and training to remain and function in the community.

(s) "Services" means a program of integrated, coordinated, identifiable activities provided by an agency.

(t) "Service activity" means a planned, identifiable activity which results in benefit to the client.

(u) "Supported employment" means paid competitive employment in an integrated work setting for individuals with disabilities who need intensive on-going support on or off the employment site to succeed in that work setting.

(v) "Vocational evaluation" means:

(1) An assessment concerning the extent of disability, vocational abilities and interests, work-related capabilities, and potential benefit of and need for employability development services; and

(2) the provision of information to the referring agency which can influence the types of programs and services that might be provided to an individual with unknown service needs or unknown vocational potential.

(w) "Work activity" means the provision of long-term work instruction and supervision to assist disabled individuals who demonstrate pre-vocational skills in maximizing vocational abilities.

(x) "Work adjustment" means assistance provided to disabled persons who demonstrate basic work skills in order to develop and refine critical work behaviors within a short period of time and to improve their prospect of obtaining employment. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 75-3307b; effective May 1, 1979; amended May 1, 1980; amended, E-82-19, Oct. 21, 1981; amended May 1, 1982; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended July 1, 1991.)

30-41-7a. Environmental standards. An agency shall comply with the standards set forth in K.A.R. 30-41-7b through K.A.R. 30-41-7i. The department may consider, but need not accept, written statements of compliance with environmental requirements from other authorized licensing agencies or groups. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 75-3307b; effective May 1, 1982; amended July 1, 1991.)

30-41-7i. Supported employment. (a) The agency shall provide its written supported employment plan to each corporation or business entity used as an employment site. This plan shall include a description of the roles and responsibilities of the agency and the business entity.

(b) The agency shall ensure that a safe and healthy work environment is maintained.

(c) For each client in this program, the agency shall ensure that:

(1) The agency explains to the client and guardian before admission the potential consequences of employment on the client's disability benefits;

(2) the level of supervision and training to be provided the client by both the agency and the industry

is specified in writing and reviewed as part of the individual program plan; and

(3) wage payment and record-keeping responsibilities are discharged appropriately, whether by the agency or the industry. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 75-3307b; effective July 1, 1991.)

30-41-20. Supported employment program content. In order to be licensed, a supported employment program shall provide the following services: (a) Job development/client assessment;

(b) on-site training;

(c) on-going assessment;

(d) follow-along;

(e) case management, including an individual program plan; and

(f) supplemental employment services. The effective date of this regulation shall be July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 75-3307b; effective July 1, 1991.)

Robert C. Harder
Acting Secretary of Social and
Rehabilitation Services

Doc. No. 010624

State of Kansas
Secretary of State

I, Bill Graves, Secretary of State of the State of Kansas, do hereby certify that each of the following bills 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.

Bill Graves
Secretary of State

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2617

AN ACT concerning the state treasurer; removing requirements to pay certain warrants by mail; amending K.S.A. 79-2962 and 79-2966 and K.S.A. 1990 Supp. 79-41a04 and repealing the existing sections; also repealing K.S.A. 1990 Supp. 79-41a04a.

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

Section 1. K.S.A. 79-2962 is hereby amended to read as follows: 79-2962. The director of accounts and reports shall draw his or her warrants on the state treasurer in favor of the several county treasurers on the dates and in the amounts appropriated and apportioned to the several counties as provided in K.S.A. 79-2959 and amendments thereto. Each such warrant shall be mailed paid directly by the state treasurer to the county treasurer of the county in whose favor it is drawn.

Sec. 2. K.S.A. 79-2966 is hereby amended to read as follows: 79-2966. Fifty percent of a county's entitlement from the county and city revenue sharing fund shall be the county government's share of such fund and the remaining 50% shall be allocated to each city in such county in the proportion that the population of each such city bears to the population of all such cities in the county. Persons residing within the Fort Riley military reservation shall not be included or considered in determining the population of any city located in Riley county or Geary county. The state treasurer shall make distributions from the county and city revenue sharing fund in accordance with the allocation formulas prescribed in the foregoing

(continued)

provisions of this act in installments on the dates prescribed in K.S.A. 79-2964 and amendments thereto. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on the dates and in the amounts determined as provided. The distributions shall be paid directly by mail to the several county treasurers and city treasurers who shall upon receipt of the moneys deposit the same in their respective county or city general funds.

Sec. 3. K.S.A. 1990 Supp. 79-41a04 is hereby amended to read as follows: 79-41a04. (a) There is hereby created, in the state treasury, the local alcoholic liquor fund. Moneys credited to such fund pursuant to this act or any other law shall be expended only for the purpose and in the manner provided by this act.

(b) All moneys credited to the local alcoholic liquor fund shall be allocated to the several cities and counties of the state as follows:

(1) Each city that has a population of more than 6,000 shall receive 70% of the amount which is collected pursuant to this act from clubs or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(2) Each city that has a population of 6,000 or less shall receive 46 $\frac{2}{3}$ % of the amount which is collected pursuant to this act from clubs or drinking establishments located in such city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(3) Each county shall receive: (A) 70% of the amount which is collected pursuant to this act from clubs or drinking establishments located in such county and outside the corporate limits of any city, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; and (B) 23 $\frac{1}{3}$ % of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal places of business are so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made.

(c) The state treasurer shall make distributions from the local alcoholic liquor fund in accordance with the allocation formula prescribed by subsection (b) on March 15, June 15, September 15 and December 15 of each year. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on the dates and in the amounts determined under this section. Such distributions shall be paid directly by mail to the several county treasurers and city treasurers.

(d) *Except as otherwise provided by this subsection*, each city treasurer of a city that has a population of more than 6,000, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund of the city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury and $\frac{1}{3}$ to a special alcohol and drug programs fund in the city treasury. Each city treasurer of a city that has a population of 6,000 or less, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general fund of the city and $\frac{1}{2}$ to a special parks and recreation fund in the city treasury. Moneys in such special funds shall be under the direction and control of the governing body of the city. Moneys in the special parks and recreation fund shall *may* be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. *One-half of the moneys distributed under this section to cities located in Butler county shall be deposited in a special community support program and parks and recreation fund in the city treasury. Moneys in the special community support program and parks and recreation fund may be expended only for (1) the establishment and operation of a domestic violence program operated by a not-for-profit organization or (2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities.* Moneys in the special

alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.

(e) *Except as otherwise provided by this subsection*, each county treasurer, upon receipt of any moneys distributed under this section, shall deposit the full amount in the county treasury and shall credit to a special alcohol and drug programs fund in the county treasury 23 $\frac{1}{3}$ % of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, from caterers whose principal place of business is so located or from temporary permit holders whose permitted events are so located and which is paid into the state treasury during the period for which the allocation is made; of the remainder, the treasurer shall credit $\frac{1}{3}$ to the general fund of the county, $\frac{1}{3}$ to a special parks and recreation fund in the county treasury and $\frac{1}{3}$ to the special alcohol and drug programs fund. Moneys in such special funds shall be under the direction and control of the board of county commissioners. Moneys in the special parks and recreation fund shall *may* be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. *One-third of the moneys distributed under this section to Butler county shall be deposited in a special community support program and parks and recreation fund in the county treasury. Moneys in the special community support program and parks and recreation fund may be expended only for (1) the establishment and operation of a domestic violence program operated by a not-for-profit organization or (2) the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities.* Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making any expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditures. The board of county commissioners shall adopt the recommendations of the advisory committee concerning such expenditures unless the board, by unanimous vote of all commissioners, adopts a different plan for such expenditures.

(f) Each year, the county treasurer shall estimate the amount of money the county and each city in the county will receive from the local alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05 and amendments thereto. The state treasurer shall advise each county treasurer, prior to June 1 of each year of the amount in the local alcoholic liquor fund that the state treasurer estimates, using the most recent available information, will be allocated to such county in the following year. The county treasurer shall, before June 15 of each year, notify the treasurer of each city of the estimated amount in dollars of the distribution to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-41a05 and amendments thereto.

Sec. 4. K.S.A. 79-2962 and 79-2966 and K.S.A. 1990 Supp. 79-41a04 and 79-41a04a are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2097

AN ACT concerning solid waste; relating to location of certain processing facilities and disposal areas; amending K.S.A. 65-3407 and repealing the existing section.

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

Section 1. K.S.A. 65-3407 is hereby amended to read as follows: (a) It shall be unlawful for any person to construct, alter or operate a solid waste processing facility or a solid waste disposal area of a solid waste management system without first obtaining a permit from the secretary.

(b) Every person desiring to obtain a permit to construct, alter or operate a solid waste storage, treatment or processing facility or disposal area shall make application for such a permit on forms provided for such purpose by the rules and regulations of the secretary and shall provide the secretary with such information as necessary to show that the facility or service will comply with the purpose of this act. Upon receipt of any application and payment of the fee, the secretary, with advice and counsel from the local health authorities and the county commission, shall make an investigation of the proposed solid waste processing facility or disposal area and determine whether it complies with the provisions of this act and any rules and regulations and standards adopted thereunder. When the investigation reveals that the facility or area does conform with the provisions of the act and the rules and regulations and standards adopted thereunder the secretary shall approve the application and shall issue a permit for the operation of each solid waste processing or disposal facility or area set forth in the application. In the event that the facility or area fails to meet the rules and regulations and standards required by this act the secretary shall issue a report to the applicant stating the deficiencies in the application. The secretary may issue temporary permits conditioned upon corrections of construction methods being completed and implemented.

(c) The annual fee for a solid waste processing or disposal permit shall be, \$50 and no refund shall be made in case of revocation. All fees shall be deposited in the general fund in the state treasury. A city, county, other political subdivision or state agency shall be exempt from payment of the fee but shall meet all other provisions of this act.

(d) Plans, designs and relevant data for the construction of solid waste processing facilities and disposal sites shall be prepared by a professional engineer licensed to practice in Kansas and shall be submitted to the department for approval prior to the construction, alteration or operation of such facility or area. In adopting rules and regulations, the secretary may specify sites, areas or facilities where the environmental impact is minimal and may waive such preparation requirements provided that a review of such plans is conducted by a professional engineer licensed to practice in Kansas.

(e) Each permit granted by the secretary, as provided in this act, shall be subject to such conditions as the secretary deems necessary to protect human health and the environment and to conserve the sites. Such conditions shall include approval by the secretary of the types and quantities of solid waste allowable for processing or disposal at the permitted location.

(f) As a condition of granting a permit to operate any processing facility or disposal area for solid waste, the secretary shall require the permittee to provide surety bond, cash bond or a secured trust fund and liability insurance, including coverage against non-sudden occurrences, or any combination thereof, in such amount as determined necessary by the secretary to insure the financial responsibility of the permittee for any liability incurred in the operation of the facility or area and to insure that, upon abandonment, cessation or interruption of the operation of the facility or area, all appropriate measures are taken to prevent present or future damage to human health and the environment. Any such liability insurance as may be required pursuant to this subsection or pursuant to the rules and regulations of the secretary shall be issued by an insurance company authorized to do business in Kansas or by a licensed insurance agent operating under authority of K.S.A. 40-246b and amendments thereto and shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance pursuant to K.S.A. 40-216 and amendments thereto except as authorized by K.S.A. 40-246b and amendments thereto. Nothing contained in this subsection shall be deemed to apply to any political subdivision, state agency,

department or agency of the federal government or to any independent contractor operating a solid waste disposal area as a part of an approved solid waste management plan for which equivalent surety is provided to a political subdivision or federal or state agency.

(g) Permits granted by the secretary, as provided in this act, shall be revocable or subject to suspension whenever the secretary shall determine that the solid waste processing or disposal facility or area is, or has been constructed or conducted in violation of this act or the rules and regulations or standards adopted pursuant to the act, or is creating a hazard to persons or property in the area or to the environment, or is creating a public nuisance.

(h) In case any permit is denied, suspended or revoked the person, city, county or other political subdivision or state agency may request a hearing before the secretary in accordance with K.S.A. 65-3412 and amendments thereto.

(i) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if such area is located within 1/2 mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(2) Any permit, issued before the effective date of this act, to construct or operate a solid waste disposal area is hereby declared void if such area is not yet in operation and is located within 1/2 mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

(3) The provisions of this subsection (i) shall not be construed to prohibit: (A) Issuance of a permit for lateral expansion onto land contiguous to a permitted solid waste disposal area in operation on the effective date of this act; (B) issuance of a permit for a solid waste disposal area for disposal of a solid waste by-product produced on-site; or (C) renewal of an existing permit for a solid waste area in operation on the effective date of this act.

New Sec. 2. Any special land use permit, issued by a city before the effective date of this act, to use land for the purpose of operating a solid waste disposal area is hereby declared void if such area is not yet in operation and such land is located within 1/2 mile of a navigable stream used for interstate commerce or within one mile of an intake point for any public surface water supply system.

New Sec. 3. The provisions of subsection (i)(2) of K.S.A. 65-3407 and amendments thereto and section 2 shall not apply unless the city or county where the original permitted site was located agrees to reimburse the permittee for all moneys expended to obtain the permits and develop the solid waste disposal area or an amount mutually agreed upon by the parties.

Sec. 4. K.S.A. 65-3407 is hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 16, 1991.)

SENATE BILL No. 416

AN ACT concerning self-supported municipal improvement districts; relating to municipal improvement district bonds; amending K.S.A. 1990 Supp. 12-195, as amended by section 1 of 1991 House Bill No. 2188, and 12-17,103 and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 12-17,103 is hereby amended to read as follows: 12-17,103. (a) The governing body of the city, acting on and in behalf of the district, may issue municipal improvement district bonds for the cost of improvements authorized by this act as defined by subsection (c) of K.S.A. 12-1795, and amendments thereto. The principal of and interest on the bonds shall be payable: (1) From a levy of ad valorem taxes on all of the taxable tangible property within the district; (2) in cases of revenue producing improvements, from a pledge of the income and receipts derived therefrom; (3) in cities which receive revenue from a local option sales tax pursuant to K.S.A. 12-187 et seq., and amendments thereto, from a pledge of a portion or all of the receipts derived from the tax; or (4) from any combination of these methods. In cases of revenue producing improvements, the income and receipts derived also may be pledged to pay the principal and interest on

(continued)

the bonds. The bonds shall be issued in accordance with the general bond law but shall not be general obligations of the city. The bonds shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto. In the event the district is dissolved as an operating agency, the property in the district shall remain liable for any taxes levied to pay any principal and interest on any bonds authorized, issued and still outstanding. No bonds shall be issued until a public hearing is held thereon in the manner provided by K.S.A. 1990 Supp. 12-17,101a of this act, and amendments thereto.

(b) In the event the governing body of a city proposes to issue such bonds, the principal and interest for which are payable in whole or in part from a pledge of local option sales tax revenues, and the question of pledging the revenues received from the sales tax has not previously been submitted to and approved by the voters of the city, such proposition shall be published once each week for two consecutive weeks in the official city newspaper. If, within 30 days after the last publication of the proposition, a petition is filed with the county election officer signed by not less than 10% of the electors of the city who voted in the last preceding general election of the city requesting an election thereon, no such bonds shall be issued unless the proposition is submitted to and approved by a majority of the voters of the city voting at an election held thereon. Any such election shall be called and held in accordance with the provisions of K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act.

Sec. 2. K.S.A. 1990 Supp. 12-195, as amended by section 1 of 1991 House Bill No. 2188, is hereby amended to read as follows: 12-195. (a) Except as otherwise provided in section 2 of 1991 House Bill No. 2188, K.S.A. 12-17,103, and amendments thereto, or subsection (b), no city or county shall commit any of the funds or proceeds derived from a retailers' sales tax as a guarantee for the payment of bonds issued by such city or county.

(b) Any city or county which is the recipient of funds derived from a local option sales tax pursuant to K.S.A. 12-187 *et seq.*, and amendments thereto is hereby authorized to issue revenue bonds to provide for the payment of all or any portion of the cost of public facilities or improvements of such city or county for which such city or county is authorized pursuant to the constitution or laws of this state to issue general obligation bonds and to pledge revenues received from countywide or city retailers' sales taxes for the payment thereof. No such bonds shall be issued for the payment of all or any portion of the cost of any facilities or improvements to be used for commercial or retail purposes, except that such prohibition shall not apply to revenue bonds issued for the payment of the cost of constructing or improving a convention or exposition hall or center or public auditorium. In the event the governing body of a city or county proposes to issue such bonds, and the question of pledging the revenues received from the countywide or city retailers' sales tax has not previously been submitted to and approved by the voters of the city or county, such proposition shall be published once each week for two consecutive weeks in the official city or county newspaper, as the case requires. If, within 30 days after the last publication of the proposition, a petition is filed with the county election officer signed by not less than 4% of the electors of the city or county, as the case requires, who voted for the office of secretary of state at the last preceding general election for such office requesting an election thereon, no such bonds shall be issued unless the proposition is submitted to and approved by a majority of the voters of the city or county, as the case requires, voting at an election held thereon. Any such election shall be called and held in accordance with the provisions of K.S.A. 10-120, and amendments thereto, or in accordance with the provisions of the mail ballot election act.

(1) Such bonds shall be authorized by ordinance of the governing body of such city or resolution of the governing body of such county. The bonds may be issued as registered bonds or coupon bonds, payable to bearer, and, if coupon bonds, may be registrable as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination or in another form. The bonds may be in such form and denominations, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at such times and at such rate or rates, may be payable at such places within or without the state, may be subject to such terms of redemption in advance of maturity at such prices,

and may contain such terms and conditions, all as the city or county shall determine. The bonds shall have all the qualities of and shall be deemed to be negotiable instruments under the laws of the state of Kansas. The authorizing ordinance or resolution may contain any other terms, covenants and conditions that the city or county deems reasonable and desirable, including without limitation those pertaining to the maintenance of various funds and reserves, the nature and extent of any security for payment of the bonds, the custody and application of the proceeds of the bonds, the collection, transfer and disposition of sales tax revenues, the investing of bond proceeds or any funds pledged to the repayment of the bonds, and the rights, duties and obligations of the city or county and the owners of the bonds.

(2) The authorizing ordinance or resolution may provide for the execution of a trust indenture between the city or county and any financial institution within or without the state of Kansas. The trust indenture may contain any terms, covenants and conditions that are deemed desirable by the city or county.

(3) Any authorizing ordinance or resolution and trust indenture relating to the issuance of and security for the bonds shall constitute a contract between the city or county and the owners of the bonds, which contract, and all covenants, agreements and obligations therein, shall be promptly performed in strict compliance with the terms and provisions of such contract, and the covenants, agreements and obligations of the city or county may be enforced by mandamus or other appropriate proceeding at law or in equity. The pledge of revenues made by the city or county shall be valid and binding from the time when such pledge is made and the revenues so pledged and thereafter received by the city or county shall immediately be subject to the lien of such pledge without such physical delivery thereof or further act on the part of the city or county, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the issuer, irrespective of whether such parties have notice thereof. Neither the authorizing ordinance or resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the city or county.

(4) The revenue bonds may be sold in such manner, either at public or private sale, and upon such terms as the city or county shall determine to be reasonable, including sale at discount. It shall be plainly stated on the face of each such bond that it has been issued under this act, that the bonds shall be special obligations of the city or county, payable solely and only from the revenues pledged to the payment of the bonds and that in no event, shall the bonds constitute an indebtedness of the state of Kansas or the city or county for which the faith and credit of the state of Kansas or city or county is pledged.

(5) Any bonds issued under the provisions of this section and the interest thereon, shall be exempt from all taxes levied by the state of Kansas, or any political or taxing subdivision thereof, except inheritance taxes.

(6) Bonds may be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued under this section. Such refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the city or county and the authorizing ordinance or resolution or trust indenture securing such refunding bonds. The authorizing ordinance or resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same security for their payment as provided for the bonds being refunded. Refunding bonds shall be sold and secured in accordance with the provisions of this act pertaining to the sale and security of the bonds.

(7) Bonds issued under the provisions of this act shall be eligible to secure the deposit of public funds under article 14 of chapter 9 of the Kansas Statutes Annotated and amendments thereto.

(8) Bonds issued under the provisions of this act shall be in addition to and not subject to any statutory limitation of bonded indebtedness imposed on such city or county.

Sec. 3. K.S.A. 1990 Supp. 12-195, as amended by section 1 of 1991 House Bill No. 2188, and 12-17,103 are hereby repealed.

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

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2610

AN ACT concerning the Kansas development finance authority; relating to certain reports and the repayment of certain money; amending K.S.A. 1990 Supp. 74-8913 and repealing the existing section.

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

Section 1. K.S.A. 1990 Supp. 74-8913 is hereby amended to read as follows: 74-8913. On or before the last day of ~~January~~ *November* in each year, the authority shall make an annual report of its activities for the preceding ~~calendar~~ *fiscal* year to the governor and to the legislature. Such report shall contain an audit of the preceding ~~calendar~~ *fiscal* year, prepared by a firm of nationally recognized certified public accountants. On or before the last days of January and July of each year, the authority shall provide a written report to the governor and the legislature with respect to all bonds of the authority issued during the previous semiannual period, specifying the terms of sale and the costs, fees and expenses of each such bond issue.

New Sec. 2. In recognition of the services provided to state agencies without charge by the Kansas development finance authority, the repayment required to be made prior to July 1, 1991, as specified by section 17 of chapter 33 of the 1988 Session Laws of Kansas, is hereby reduced from \$40,330 to \$20,165. In addition to the payment of \$40,331 required to be made by section 17 of chapter 33 of the 1988 Session Laws of Kansas prior to July 1, 1992, an additional payment of \$20,165 shall be made by the Kansas development finance authority to the state general fund prior to July 1, 1993.

Sec. 3. K.S.A. 1990 Supp. 74-8913 is hereby repealed.

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

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2619

AN ACT concerning scholarships available to medical students admitted to or enrolled at the university of Kansas school of medicine; relating to repayment and service obligations; amending K.S.A. 1990 Supp. 76-376 and repealing the existing section.

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

Section 1. K.S.A. 1990 Supp. 76-376 is hereby amended to read as follows: 76-376. (a) (1) Except as otherwise provided in paragraphs (2), (3), (4) ~~and 5~~, (5) ~~and~~ (6) of this subsection (a) or in K.S.A. 76-377 and amendments thereto, upon the failure of any person to satisfy the obligation to engage in the full-time practice of medicine and surgery within the appropriate service commitment area of this state for the required period of time under any agreement entered into pursuant to K.S.A. 76-373 ~~to through 76-377a, inclusive~~, and amendments thereto, such person shall repay to the university of Kansas school of medicine an amount equal to the total of (A) the amount of money received by such person pursuant to such agreement, or the amount of money determined under rules and regulations of the university of Kansas plus (B) annual interest at a rate of 10%, if the agreement was entered into prior to January 1, 1982, 15%, if the agreement was entered into after December 31, 1981, from the date such money was received.

(2) Any person first awarded a scholarship after December 31, 1985, who fails to apply for and enter an approved three-year primary care postgraduate residency training program shall be required to repay all moneys received pursuant to an agreement entered into for any such scholarship, plus accumulated interest at an annual rate of 15% within 90 days of graduation from the school of medicine, *or termination or completion of a residency training program which does not comply with the provisions of this section, whichever occurs later.*

(3) If a person fails to satisfy an obligation to engage in the full-time practice of medicine and surgery within a service commitment area I for the required period of time under an agreement entered into pursuant to K.S.A. 76-373 ~~to through 76-377a, inclusive~~, and amendments thereto, but is engaged in the full-time practice of medicine and surgery within this state in a service commitment area II which would have applied to such person had such person received a type II scholarship under an agreement entered into pursuant to K.S.A. 76-373 ~~to through 76-377a, inclusive~~, and amendments thereto, and if the chancellor of the university of Kansas, or the

designee of the chancellor, finds that exceptional circumstances caused the failure of such person to engage in such practice in a service commitment area I, such person shall not be required to repay the amount of money received by such person for up to 50% of tuition fees pursuant to such agreement.

(4) If a person fails to satisfy an obligation to engage in the full-time practice of medicine and surgery in Kansas for the required period of time under an agreement entered into pursuant to K.S.A. 76-373 ~~to through 76-377a, inclusive~~, and amendments thereto, because such person is engaged in the full-time practice of medicine and surgery in a state other than Kansas and if such person is subject to or currently making repayments under this section and if such person subsequently commences the practice of medicine and surgery in this state which complies with the agreements entered into under such statutes, the balance of the repayment amount, including interest thereon, from the time of such commencement of practice until the obligation of such person is satisfied, or until the time such person again becomes subject to repayments, shall be waived. All repayment amounts due prior to such commencement of practice in this state, including interest thereon, shall continue to be payable as provided in this section. If subsequent to such commencement of practice, the person fails to satisfy such obligation, the person again shall be subject to repayments, including interest thereon, as otherwise provided in this section.

(5) Any person awarded a type I scholarship prior to January 1, 1986, who is satisfying the obligation to engage in the full-time practice of medicine and surgery in a service commitment area I by complying with the provisions of subsection (e)(3) of K.S.A. 76-375 and amendments thereto and who except for the provisions of such section (e)(3) would not otherwise be eligible to satisfy such obligation in the area in which such person is engaged in the full-time practice of medicine and surgery shall repay all moneys received by the person pursuant to the type I scholarship for living expenses, including interest thereon as otherwise provided in this section, in accordance with the repayment schedule established for the purposes of this paragraph by the chancellor of the university of Kansas.

(6) *If, during the time a person is satisfying the service requirement of an agreement entered into pursuant to K.S.A. 76-373 through 76-377a, and amendments thereto, such person desires to engage in less than the full-time practice of medicine and surgery within the appropriate service commitment area of the state and remain in satisfaction of such service requirement, such person may make application to the chancellor of the university of Kansas or the designee of the chancellor for permission to engage in less than such full-time practice of medicine and surgery. Upon a finding of exceptional circumstances made by the chancellor of the university of Kansas, or the designee of the chancellor, such person may be authorized to engage in less than the full-time practice of medicine and surgery within the appropriate service commitment area of the state for the remaining required period of time under such agreement and for an additional period of time which shall be equal to the length of the originally required period of time multiplied by the decimal fraction which is equal to the reduction of the full-time practice of medicine and surgery to be authorized hereunder, multiplied by two. In any such determination of the period required to be engaged in the less than full-time practice of medicine and surgery, the decimal fraction utilized shall not exceed .5 and any person granted permission to engage in less than the full-time practice of medicine and surgery in accordance with the provisions of this paragraph (6) shall be required to engage in at least the half-time practice of medicine and surgery.*

(7) Any person first awarded a scholarship after December 31, 1985, who enters but fails to complete an approved three-year primary care postgraduate residency training program, or who enters and completes an approved three-year primary care postgraduate residency training program but fails to satisfy the obligation to engage in the full-time practice of medicine and surgery within the appropriate service commitment area of this state for the required period of time shall be required to repay all money received pursuant to an agreement entered into for any such scholarship, plus accumulated interest at an annual rate of 15% within 90 days of failure to complete an approved residency or 90 days of failure to commence qualifying practice, whichever occurs first. This provision shall apply

(continued)

only to agreements entered into from and after the effective date of this act.

(8) Any person who was satisfying such person's obligation to engage in the full-time practice of medicine and surgery within the appropriate service commitment area of the state for the required period of time under any agreement entered into pursuant to K.S.A. 76-373 through 76-376 and amendments thereto, by practicing in the specialty of emergency medicine at Memorial Hospital in Topeka, Kansas, may satisfy the remainder of such person's obligation to engage in the full-time practice of medicine and surgery by practicing in a critically medically underserved area in the specialty of emergency medicine.

(b) Except as otherwise provided in this section, if the person first entered into an agreement under K.S.A. 76-374 and amendments thereto prior to January 1, 1982, the person shall make 10 equal annual installment payments totaling the entire amount to be repaid under all such agreements for which such obligations are not satisfied, including all amounts of interest at the rate prescribed.

(c) If the person first entered into an agreement under K.S.A. 76-374 and amendments thereto after December 31, 1981, the person shall repay an amount totaling the entire amount to be repaid under all such agreements for which such obligations are not satisfied, including all amounts of interest at the rate prescribed. Except as otherwise provided in this section, such repayment shall be in installment payments and each such installment shall be not less than the amount equal to $\frac{1}{5}$ of the total amount which would be required to be paid if repaid in five equal annual installments.

(d) All installment payments under this section shall commence six months after the date of the action or circumstance that causes the failure of the person to satisfy the obligations of such agreements, as determined by the university of Kansas school of medicine based upon the circumstances of each individual case. In all cases where the person first entered into an agreement under K.S.A. 76-374 and amendments thereto after December 31, 1981, if an installment payment becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all amounts of interest at the rate prescribed.

(e) The total repayment obligation imposed under all agreements entered into under K.S.A. 76-374 and amendments thereto may be satisfied at any time by any person who first entered into an agreement under such statute prior to January 1, 1982, and at any time prior to graduation from the university of Kansas school of medicine by any persons who first entered into an agreement under such statute after December 31, 1981, by making a single lump-sum payment equal to the total of (1) the entire amount to be repaid under all such agreements upon failure to satisfy the obligations under such agreements to practice in Kansas, plus (2) all amounts of interest thereon at the rate prescribed to the date of payment.

(f) There is hereby created in the state treasury the medical scholarship repayment fund. The university of Kansas school of medicine shall remit all moneys received under this section 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, and such amount shall be credited to the medical scholarship repayment fund. All expenditures from the medical scholarship repayment fund shall be for scholarships awarded under K.S.A. 76-373 through 76-377a, inclusive, and amendments thereto, for payment of the salary of the medical scholarship program coordinator and for the expenses of administration of these sections and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chancellor of the university of Kansas or by a person designated by the chancellor.

Sec. 2. K.S.A. 1990 Supp. 76-376 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2425

AN ACT concerning crimes and punishments; defining and classifying the crime of possession of a firearm within the state capitol building; concerning prosecution of juveniles as adults; relating to authorized dispositions; concerning probation and suspended sentences; relating to sentencing; violating the uniform controlled substances act; forfeiture thereunder; amending K.S.A. 1990 Supp. 21-4602, as amended by section 1 of 1991 Senate Bill No. 183, 21-4603, as amended by section 2 of 1991 Senate Bill No. 183, 21-4605, as amended by section 4 of 1991 Senate Bill No. 364, 38-1636, 65-4127b, as amended by section 3 of 1991 House Bill No. 2365, and 65-4173, as amended by section 1 of 1991 Senate Bill No. 151, and repealing the existing sections; also repealing K.S.A. 1990 Supp. 21-4602, as amended by section 2 of 1991 Senate Bill No. 364, 21-4603, as amended by section 3 of 1991 Senate Bill No. 364, 21-4605, as amended by section 1 of 1991 Senate Bill No. 296, 65-4127b, as amended by section 6 of 1991 Senate Bill No. 342, and 65-4173, as amended by section 1 of 1991 House Bill No. 2105.

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

New Section 1. (1) Possession of a firearm within the state capitol building is possession of a firearm by a person other than a commissioned law enforcement officer, a full-time salaried law enforcement officer of another state or the federal government who is carrying out official duties while in this state, any person summoned by any such officer to assist in making arrests or preserving the peace while actually engaged in assisting such officer or a member of the military of this state or the United States engaged in the performance of duties who brings a firearm into, or possesses a firearm within, the state capitol building, any state legislative office, any office of the governor or office of other state government elected official or any hearing room in which any committee of the state legislature or either house thereof is conducting a hearing.

(2) Possession of a firearm within the state capitol building is a class B misdemeanor.

(3) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. On and after July 1, 1991, K.S.A. 1990 Supp. 38-1636 is hereby amended to read as follows: 38-1636. (a) At any time after commencement of proceedings under this code against a respondent who was: (1) 14 or 15 years of age at the time of the offense or offenses alleged in the complaint, if any such offense is or offenses are a class A or B felony, and prior to entry of an adjudication or the beginning of an evidentiary hearing at which the court may enter adjudication as provided in K.S.A. 38-1655, and amendments thereto, or (2) 16 or more years of age at the time of the offense alleged in the complaint and prior to entry of an adjudication or the beginning of an evidentiary hearing at which the court may enter adjudication as provided in K.S.A. 38-1655, and amendments thereto, the county or district attorney may file a motion requesting that the court authorize prosecution of the respondent as an adult under the applicable criminal statute.

(b) The motion may also contain a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and authorizing prosecution as an adult under this code, the court may make the findings required in a preliminary examination provided for in K.S.A. 22-2902, and amendments thereto, and the finding that there is no necessity for further preliminary examination.

(c) Upon receiving a motion to authorize prosecution as an adult, the court shall set a time and place for hearing on the motion. The court shall give notice of the hearing to the respondent, each parent of the respondent, if service is possible, and the attorney representing the respondent. The motion shall be heard and determined prior to any further proceedings on the complaint.

(d) If the respondent fails to appear for hearing on a motion to authorize prosecution as an adult after having been properly served with notice of the hearing, the court may hear and determine the motion in the absence of the respondent. If the court is unable to obtain service of process and give notice of the hearing, the court may hear and determine the motion in the absence of the respondent after having given notice of the hearing once a week for two consecutive weeks in a newspaper authorized to publish legal notices in the county where the hearing will be held.

(e) In determining whether or not prosecution as an adult should be authorized, the court shall consider each of the following factors: (1) The seriousness of the alleged offense and whether the protection of the community requires prosecution as an adult; (2) whether the

alleged offense was committed in an aggressive, violent, premeditated or willful manner; (3) whether the offense was against a person or against property, greater weight being given to offenses against persons, especially if personal injury resulted; (4) the number of alleged offenses unadjudicated and pending against the respondent; (5) the previous history of the respondent, including whether the respondent had been adjudicated a delinquent or miscreant under the Kansas juvenile code or a juvenile offender under this code and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence; (6) the sophistication or maturity of the respondent as determined by consideration of the respondent's home, environment, emotional attitude, pattern of living or desire to be treated as an adult; (7) whether there are facilities or programs available to the court which are likely to rehabilitate the respondent prior to the expiration of the court's jurisdiction under this code; and (8) whether the interests of the respondent or of the community would be better served by criminal prosecution. The insufficiency of evidence pertaining to any one or more of the factors listed in this subsection shall not in and of itself be determinative of the issue. Subject to the provisions of K.S.A. 38-1653, and amendments thereto, written reports and other materials relating to the respondent's mental, physical, educational and social history may be considered by the court.

(f) The court may authorize prosecution as an adult upon completion of the hearing if the court finds that the respondent was: (1) 14 or 15 years of age at the time of the alleged commission of the offense, if the offense is a class A or B felony, and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged, or (2) 16 or more years of age at the time of the alleged commission of the offense and that there is substantial evidence that the respondent should be prosecuted as an adult for the offense with which the respondent is charged. In that case, the court shall direct the respondent be prosecuted under the applicable criminal statute and that the proceedings filed under this code be dismissed.

(g) If the respondent is present in court and the court also finds from the evidence that it appears a felony has been committed and that there is probable cause to believe the felony has been committed by the respondent, the court may direct that there is no necessity for further preliminary examination on the charges as provided for in K.S.A. 22-2902, and amendments thereto. In that case, the court shall order the respondent bound over to the district judge having jurisdiction to try the case.

(h) If the respondent is convicted, the authorization for prosecution as an adult may attach and apply to any future acts by the respondent which are or would be cognizable under this code if the order of the court so provides.

(i) *If the respondent is prosecuted as an adult under subsection (f)(1) and convicted of a lesser included offense, the respondent shall be a juvenile offender and receive an authorized disposition pursuant to K.S.A. 1990 Supp. 38-1663, and amendments thereto.*

Sec. 3. K.S.A. 1990 Supp. 21-4602, as amended by section 1 of 1991 Senate Bill No. 183, is hereby amended to read as follows: 21-4602. As used in K.S.A. 21-4601 through 21-4621, and amendments thereto:

(1) "Court" means any court having jurisdiction and power to sentence offenders for violations of the laws of this state.

(2) "Suspension of sentence" means a procedure under which a defendant, found guilty of a crime, upon verdict or plea, is released by the court without imposition of sentence. The release may be with or without supervision in the discretion of the court. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence pursuant to subsection (2)(d) of K.S.A. 21-4603 and amendments thereto.

(3) "Probation" means a procedure under which a defendant, found guilty of a crime upon verdict or plea, is released by the court after imposition of sentence, without imprisonment except as provided in felony cases, subject to conditions imposed by the court and subject to the supervision of the probation service of the court. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of probation pursuant to subsection (2)(c) of K.S.A. 21-4603 and amendments thereto.

(4) "Parole" means the release of a prisoner to the community by the Kansas parole board prior to the expiration of such prisoner's term, subject to conditions imposed by the board and to the secretary of correction's supervision. "Parole" also means the release by a court of competent jurisdiction of a person confined in the county jail or other local place of detention after conviction and prior to expiration of such person's term, subject to conditions imposed by the court and its supervision. Where a court or other authority has filed a warrant against the prisoner, the Kansas parole board or paroling court may release the prisoner on parole to answer the warrant of such court or authority.

(5) "Institution" means the Lansing correctional facility, Hutchinson correctional facility, Topeka correctional facility - east, Topeka correctional facility - west, Norton correctional facility, Ellsworth correctional facility, Hutchinson correctional work facility, Winfield correctional facility, Osawatimie correctional facility, Larned correctional mental health facility, El Dorado correctional work facility, Toronto correctional work facility, Wichita work release center facility, El Dorado correctional facility, and any other correctional institution under control of the secretary of corrections.

(6) "Community correctional services program" means a program which operates under the community corrections act and to which a defendant is assigned for supervision, confinement, detention, care or treatment, subject to conditions imposed by the court. A defendant assigned to a community correctional services program shall be subject to the continuing jurisdiction of the court and in no event shall be considered to be in the custody of or under the supervision of the secretary of corrections.

Sec. 4. K.S.A. 1990 Supp. 21-4603, as amended by section 2 of 1991 Senate Bill No. 183, is hereby amended to read as follows: 21-4603. (1) Whenever any person has been found guilty of a crime and the court finds that an adequate presentence investigation cannot be conducted by resources available within the judicial district, including mental health centers and mental health clinics, the court may require that a presentence investigation be conducted by the Topeka correctional facility - east or by the state security hospital. If the offender is sent to the Topeka correctional facility - east or the state security hospital for a presentence investigation under this section, the correctional facility or hospital may keep the offender confined for a maximum of 60 days, except that an inmate may be held for a longer period of time on order of the secretary, or until the court calls for the return of the offender. While held at the Topeka correctional facility - east or the state security hospital the defendant may be treated the same as any person committed to the secretary of corrections or secretary of social and rehabilitation services for purposes of maintaining security and control, discipline, and emergency medical or psychiatric treatment, and general population management except that no such person shall be transferred out of the state or to a federal institution or to any other location unless the transfer is between the correctional facility and the state security hospital. The correctional facility or the state security hospital shall compile a complete mental and physical evaluation of such offender and shall make its findings and recommendations known to the court in the presentence report.

(2) Except as provided in subsection (3), whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(a) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one year, to jail for the term provided by law;

(b) impose the fine applicable to the offense;

(c) release the defendant on probation subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of probation;

(d) suspend the imposition of the sentence subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution. In felony cases, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of suspension of sentence;

(e) assign the defendant to a community correctional services

(continued)

program subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(f) assign the defendant to a conservation camp for a period not to exceed 180 days;

(g) assign the defendant to a house arrest program pursuant to K.S.A. 21-4603b and amendments thereto;

(h) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by subsection (3) of K.S.A. 21-4502 and amendments thereto; or

(i) impose any appropriate combination of (a), (b), (c), (d), (e), (f), (g) or (h).

In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by subsection (4) of K.S.A. 21-4502 and amendments thereto.

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole or conditional release.

The court in committing a defendant to the custody of the secretary of corrections shall fix a maximum term of confinement within the limits provided by law. In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

(3) Whenever any juvenile felon, as defined in K.S.A. 1990 Supp. 38-16,112, and amendments thereto, has been found guilty of a class A or B felony, the court shall commit the defendant to the custody of the secretary of corrections and may impose the fine applicable to the offense.

(4) (a) Except when an appeal is taken and determined adversely to the defendant as provided in subsection (4)(b), at any time within 120 days after a sentence is imposed, after probation or assignment to a community correctional services program has been revoked, the court may modify such sentence, revocation of probation or assignment to a community correctional services program by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits and shall modify such sentence if recommended by the Topeka correctional facility — ~~east~~ unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification.

(b) If an appeal is taken and determined adversely to the defendant, such sentence may be modified within 120 days after the receipt by the clerk of the district court of the mandate from the supreme court or court of appeals.

(5) The court shall modify the sentence at any time before the expiration thereof when such modification is recommended by the secretary of corrections unless the court finds and sets forth with particularity the reasons for finding that the safety of members of the public will be jeopardized or that the welfare of the inmate will not be served by such modification. The court shall have the power to impose a less severe penalty upon the inmate, including the power to reduce the minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections, the hearing on the recommendation and the order of modification shall be made in open court. Notice of the recommendation of modification of sentence and the time and place of the hearing thereon shall be given by the inmate, or by the inmate's legal counsel, at least 21 days prior to the hearing to the county or district attorney of the county where the inmate was convicted. After receipt of such notice and at least 14 days prior to the hearing, the county or district attorney shall give notice of the recommendation of modification of sentence and the time and place of the hearing thereon to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's next of kin if the next of kin's address is known to the county

or district attorney. Proof of service of each notice required to be given by this subsection shall be filed with the court.

(6) After such defendant has been assigned to a conservation camp but prior to the end of 180 days, the chief administrator of such camp shall file a performance report and recommendations with the court. The court shall enter an order based on such report and recommendations modifying the sentence, if appropriate, by sentencing the defendant to any of the authorized dispositions provided in subsection (2), except to reassign such person to a conservation camp as provided in subsection (2)(f).

(7) Dispositions which do not involve commitment to the custody of the secretary of corrections and commitments which are revoked within 120 days shall not entail the loss by the defendant of any civil rights.

(8) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(9) An application for or acceptance of probation, suspended sentence or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(10) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1990 Supp. 21-4628, and amendments thereto, the provisions of this section shall not apply.

Sec. 5. On and after July 1, 1991, K.S.A. 1990 Supp. 21-4605, as amended by section 4 of 1991 Senate Bill No. 364, is hereby amended to read as follows: 21-4605. (a) (1) Upon request of the attorney for the state or the counsel for the defendant, the judge shall make available to the attorney or counsel the presentence report, any report that may be received from the Topeka correctional facility or the state security hospital and other diagnostic reports and shall allow the attorney or counsel a reasonable time to review the report before sentencing the defendant. Except as otherwise provided in this section, all these reports shall be part of the record but shall be sealed and opened only on order of the court.

(2) *The court shall permit the attorney for the state or the counsel for the defendant, upon request, to copy and retain any of the reports under subsection (a)(1). Any reports copied and retained shall be kept in the records of the attorney for the state or the counsel for the defendant and shall not be disclosed to any unauthorized person without permission of the court. All costs of copying such reports shall be paid by the office of the attorney for the state or the counsel for the defendant making the request.*

(b) If a defendant is committed to the custody of the secretary of corrections, all reports under subsection (a)(1) shall be sent to the secretary of corrections and, in accordance with K.S.A. 75-5220, and amendments thereto, to the warden of the state correctional institution to which the defendant is conveyed.

(c) Nothing in this section shall be construed as prohibiting the attorney for the defendant from disclosing the report of the presentence investigation, or other diagnostic reports, to the defendant after receiving court approval to do so.

(d) Notwithstanding subsections (a), (b) and (c), the presentence report, any report that may be received from the Topeka correctional facility — ~~east~~ or the state security hospital and other diagnostic reports, shall be made available upon request to the Kansas sentencing commission for the purpose of data collection and evaluation.

Sec. 6. K.S.A. 1990 Supp. 65-4127b, as amended by section 3 of 1991 House Bill No. 2365, is hereby amended to read as follows: 65-4127b. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A.

65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(5) any anabolic steroids as defined in subsection (h) of K.S.A. 65-4111 (f) of K.S.A. 65-4109, and amendments thereto.

Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class D felony upon conviction for a second or subsequent offense.

(b). Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with the intent to sell, cultivate, prescribe, administer, deliver, distribute, dispense or compound:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d)(2), (d)(4) or (f)(2) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto;

(4) any substance designated in subsection (g) of K.S.A. 65-4105, and amendments thereto, and designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or

(5) any anabolic steroids as defined in subsection (h) of K.S.A. 65-4111 (f) of K.S.A. 65-4109, and amendments thereto.

Any person who violates this subsection shall be guilty of a class C felony.

(c) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to possess, have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell any controlled substance designated in K.S.A. 65-4113 and amendments thereto. Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class D felony if the substance was prescribed for or administered, delivered, distributed, dispensed, sold, offered for sale or possessed with intent to sell to a child under 18 years of age.

(d) Upon conviction of any person pursuant to subsection (a), (b) or (c) in which (1) the substances involved were equal to or greater than the amounts for such substance as specified in K.S.A. 1990 Supp. 65-4127e and amendments thereto, or (2) the substances involved, regardless of amounts, were possessed with intent to sell, sold or offered for sale to a child under 18 years of age, there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program or suspension of sentence.

(e) Notwithstanding any other provision of law, upon conviction of any person pursuant to subsection (b) for an offense in which the substances involved were possessed with intent to sell, sold or offered for sale in or on, or within 1,000 feet of any school property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades 1 through 12 and such person is over 18 years of age, such person shall be guilty of a class B felony.

Nothing in this subsection shall be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the description above, the actual use of that structure or property at the time alleged shall not be a defense to the criminal charged or the sentence imposed.

(f) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance.

Sec. 7. On and after July 1, 1991, K.S.A. 1990 Supp. 65-4173, as amended by section 1 of 1991 Senate Bill No. 151, is hereby amended to read as follows: 65-4173. (a) The proceeds of any sale pursuant to K.S.A. 1990 Supp. 65-4172, and amendments thereto,

and any moneys forfeited pursuant to K.S.A. 1990 Supp. 65-4171, and amendments thereto, shall be applied: ~~(1) First, to payment of the, in the following order to payment of:~~ (1) The balance due on any lien preserved by the court in the forfeiture proceedings; (2) second, to payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security and forfeiture of the property; (3) third, to payment of the costs incurred by the county or district attorney or attorney for the law enforcement agency approved by the county and district attorney to which the property is forfeited, including reasonable attorney fees, but not to exceed 10% of the total proceeds. Any proceeds of any sale applied to the payment of reasonable attorney fees pursuant to this section shall be deposited in the county treasury and credited to the special prosecutor's trust fund in the county treasury. Moneys in the special prosecutor's trust fund in the county treasury shall be expended only upon appropriation to the county or district attorney's office, by the board of county commissioners, to aid the county or district attorney in proceedings against property sought to be forfeited pursuant to K.S.A. 65-4135 or 65-4156, and amendments thereto, or for the county or district attorney to develop, implement, or maintain drug prevention or enforcement programs in such attorney's jurisdiction and shall not be considered a source of revenue to meet normal operating expenditures including salary enhancement; and (4) fourth, to payment of costs incurred by the court.

(b) Any proceeds or moneys remaining after payments provided for in subsection (a) shall be disposed of as follows: (1) If the agency to which the property is forfeited is the Kansas bureau of investigation, the Kansas highway patrol or the Kansas department of corrections, the entire amount shall be deposited in the state treasury and credited to the state special asset forfeiture fund; (2) if such agency is a county agency, the entire amount shall be deposited in the county treasury and credited to a special law enforcement trust fund in the county treasury; and (3) if such agency is a city agency, the entire amount shall be deposited in the city treasury and credited to a special law enforcement trust fund in the city treasury.

(c) Moneys in the special law enforcement trust fund in the county or city treasury shall be expended only upon appropriation to the sheriff's office or police department, by the respective board of county commissioners or governing body of the city, to defray the costs of protracted or complex investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants or for such other law enforcement purposes as the respective board of county commissioners or governing body of the city deems appropriate and shall not be considered a source of revenue to meet normal operating expenses.

(d) There is hereby established in the state treasury the state special asset forfeiture fund to be administered by the attorney general. All proceeds or money obtained pursuant to this section by the Kansas bureau of investigation, Kansas highway patrol or Kansas department of corrections shall be credited to this fund. Such proceeds or money may be expended by the agency originating the forfeiture to defray the costs of protracted or complex investigations, to provide additional technical equipment or expertise, to provide matching funds to obtain federal grants or for such other law enforcement purposes as the attorney general deems appropriate but shall not be considered a source of revenue to meet normal operating expenses. Expenditures from the state special asset forfeiture fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or by a person or persons designated by the attorney general. The attorney general shall compile and submit a state special asset forfeiture fund report to the legislature on or before February 1 of each year. Such report shall include, but not be limited to: (1) The balance of the state special asset forfeiture fund on December 1 of each year; (2) the dollars deposited into the fund during the 12-month period ending the preceding December 1 and the origination of such dollars; and (3) the dollar amounts expended from the fund and to whom such dollars were paid during the 12-month period ending the preceding December 1.

(e) Upon the effective date of this act, the director of accounts and reports is directed to transfer all moneys in the Kansas bureau of investigation and Kansas highway patrol special asset forfeiture fund to the state special asset forfeiture fund. Upon the effective

(continued)

date of this act, all liabilities of the Kansas bureau of investigation and Kansas highway patrol special asset forfeiture fund existing prior to such date are hereby imposed on the state special asset forfeiture fund. The Kansas bureau of investigation and Kansas highway patrol special asset forfeiture fund is hereby abolished.

Sec. 8. K.S.A. 1990 Supp. 21-4602, as amended by section 1 of 1991 Senate Bill No. 183, 21-4602, as amended by section 2 of 1991 Senate Bill No. 364, 21-4603, as amended by section 2 of 1991 Senate Bill No. 183, 21-4603, as amended by section 3 of 1991 Senate Bill No. 364, 65-4127b, as amended by section 3 of 1991 House Bill No. 2365, and 65-4127b, as amended by section 6 of 1991 Senate Bill No. 342, are hereby repealed.

Sec. 9. On and after July 1, 1991, K.S.A. 1990 Supp. 21-4605, as amended by section 1 of 1991 Senate Bill No. 296, 21-4605, as amended by section 4 of 1991 Senate Bill No. 364, 38-1636, 65-4173, as amended by section 1 of 1991 Senate Bill No. 151, and 65-4173, as amended by section 1 of 1991 House Bill No. 2105, are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 16, 1991.)

HOUSE BILL No. 2124

AN ACT concerning cities; relating to the establishment of certain redevelopment districts to finance costs of certain environmental contamination investigation and remediation; issuance of tax increment bonds; amending K.S.A. 1990 Supp. 12-1771 and repealing the existing section.

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

Section 1. K.S.A. 1990 Supp. 12-1771 is hereby amended to read as follows; 12-1771. (a) No city shall exercise any of the powers conferred by K.S.A. 12-1770 *et seq.*, and amendments thereto, unless the governing body of such city has adopted a resolution finding that: (1) the specific project area sought to be redeveloped is a blighted area or has been designated as an enterprise zone pursuant to K.S.A. 12-17,110, and amendments thereto; ~~and (2), and~~ the conservation, development or redevelopment of such area is necessary to promote the general and economic welfare of such city. For the purpose of this subsection, the term "blighted area" means an area which: (1) Because of the presence of a majority of the following factors, substantially impairs or arrests the sound development and growth of the municipality or constitutes an economic or social liability or is a menace to the public health, safety, morals or welfare in its present condition and use: (A) A substantial number of deteriorated or deteriorating structures; (B) predominance of defective or inadequate street layout; (C) unsanitary or unsafe conditions; (D) deterioration of site improvements; (E) diversity of ownership; (F) tax or special assessment delinquency exceeding the fair value of the land; (G) defective or unusual conditions of title; (H) improper subdivision or obsolete platting or land uses; (I) the existence of conditions which endanger life or property by fire and other causes; or (J) conditions which create economic obsolescence; or (2) *has been identified by any state or federal environmental agency as being environmentally contaminated to an extent that requires a remedial investigation, feasibility study and remediation or other similar state or federal action;* or (3) previously was found by resolution of the governing body to be a slum or a blighted area under K.S.A. 17-4742 *et seq.*, and amendments thereto.

(b) The powers conferred upon cities under the provisions of K.S.A. 12-1770 *et seq.*, and amendments thereto, shall be exercised in central business district areas of cities, as determined by resolution adopted pursuant to K.S.A. 12-1772, and amendments thereto; in enterprise zones designated pursuant to K.S.A. 12-17,110, and amendments thereto, or in blighted areas of cities, as determined by resolution adopted pursuant to K.S.A. 17-4742 *et seq.*, and amendments thereto.

(c) Within that portion of the city described in subsection (b), the governing body of a city may establish a district to be known as a "redevelopment district". One or more redevelopment projects may be undertaken by a city within a redevelopment district after such redevelopment district has been established in the manner provided by subsection (d).

(d) Any city proposing to establish a redevelopment district shall

adopt a resolution stating that the city is considering the establishment of a redevelopment district. Such resolution shall:

(1) Give notice that a public hearing will be held to consider the establishment of a redevelopment district and fix the date, hour and place of such public hearing;

(2) describe the proposed boundaries of the redevelopment district;

(3) describe a proposed comprehensive plan that identifies all of the proposed redevelopment project areas and that identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area;

(4) state that a description and map of the proposed redevelopment district are available for inspection at a time and place designated;

(5) state that the governing body will consider findings necessary for the establishment of a redevelopment district.

Notice shall be given as provided in subsection (c) of K.S.A. 12-1772, and amendments thereto.

(e) Upon the conclusion of the public hearing, the governing body may adopt a resolution to make any findings required by subsection (a) and may establish the redevelopment district by ordinance. Such resolution shall contain a comprehensive plan that identifies all of the proposed redevelopment project areas and identifies in a general manner all of the buildings and facilities that are proposed to be constructed or improved in each redevelopment project area. The boundaries of such district shall not include any area not designated in the notice required by subsection (d). Any addition of area to the redevelopment district or any substantial change to the comprehensive plan shall be subject to the same procedure for public notice and hearing as is required for the establishment of the district.

(f) No privately owned property subject to ad valorem taxes shall be acquired and redeveloped under the provisions of K.S.A. 12-1770 *et seq.*, and amendments thereto, if the board of county commissioners or the board of education levying taxes on such property determines by resolution adopted within 30 days following the conclusion of the hearing for the establishment of the redevelopment district required by subsection (d) that the proposed redevelopment district will have an adverse effect on such county or school district.

(g) Any redevelopment plan undertaken within the redevelopment district may be in separate development stages. Each plan shall be adopted according to the provisions of K.S.A. 12-1772, and amendments thereto, and shall fix a date for completion. *Except as provided herein*, any project shall be completed within 15 years from the date of the establishment of the redevelopment district. *Projects relating to environmental investigation and remediation under subsection (i) shall be completed within 20 years from the date a city enters into a consent decree agreement with the Kansas department of health and environment or the United States environmental protection agency.*

(h) Any increment in ad valorem property taxes resulting from a redevelopment district undertaken in accordance with the provisions of this act, shall be apportioned to a special fund for the payment of the cost of the redevelopment project, including the payment of principal and interest on any special obligation bonds or full faith and credit tax increment bonds issued to finance such project pursuant to this act and may be pledged to the payment of principal and interest on such bonds. The maximum maturity on bonds issued to finance projects pursuant to this act shall not exceed 20 years. For the purposes of this act, "increment" means that amount of ad valorem taxes collected from real property located within the redevelopment district that is in excess of the amount which is produced from such property and attributable to the assessed valuation of such property prior to the date the redevelopment district was established, as determined under the provisions of K.S.A. 12-1775, and amendments thereto.

(i) *The governing body of a city, in contracts entered into with the Kansas department of health and environment or the United States environmental protection agency, may pledge increments receivable in future years to pay costs directly relating to the investigation and remediation of environmentally contaminated areas. The provisions in such contracts pertaining to pledging increments in future years shall not be subject to K.S.A. 10-1101 et seq. or K.S.A. 79-2925 et seq., and amendments thereto.*

(j) Before any redevelopment project is undertaken, a comprehensive feasibility study, which shows the benefits derived from such project will exceed the costs and that the income therefrom will be sufficient to pay for the project shall be prepared. Such feasibility study shall be an open public record.

New Sec. 2. (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area under subsection (a)(2) of K.S.A. 12-1771, and amendments thereto, when the following conditions exist:

(1) The proposed district has been identified by the Kansas department of health and environment or the United States environmental protection agency to be an environmentally contaminated area;

(2) the city has entered into a consent decree or settlement agreement or has taken action expressing an intent to enter into a consent decree or settlement agreement with the Kansas department of health and environment or the United States environmental protection agency that addresses the investigation and remediation of the environmental contamination;

(3) the consent decree or settlement agreement contains a provision that has the effect of releasing property owners who are not responsible for the contamination from the responsibility of paying the response costs of the investigation and remediation of the contamination; and

(4) the city intends to establish a redevelopment district pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of contamination within such district.

(b) An increment established after a city has found that the condition in subsection (a)(2) of K.S.A. 12-1771, and amendments thereto, exists shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. Each year's increment shall not exceed 20% of the amount of taxes that are produced from the redevelopment district area in the year the redevelopment district is first established.

(c) The budget that establishes the yearly increment shall be certified by the city to the county clerk and county treasurer no later than August 25th, preceding the calendar year for which the budget is being set. Funds derived from an increment established by this section and interest on all funds derived from an increment established by this section may be used only for projects involving the investigation and remediation of contamination in the district.

(d) The real property taxes produced by the increment established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments thereto, shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of contamination in the redevelopment district. Any funds collected by the city from parties determined to be responsible in any manner for the contaminated condition shall be either: (1) Deposited in the same separate special fund created hereunder, and with all interest earned thereon, may be used only for projects involving the investigation and remediation of contamination in the established redevelopment district; or (2) distributed to parties who have entered into a contract with the city to pay a portion of investigation and remediation of the contamination in the redevelopment district and the terms of such contract provide that such parties are entitled to reimbursement for a portion of funds they have expended for such investigation and remediation of contamination from the recovery of costs that are collected from other third party responsible parties. A redevelopment district created under the provisions of this section shall constitute a separate taxing district. If all costs for such investigation and remediation of contamination in the redevelopment district have been paid and moneys remain in the special fund, such moneys shall be

remitted to each taxing subdivision which paid moneys into the special fund on the basis of the proportion which the total amount of moneys paid by such taxing subdivision into the special fund bears to the total amount of all moneys paid by all taxing subdivisions into the fund.

(e) Nothing in this section shall prevent any city from establishing a redevelopment district for other purposes pursuant to K.S.A. 12-1770 *et seq.*, and amendments thereto, which may include part or all of the real property included in the district established under this section.

(f) Nothing in this section shall be construed to affect the obligations of the county to annually review the fair market value of property in accordance with procedures set by law or to affect the right of any taxpayer to protest and appeal the appraised or reappraised value of their property in accordance with procedures set forth by law.

(g) Commencing with the regular session of the legislature in 1993, each city that establishes a redevelopment district under this section shall make a status report on a biennial basis to the standing committees on economic development of the senate and house of representatives during the month of January. The status report shall contain information on the status of the investigation and remediation of contamination in the redevelopment district.

Sec. 3. K.S.A. 1990 Supp. 12-1771 is hereby repealed.

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

(Published in the Kansas Register, May 16, 1991.)

SENATE BILL No. 323

AN ACT concerning agriculture; relating to the grain commodity commissions; concerning soybean promotion; relating to the sheep commission; amending K.S.A. 2-3005, 2-3006, 2-3008, 2-3009 and 75-3170a and K.S.A. 1990 Supp. 2-3007 and repealing the existing sections; also repealing K.S.A. 75-3170a, as amended by 1991 Senate Bill No. 77.

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

New Section 1. The Kansas soybean commission, established pursuant to K.S.A. 2-3001 *et seq.*, and amendments thereto, shall be the state promotion entity for soybeans under the soybean promotion, research and consumer information act of 1990, public law 101-624, upon certification by the national board or other certifying entity established under such act.

Sec. 2. K.S.A. 2-3005 is hereby amended to read as follows: 2-3005. (a) In the administration of this act each said commission shall have the following duties, authorities and powers:

(1) To recommend to the secretary policy regarding marketing, campaigns of development, education and publicity for the Kansas grain commodity and products made therefrom represented by it;

(2) to recommend to the secretary the acceptance of grants and donations;

(3) to recommend the secretary enter into such contracts as may be necessary or advisable for the purposes of this act;

(4) to recommend that the secretary cooperate with any local, state, national or international organization or agency, whether voluntary or created by the law of any state or by federal law, engaged in work or activities similar to the work and activities of each said commission, and to direct the division to enter into contracts with such agencies or organizations for carrying on campaigns of development, education or publicity;

(5) to be advisory to and cooperate and work with Kansas state university or other educational or research facilities regarding research and development connected with the grain commodities represented by each said commission;

(6) to recommend that the secretary submit to the national board, established pursuant to public law 101-624, any reports required describing the manner and procedure for collection of the voluntary assessments established on soybeans pursuant to public law 101-624;

(7) to recommend that the secretary certify to the national board, established pursuant to public law 101-624, that assessments will be collected on all of the soybeans sold within the state;

(8) to recommend that the secretary certify to the national board, established pursuant to public law 101-624, that funds collected pursuant to the nationally established assessment will be remitted as required by the national board;

(continued)

(9) to recommend that the secretary certify to the national board, established pursuant to public law 101-624, that requests for refunds will be honored; and

(10) to recommend that the secretary and division perform such other duties as may be necessary to comply with public law 101-624 pertaining to the national checkoff program for soybeans and any rules, regulations or marketing orders promulgated or issued thereunder.

(b) Notwithstanding any provision of this act or other law to the contrary, any determination by the secretary regarding any recommendation by a commission pursuant to ~~subparagraphs one to five of this section~~ subsection (a) may be disapproved by a vote of ~~two-thirds (2/3)~~ $\frac{2}{3}$ of the members of the commission but nothing herein shall be construed as authorizing such commission to abrogate, limit or otherwise affect the power of the secretary to administer and supervise the internal operations and management of the division.

Sec. 3. K.S.A. 2-3006 is hereby amended to read as follows: 2-3006. The division shall have the following duties, authorities and powers to:

(1) ~~To~~ Implement and coordinate the policies and practices of each grain commission represented by it;

(2) ~~to~~ sue and be sued;

(3) ~~to~~ prosecute in the name of Kansas any suit or action for the collection of the ~~assessment assessments provided for by K.S.A. 2-3007~~ under this act;

(4) ~~to~~ adopt rules and regulations *deemed necessary* for the ~~procedure and~~ exercise of its powers and the performance of its duties *under this act*;

(5) ~~to~~ hire, subject to the approval of a majority of the members of the commission affected, an administrator for such commission; ~~and~~

(6) ~~to~~ hire such clerical and other personnel deemed necessary to carry out the provisions of this act;

(7) *establish recordkeeping requirements deemed necessary by the commodity commission affected; and*

(8) *inspect and audit any records required to be kept pursuant to this act.*

Sec. 4. K.S.A. 1990 Supp. 2-3007 is hereby amended to read as follows: 2-3007. (a) There is hereby levied an assessment of three mills per bushel upon grain sorghum marketed through commercial channels in the state of Kansas. There is hereby levied an assessment of five mills per bushel upon corn marketed through commercial channels in the state of Kansas. There is hereby levied an assessment upon soybeans marketed through commercial channels in the state of Kansas. The soybean commission shall set the assessment at a rate of not more than 20 mills per bushel. The soybean commission shall not change the assessment rate, either to increase or reduce, more than once a year. Such assessment shall be levied and assessed to the grower at the time of sale, and shall be shown as a deduction by the first purchaser from the price paid in settlement to the grower. Under the provisions of this act, no corn, grain sorghum or soybeans shall be subject to the assessment more than once. The division shall furnish to every first purchaser receipt forms which shall be issued by such first purchaser to the grower upon the payment of such assessment. The form shall indicate thereon the procedure by which the grower may obtain a refund of any such assessment, except a refund shall not be issued unless the amount of the refund is \$5 or more. Within one year after any and all sales during such period the grower may upon submission of a request therefor to the division, obtain a refund in the amount of the assessments deducted by the first purchaser. Such request shall be accompanied by evidence of the payment of the assessments which need not be verified.

(b) The division shall keep complete records of all refunds made under the provisions of this section. Records of refunds may be destroyed two years after the refund is made. All funds expended in the administration of this act and for the payment of all claims whatsoever growing out of the performance of any duties or activities pursuant to this act shall be paid from the proceeds derived from such assessment. In the case of a lien holder who is a first purchaser as defined herein, the assessment shall be deducted by the lien holder from the proceeds of the claim secured by such lien at the time the corn, grain sorghum or soybeans are pledged or mortgaged.

The assessment shall constitute a preferred lien and shall have priority over all other liens and encumbrances upon such corn, grain sorghum or soybeans. The assessment shall be deducted and paid as herein provided whether such corn, grain sorghum or soybeans are stored in this or any other state.

(c) Any corn or grain sorghum acquired by a grower as defined in K.S.A. 2-3001, and amendments thereto, under the provisions of any federal payment-in-kind (PIK) program shall be subject to the provisions of this section.

(d) *No assessments for soybeans shall be collected pursuant to subsection (a) while the national checkoff program for soybeans, established pursuant to public law 101-624, remains in effect. Collection of assessments pursuant to subsection (a) shall be reinstated upon the withdrawal of the national checkoff program for soybeans, established pursuant to public law 101-624.*

Sec. 5. K.S.A. 2-3008 is hereby amended to read as follows: 2-3008. (a) *Except as provided in section 6*, the assessment hereby imposed shall on or before the ~~twentieth~~ 20th day of the calendar month following the date of settlement be paid by the purchaser to the division. The division shall issue a receipt to the purchaser therefor and shall remit all moneys received in payment of such assessment to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent ~~(20%)~~ of each such deposit shall be credited to the state general fund and the amount of the balance of each such deposit which is derived from the assessment of each respective grain shall be credited to the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund, respectively. Money derived from the assessment of each respective grain shall be credited only to the fund established for such grain. Whenever refunds are made from the Kansas corn commission fund, the Kansas grain sorghum commission fund or the Kansas soybean commission fund, the amounts credited to the state general fund from subsequent deposits in the state treasury pursuant to this section shall be reduced by amounts which equal ~~twenty percent (20%)~~ 20% of such refunds.

(b) All money so credited to the Kansas corn commission fund, Kansas grain sorghum commission fund and Kansas soybean commission fund shall be expended for the respective grain commissions in the administration of this act, and for the payment of claims based upon obligations incurred in the performance of the activities and functions set forth in this act, and for no other purpose.

(c) All expenditures from such funds shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the division of markets of the state board of agriculture for each respective grain commission or by a person or persons designated by the director.

(d) *Assessments collected pursuant to the national checkoff program for soybeans, established pursuant to public law 101-624 shall be deposited in the soybean promotion and research fee fund, created in section 7.*

New Sec. 6. On and after the effective date of the national checkoff program for soybeans, established pursuant to public law 101-624, the assessment shall be collected upon all soybeans sold in the state of Kansas. Such assessment shall be levied and assessed to the grower at the time of sale and shall be collected pursuant to the terms of the national checkoff program for soybeans established pursuant to public law 101-624 and any rules and regulations or marketing orders promulgated or issued thereunder. Under the provisions of this act, no soybeans shall be subject to assessment more than once. Assessments made under this section shall constitute a preferred lien and shall have a priority over all other liens and encumbrances upon such soybeans. Any assessment made under this section shall be deducted and paid as herein provided whether such soybeans are stored in this or any other state.

New Sec. 7. (a) Any assessment collected pursuant to the national checkoff program for soybeans, established pursuant to public law 101-624, shall be paid to the division on or before the 20th day of the calendar year following the date of settlement and shall be paid by the purchaser of the soybeans to the division. The division shall issue a receipt to the purchaser and shall remit all moneys received in payment of such assessment to the state treasurer at

least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of that portion of each deposit that will be retained by the state soybean commission shall be credited to the state general fund pursuant to subsection (d)(4) of K.S.A. 75-3170a, and amendments thereto, and the amount of the balance of each deposit which is derived from the assessment shall be credited to the soybean promotion and research fee fund which is hereby created.

(b) Whenever refunds are made from the national checkoff program for soybeans, established pursuant to public law 101-624, such refunds shall be made as authorized by public law 101-624.

(c) All money so credited to the soybean promotion and research fee fund shall be expended for the soybean commission in the administration of the national checkoff program for soybeans, established pursuant to public law 101-624, the administration of this act and for the payment of claims upon obligations incurred in the performance of the activities and functions set forth in this act and for no other purpose.

(d) All expenditures made from these funds shall be in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director of the division of markets of the state board of agriculture for the soybean commission or by a person or persons designated by the director.

(e) The Kansas soybean commission shall have the ability to pay and transfer portions of the assessments collected pursuant to the national checkoff program for soybeans, established pursuant to public law 101-624, to the national board as required.

Sec. 8. K.S.A. 2-3009 is hereby amended to read as follows: 2-3009. If the *any* assessment is not paid to the division as provided in ~~K.S.A. 2-3008 this act~~, or within ~~ten (10)~~ 10 days thereafter, the lien thereby created shall be foreclosed after the expiration of such ten-day period in the district court of the county in which the grain was grown, or sold, or in which such grain may be found, or in which such grain may have been commingled with other like grain.

Sec. 9. K.S.A. 75-3170a is hereby amended to read as follows: 75-3170a. (a) The 20% credit to the state general fund required by K.S.A. 1-204, 2-2609, 2-3008, 9-1703, 16-609, 16a-2-302, 17-1271, 17-2236, 17-5609, 17-5610, 17-5612, 17-5701, 20-1a02, 20-1a03, 34-102b, 44-324, 44-926, 47-820, 49-420, ~~55-131~~, 55-155, 55-609, 55-711, 55-901, 58-2011, 58-3074, 65-6b10, 65-1718, 65-1817a, 65-2011, ~~65-2418~~, 65-2855, 65-2911, 65-4610, 66-1,155, 66-1503, 74-715, 74-1108, 74-1405, 74-1503, 74-1609, 74-2704, ~~74-2902a~~, 74-3903, 74-5805, 74-7009, 74-7506, 75-1119b, and 75-1308 and ~~75-1500~~ and K.S.A. ~~1987~~ 1990 Supp. 55-176, 58-4107, 65-5413, 65-5513, 84-9-411 and 84-9-413 and section 5 of 1991 Senate Bill No. 77 and section 7, and acts amendatory of any of the foregoing including amendments by other sections of this act is to reimburse the state general fund for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services, and any and all other state governmental services, which are performed on behalf of the state agency involved by other state agencies which receive appropriations from the state general fund to provide such services.

(b) Nothing in this act or in the sections amended by this act or referred to in subsection (a) of this section, shall be deemed to authorize remittances to be made less frequently than is authorized under K.S.A. 75-4215 and amendments thereto.

(c) Notwithstanding any provision of any ~~section statute~~ referred to in or amended by this act or referred to in subsection (a) of this section, whenever in any fiscal year such 20% credit to the state general fund in relation to any particular fee fund is \$200,000, in that fiscal year the 20% credit no longer shall apply to moneys received from sources applicable to such fee fund and for the remainder of such year the full 100% so received shall be credited to such fee fund, except as otherwise provided in subsection (d) of this section or (f).

(d) Notwithstanding any provision of K.S.A. 2-2609 and 2-3008 and amendments thereto or any provision of any ~~section statute~~ referred to in subsection (a) of this section, the 20% credit to the state general fund no longer shall apply to moneys received from sources applicable to the grain research and market development agencies funds, as specified for each such fund by this subsection,

and for the remainder of a fiscal year the full 100% of the moneys so received shall be credited to the appropriate fund of such funds, whenever in any fiscal year:

(1) With respect to the Kansas wheat commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$100,000 that bears the same proportion to \$100,000 as the amount credited to the Kansas wheat commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year;

(2) with respect to the Kansas corn commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$100,000 that bears the same proportion to \$100,000 as the amount credited to the Kansas corn commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding year;

(3) with respect to the Kansas grain sorghum commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$100,000 that bears the same proportion to \$100,000 as the amount credited to the Kansas grain sorghum commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year; and

(4) with respect to the Kansas soybean commission fund, such 20% credit to the state general fund in relation to such fund in that fiscal year is equal to that portion of \$100,000 that bears the same proportion to \$100,000 as the amount credited to the Kansas soybean commission fund during the preceding fiscal year bears to the total of the amounts credited to the Kansas wheat commission fund, the Kansas corn commission fund, the Kansas grain sorghum commission fund and the Kansas soybean commission fund during the preceding fiscal year.

(e) As used in this section, "grain research and market development agencies" means the Kansas wheat commission, the Kansas corn commission, the Kansas grain sorghum commission and the Kansas soybean commission. Such agencies have been created to fund appropriate research projects; to conduct campaigns of development, education and publicity; and to find new markets or maintain existing markets for commodities and products made from those commodities, among their other duties. Such grain research and market development agencies shall be funded by an assessment collected from the grower at the time of the sale of such commodity by the first purchaser. The assessment shall be sent to the proper grain research and market development agency.

(f) (1) Through June 30, 1993, notwithstanding any provision of any statute referred to in subsection (a), whenever in any fiscal year such 20% credit to the state general fund in relation to the Kansas sheep commission fund is \$8,000, in that fiscal year the 20% credit no longer shall apply to moneys received from sources applicable to such fund and for the remainder of such year the full 100% so received shall be credited to such fund.

(2) On and after July 1, 1993, the provision of subsection (c) shall apply to the Kansas sheep commission fund.

Sec. 10. K.S.A. 2-3005, 2-3006, 2-3008, 2-3009 and 75-3170a and K.S.A. 1990 Supp. 2-3007 and K.S.A. 75-3170a, as amended by 1991 Senate Bill No. 77, are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the Kansas register.

(Editor's Note: The following bill, which was published in the May 9, 1991, Kansas Register, is being republished to indicate line-item vetoes by the Governor. Several of the line-items were subsequently over-ridden by both houses of the Legislature. The Governor's veto message and a statement from the House of Representatives immediately follows the bill.)

(Published in the Kansas Register, May 16, 1991.)

SENATE BILL No. 112

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1991, June 30, 1992, and June 30, 1993, for certain capital improvement projects for the state board of agriculture, state fair board, department of wildlife and parks, Kansas state school for the visually handicapped, Kansas state school for the deaf, state historical society, department of corrections, Lansing correctional facility, Hutchinson correctional facility, Ellsworth correctional facility, Winfield correctional facility, Norton correctional facility, Topeka correctional facility, Kansas neurological institute, Topeka state hospital, Winfield state hospital and training center and department of social and rehabilitation services; authorizing the initiation and completion of certain capital improvement projects; imposing certain requirements, restrictions and limitations and directing or authorizing certain disbursements and acts incidental to the foregoing; amending section 27 of chapter 23 and section 4 of chapter 28 of the 1990 Session Laws of Kansas and repealing the existing sections.

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

Section 1. (a) For the fiscal years ending June 30, 1991, June 30, 1992, and June 30, 1993, appropriations are hereby made, restrictions and limitations are hereby imposed, and transfers, disbursements and acts incidental to the foregoing are hereby directed or authorized to initiate and complete capital improvement projects as provided in this act.

(b) The agencies named in this act are hereby authorized to initiate and complete the capital improvement projects specified and authorized by this act or for which appropriations are made by this act, subject to the restrictions and limitations imposed by this act.

Sec. 2.

STATE BOARD OF AGRICULTURE

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 1991, for the capital improvement projects specified as follows:

Lighting fixture replacement	\$746
Ceiling replacement	357
Install water closet	52

Total \$1,155

(b) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in each of the following capital improvement accounts of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Lighting fixture replacement; ceiling replacement; install water closet.

(c) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Window replacement	\$18,514
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Sec. 3.

STATE FAIR BOARD

(a) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Rehabilitation and repair projects	\$100,000
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Sec. 4.

DEPARTMENT OF WILDLIFE AND PARKS

(a) There is appropriated for the above agency from the following special revenue fund for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:

Department access road fund	No limit
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(b) On July 1, 1991, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$1,200,000 from the state highway fund of the department of transportation to the department access road fund of the department of wildlife and parks.

(c) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in each of the following capital improvement accounts of the state general fund is hereby reappropriated for fiscal

year 1992: Enclosed shelter — Glen Elder state park; enclosed shelters — Pomona and El Dorado state parks; campground development; renovation project — Cheyenne Bottoms waterfowl area; Lovewell state park storm damage repairs and replacements.

(d) There is appropriated for the above agency from the following special revenue funds for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such funds, except that expenditures shall not exceed the following:

Water plan special revenue fund	\$1,375,000
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Provided, That expenditures may be made from this fund for the following capital improvement projects, subject to the expenditure limitations prescribed therefor:

Renovate Cheyenne Bottoms	\$1,000,000
Hilldale state park development	375,000

Provided further, That expenditures may be made for fiscal year 1992 from the following capital improvement accounts of this fund: Hilldale state park development; renovate Cheyenne Bottoms. Provided, however, That expenditures from each such account shall not exceed the amount of the unencumbered balance in such account on June 30, 1991. And provided further, That all expenditures from such accounts shall be in addition to any expenditure limitation imposed on this fund for fiscal year 1992.

Economic development initiatives grant fund	715,000
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Provided, That expenditures may be made from this fund for the following capital improvement projects, subject to the expenditure limitations prescribed therefor:

Hilldale state park development	\$695,000
Prairie Center acquisition	00,000

Provided further, That expenditures may be made for fiscal year 1992 from the following capital improvement accounts of this fund: Hilldale state park development; economic development initiatives grant fund. Provided, however, That expenditures from each such account shall not exceed the amount of the unencumbered balance in such account on June 30, 1991. And provided further, That all expenditures from such accounts shall be in addition to any expenditure limitation imposed on this fund for fiscal year 1992.

(e) On July 15, 1991, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$1,375,000 from the state water plan fund of the Kansas water office to the water plan special revenue fund of the department of wildlife and parks.

(f) On July 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(g) On August 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$365,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(h) On September 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$250,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(i) The director of accounts and reports shall not make the following transfers: (1) The transfer of \$46,875 directed to be made on May 15, 1991, by section 4(m) of chapter 21 of the 1990 Session Laws of Kansas from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks; and (2) the transfer of \$46,875 directed to be made on June 15, 1991, by section 4(m) of chapter 21 of the 1990 Sessions Laws of Kansas from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(j) On the effective date of this act, the director of accounts and reports shall transfer \$28,250 from the economic development initiatives grant fund of the department of wildlife and parks to the state economic development initiatives fund of the department of commerce.

(k) On the effective date of this act, the expenditure limitation established by section 4(k) of chapter 21 of the 1990 Session Laws of Kansas on the economic development special projects account of the economic development initiatives grant fund of the department of wildlife and parks is hereby decreased from \$187,000 to \$65,500.

(l) There is appropriated for the above agency from the state general fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Rehabilitation and repair projects \$150,000

Sec. 5.

KANSAS STATE SCHOOL FOR THE VISUALLY HANDICAPPED

(a) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Rehabilitation and repair projects \$134,000

(b) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 1991, for the capital improvement projects specified as follows:

Asbestos removal \$25,000

Sec. 6.

KANSAS STATE SCHOOL FOR THE DEAF

(a) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Rehabilitation and repair projects \$130,500

Sec. 7.

~~STATE HISTORICAL SOCIETY~~

~~(a) There is appropriated for the above agency from the following special revenue fund for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:~~

~~EDIF emergency repair fund \$25,000~~

~~(b) On August 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$25,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the EDIF emergency repair fund of the state historical society.~~

Sec. 8. On July 1, 1991, section 4 of chapter 28 of the 1990 Session Laws of Kansas is hereby amended to read as follows:

Sec. 4.

STATE HISTORICAL SOCIETY

(a) ~~The above agency is hereby authorized to initiate and complete a capital improvement project to construct and equip a center for historical research, subject to the restrictions and limitations imposed by this section.~~

(b) (a) There is appropriated for the above agency from the state general fund for the capital improvement project and for the fiscal years year specified as follows:

Construct and equip center for historical research
 For the fiscal year ending June 30, 1991 \$150,000
 For the fiscal year ending June 30, 1992 6,000,000
 For the fiscal year ending June 30, 1993 1,004,000

Sec. 9.

DEPARTMENT OF CORRECTIONS

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the capital improvement — major repairs, special maintenance, and remodeling for correctional institutions account of the state general fund is hereby reappropriated for fiscal year 1992: *Provided*, That the secretary of corrections is hereby authorized to transfer moneys during fiscal year 1992 from this account of the state general fund to an account or accounts of the state general fund of any institution or facility under the jurisdiction of the secretary of corrections to be expended during fiscal year 1992 by the institution or facility for capital improvement projects approved by the secretary of corrections.

(b) There is appropriated for the above agency from the correctional institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Capital improvements — rehabilitation and repair of correctional institutions \$2,800,000

Provided, That any unencumbered balance in excess of \$100 as of June 30, 1991, in the capital improvement — major repairs, special maintenance and remodeling for correctional institutions account is hereby reappropriated to the capital improvements — rehabilitation and repair of correctional institutions account for fiscal year 1992: *Provided further*, That the secretary of corrections is hereby authorized to transfer moneys during fiscal year 1992 from this account of the correctional institutions building fund to an account or accounts of the correctional institutions building fund of any institution or facility under the jurisdiction of the secretary of corrections to be expended during fiscal year 1992 by the institution or facility for capital improvement projects approved by the secretary of corrections.

Sec. 10.

LANSING CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the following capital improvement account of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions.

(b) There is hereby appropriated for the above agency from the correctional institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement project specified as follows:
 Wastewater treatment system improvements \$236,884

Sec. 11.

HUTCHINSON CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in each of the following capital improvement accounts of the state general fund is hereby reappropriated to the capital improvement — major repairs, special maintenance account of the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions account of Hutchinson correctional facility; capital improvement — major repairs, special maintenance and remodeling for correctional institutions account of Hutchinson correctional work facility.

(b) There is appropriated for the above agency from the correctional institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement project specified as follows:

Expand south unit kitchen, laundry and canteen \$182,641

Sec. 12.

ELLSWORTH CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the following capital improvement account of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions.

Sec. 13.

WINFIELD CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the following capital improvement account of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions.

Sec. 14.

NORTON CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the following capital improvement account of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions.

Sec. 15.

TOPEKA CORRECTIONAL FACILITY

(a) On July 1, 1991, any unencumbered balance in excess of \$100 as of June 30, 1991, in the following capital improvement account of the state general fund is hereby reappropriated for the above agency for fiscal year 1992: Capital improvement — major repairs, special maintenance and remodeling for correctional institutions.

Sec. 16.

KANSAS NEUROLOGICAL INSTITUTE

(a) On the effective date of this act, any unencumbered balance in the following account of the state institutions building fund is hereby lapsed: Title XIX modifications and handicapped code compliance.

(continued)

(b) During the fiscal years ending June 30, 1991, and June 30, 1992, the Kansas neurological institute is hereby authorized to make expenditures of moneys appropriated for such fiscal years to raze the storage building on the grounds of Kansas neurological institute which is commonly referred to as the old carpentry shop.

Sec. 17.

TOPEKA STATE HOSPITAL

(a) There is appropriated for the above agency from the following special revenue fund for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:

Topeka state hospital rental property rehabilitation and repair fund . . . \$151,646

Sec. 18.

WINFIELD STATE HOSPITAL AND TRAINING CENTER

(a) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement project specified as follows:

Juniper complex remodeling \$204,300

Sec. 19.

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

(a) There is appropriated for the above agency from the state institutions building fund for the fiscal year ending June 30, 1992, for the capital improvement projects specified as follows:

Institutional rehabilitation and repair projects \$5,416,340

Provided, That the secretary of social and rehabilitation services is hereby authorized to transfer moneys during fiscal year 1992 from this account to a rehabilitation and repair account for any institution, as defined by K.S.A. 76-12a01 or 76-12a18 and amendments thereto, for the purpose of remodeling, maintenance, emergency repair, roof repair, or equipment replacement or acquisition.

Other rehabilitation and repair projects 283,660

Provided, That expenditures may be made from this account during fiscal year 1992 for the purposes of remodeling, maintenance, emergency repair, roof repair, or equipment replacement or acquisition for facilities of the department of social and rehabilitation services other than any institution, as defined by K.S.A. 76-12a01 or 76-12a18 and amendments thereto.

Total \$5,700,000

(b) There is appropriated for the above agency from the Wichita office building fund for the fiscal year ending June 30, 1991, for the capital improvement projects specified as follows:

Renovate Wichita office building elevators \$42,516
General repair and rehabilitation 75,000

Total \$117,516

(c) There is appropriated for the above agency from the following special revenue fund for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such fund, except that expenditures shall not exceed the following:

Chanute area office rehabilitation and repair fund \$75,148

(d) On July 1, 1991, any unencumbered balance as of June 30, 1991, in each of the following accounts of the state institutions building fund is hereby lapsed: Energy management — Kansas vocational rehabilitation center; repair floor settlement — Kansas industries for the blind — Kansas City.

Sec. 20. On the effective date of this act, section 27 of chapter 23 of the 1990 Session Laws of Kansas is hereby amended to read as follows: Sec. 27.

KANSAS STATE PENITENTIARY
LANSING CORRECTIONAL FACILITY

(a) The above agency is hereby authorized to initiate and complete a capital improvement project to plan and construct a steam generating plant, subject to the restrictions and limitations imposed by this section.

(b) There is appropriated for the above agency from the correctional institutions building fund for the capital improvement project and for the fiscal years specified as follows:

Plan and construct steam generating plant
For the fiscal year ending June 30, 1990 \$430,900
For the fiscal year ending June 30, 1992 3,271,000 3,000,000
For the fiscal year ending June 30, 1993 271,000

Sec. 21. Appeals to exceed limitations. Upon written application to the governor and approval of the state finance council, expend-

itures from special revenue funds may exceed the amounts specified in this act.

Sec. 22. Savings. Any unencumbered balance in any special revenue fund, or account thereof, which is not otherwise specifically appropriated or limited by this or other appropriation act of the 1991 regular session of the legislature, is hereby reappropriated for the fiscal year ending June 30, 1992, for the same use and purpose as the same was heretofore appropriated.

Sec. 23. Any correctional institutions building fund appropriation heretofore appropriated to any state agency named in this or other appropriation act of the 1991 regular session of the legislature, and having an unencumbered balance as of June 30, 1991, in excess of \$100 is hereby reappropriated for the fiscal year ending June 30, 1992, for the same uses and purposes as originally appropriated unless specific provision is made for lapsing such appropriation.

Sec. 24. Any state institutions building fund appropriation heretofore appropriated to any state agency named in this or other appropriation act of the 1991 regular session of the legislature, and having an unencumbered balance as of June 30, 1991, in excess of \$100 is hereby reappropriated for the fiscal year ending June 30, 1992, for the same uses and purposes as originally appropriated unless specific provision is made for lapsing such appropriation.

Sec. 25. On the effective date of this act, section 27 of chapter 23 of the 1990 Session Laws of Kansas is hereby repealed.

Sec. 26. On July 1, 1991, section 4 of chapter 28 of the 1990 Session Laws of Kansas is hereby repealed.

Sec. 27. Effective date. This act shall take effect and be in force from and after its publication in the Kansas register.

State of Kansas

Office of the Governor

Message to the Senate of the State of Kansas:

Pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I hereby return Senate Bill 112 with my signature approving the bill, except for the items enumerated below.

Sections 4(d) through Section 4(h) that read as follows have been line-item vetoed:

“(d) There is appropriated for the above agency from the following special revenue funds for the fiscal year ending June 30, 1992, all moneys now or hereafter lawfully credited to and available in such funds, except that expenditures shall not exceed the following:

Water plan special revenue fund \$1,375,000

Provided, That expenditures may be made from this fund for the following capital improvement projects, subject to the expenditure limitations prescribed therefor:

Renovate Cheyenne Bottoms \$1,000,000
Hillsdale state park development 375,000

Provided further, That expenditures may be made for fiscal year 1992 from the following capital improvement accounts of this fund: Hillsdale state park development; renovate Cheyenne Bottoms: Provided, however, That expenditures from each such account shall not exceed the amount of the unencumbered balance in such account on June 30, 1991: And provided further, That all expenditures from such accounts shall be in addition to any expenditure limitation imposed on this fund for fiscal year 1992.

Economic development initiatives grant fund 715,000

Provided, That expenditures may be made from this fund for the following capital improvement projects, subject to the expenditure limitations prescribed therefor:

Hillsdale state park development	\$625,000
Prairie Center acquisition	90,000

Provided further, That expenditures may be made for fiscal year 1992 from the following capital improvement accounts of this fund: Hillsdale state park development; economic development initiatives grants fund: *Provided, however*, That expenditures from each such account shall not exceed the amount of the unencumbered balance in such account on June 30, 1991: *And provided further*, That all expenditures from such accounts shall be in addition to any expenditure limitation imposed on this fund for fiscal year 1992.

(e) On July 15, 1991, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$1,375,000 from the state water plan fund of the Kansas water office to the water plan special revenue fund of the department of wildlife and parks.

(f) On July 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$100,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(g) On August 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$365,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks.

(h) On September 15, 1991, or as soon thereafter as moneys are available, the director of accounts and reports shall transfer \$250,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the economic development initiatives grant fund of the department of wildlife and parks."

Section 7 is vetoed in its entirety.

I find it necessary to veto the above EDIF appropriations for the Department of Wildlife and Parks and the State Historical Society. The projects funded through the EDIF may have merit as programs but appear to have no potential for enhancing economic development in Kansas.

I veto the items financed from the State Water Plan Fund, because the Legislature is overspending my budget recommendations. My recommendation reduces transfers to the fund by \$5.0 million, \$3.0 million from the State General Fund and \$2.0 million from the EDIF, as a result of budgetary constraints. Legislative

actions that increase Water Plan Fund spending place unacceptable demands on scarce state resources.

In addition, one of the projects exceeds my recommendations. I recommend \$500,000 for Cheyenne Bottoms, instead of \$1.0 million.

I recommend that the Legislature consider funding these capital projects consistent with my budget submission.

Dated April 25, 1991.

Joan Finney
Governor of Kansas

State of Kansas

House of Representatives

Certificate

In accordance with K.S.A. 45-308, it is certified that, SB 112,

AN ACT making and concerning appropriations for the fiscal years ending June 30, 1991, June 30, 1992, and June 30, 1993, for certain capital improvement projects for the state board of agriculture, state fair board, department of wildlife and parks, Kansas state school for the visually handicapped, Kansas state school for the deaf, state historical society, department of corrections, Lansing correctional facility, Hutchinson correctional facility, Ellsworth correctional facility, Winfield correctional facility, Norton correctional facility, Topeka correctional facility, Kansas neurological institute, Topeka state hospital, Winfield state hospital and training center and department of social and rehabilitation services; authorizing the initiation and completion of certain capital improvement projects; imposing certain requirements, restrictions and limitations and directing or authorizing certain disbursements and acts incidental to the foregoing; amending section 27 of chapter 23 and section 4 of chapter 28 of the 1990 Session Laws of Kansas and repealing the existing sections.

was approved by the Governor except for certain line items including the following items:

Sections 4(d) and 4(e) which read as follows have been line item vetoed:

Water plan special revenue fund \$1,375,000

Provided, That expenditures may be made from this fund for the following capital improvement projects, subject to the expenditure limitations prescribed therefor:

Renovate Cheyenne Bottoms \$1,000,000

Provided further, That expenditures may be made for fiscal year 1992 from the following capital improvement accounts of this fund: Hillsdale state park development; renovate Cheyenne Bottoms: *Provided, however*, That expenditures from each such account shall not exceed the amount of the unencumbered balance in such account on June 30, 1991: *And provided further*, That all expenditures from such accounts shall be in addition to any expenditure limitation imposed on this fund for fiscal year 1992.

(e) On July 15, 1991, or as soon thereafter as moneys are available therefor, the director of accounts and reports shall transfer \$1,375,000 from the state water plan fund of the Kansas water office to the water plan special revenue fund of the department of wildlife and parks.

of SB 112, was not approved by the Governor on April 25, 1991; was returned by her with her objections and approved on April 27, 1991, by two-thirds of the members elected to the Senate notwithstanding the objections of the governor; was reconsidered by the House of Representatives and was approved on May 1, 1991, by two-thirds of the members elected to the House, notwithstanding the objections, the line items did pass and shall become law.

(continued)

This certificate is made this 3rd day of May 1991 by the Chief Clerk and Speaker of the House of Representatives and the President and Secretary of the Senate.

Janet E. Jones
Chief Clerk of the House of Representatives

Marvin Wm. Barkis
Speaker of the House of Representatives

Pat Saville
Secretary of the Senate

Paul E. Burke, Jr.
President of the Senate

State of Kansas

Secretary of State

Permanent Administrative Regulations

Article 30.—SESSION LAWS

7-30-1. Session Laws. The price for the bound Session Laws of Kansas shall be \$17.00. (Authorized by and implementing K.S.A. 1990 Supp. 45-107; effective May 1, 1982; amended May 1, 1987; amended July 1, 1991.)

Article 32.—LAW BOOKS

7-32-1. Delivery fees. The fees for delivery of law books, including shipping and handling, shall be as follows:

- (a) Kansas Statutes Annotated, complete set..... \$10.00
(b) Kansas Statutes Annotated, per hard-bound volume..... \$ 3.50
(c) Supplements to the Kansas Statutes Annotated complete set or per supplement \$ 3.00
(d) Session Laws of Kansas..... \$ 3.00
(e) Permanent Journal of the House or Senate, per volume \$ 3.00
(f) Kansas Administrative Regulations, complete set \$ 3.00
(g) Kansas Administrative Regulations, per volume or supplement..... \$ 3.00

(Authorized by and implementing K.S.A. 1990 Supp. 75-436; effective May 1, 1984, amended July 1, 1991.)

7-32-2. Kansas Administrative Regulations. The prices for volumes of the Kansas Administrative Regulations shall be as follows:

- (a) Complete Set (Vols. 1-4) \$72.00
(b) Per volume..... \$18.00
(c) Index-Supplement..... \$18.00

This regulation will be effective on and after July 1, 1991. (Authorized by and implementing K.S.A. 1990 Supp. 77-430; effective July 1, 1991.)

Bill Graves
Secretary of State

Doc. No. 010649

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the Kansas Register issue in which more information can be found. This cumulative index supplements the index found in the 1990 Index Supplement to the Kansas Administrative Regulations.

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Table with 3 columns: Reg. No., Action, Register. Lists regulations 1-5-30 through 1-18-1a.

AGENCY 4: BOARD OF AGRICULTURE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-4-900 through 4-4-924.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-4-931 through 4-7-1000.

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AGENCY 9: ANIMAL HEALTH DEPARTMENT

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47-16-1	through	
47-16-8	Amended	Vol. 9, p. 1897-1899

AGENCY 49: DEPARTMENT OF HUMAN RESOURCES

Reg. No.	Action	Register
49-49-1	Amended	V. 9, p. 706

AGENCY 50: DEPARTMENT OF HUMAN RESOURCES—

DIVISION OF EMPLOYMENT

Reg. No.	Action	Register
50-2-21	Amended	V. 9, p. 704

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-8-101	Amended	V. 10, p. 496
60-11-103	Amended	V. 10, p. 382
60-11-104a	Amended	V. 9, p. 406
60-11-108	Amended	V. 9, p. 988
60-13-101	Amended	V. 10, p. 496

AGENCY 63: BOARD OF MORTUARY ARTS

Reg. No.	Action	Register
63-1-3	Amended	V. 9, p. 170
63-1-4	Amended	V. 9, p. 170

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-10-9	Amended	V. 9, p. 257

AGENCY 67: BOARD OF HEARING AID EXAMINERS

Reg. No.	Action	Register
67-5-3	Amended	V. 9, p. 625
67-5-4	Amended	V. 9, p. 625

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-1-1b	Amended	V. 9, p. 383
68-2-12a	Amended	V. 9, p. 383
68-9-1	Amended	V. 9, p. 384
68-11-1	Amended	V. 10, p. 216
68-20-20	Amended	V. 9, p. 384

AGENCY 70: BOARD OF VETERINARY MEDICAL EXAMINERS

Reg. No.	Action	Register
70-32-2	Amended	V. 10, p. 9

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-5-202	Amended	V. 9, p. 1707
74-5-203	Amended	V. 9, p. 1707
74-5-406	Amended	V. 9, p. 1282
74-13-1	New	V. 9, p. 232
74-13-2	New	V. 9, p. 232

AGENCY 75: CONSUMER CREDIT COMMISSIONER

Reg. No.	Action	Register
75-6-11	Amended	V. 9, p. 988
75-6-24	Amended	V. 9, p. 893

75-6-26 Amended V. 9, p. 625

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-2-1	Amended	V. 10, p. 172
81-3-2	Amended	V. 9, p. 83
81-4-2	New	V. 10, p. 172
81-5-6	Amended	V. 9, p. 83
81-6-1	Amended	V. 10, p. 173

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-201	Amended	V. 9, p. 894
82-1-202	Amended	V. 9, p. 895
82-1-204	Amended	V. 9, p. 895
82-1-205	Amended	V. 9, p. 896
82-1-206	Amended	V. 9, p. 896
82-1-207	Amended	V. 9, p. 896
82-3-100	Amended	V. 9, p. 329
82-3-101	Amended	V. 9, p. 332
82-3-103	Amended	V. 9, p. 332
82-3-103a	Amended	V. 9, p. 332
82-3-106	Amended	V. 9, p. 333
82-3-107	Amended	V. 9, p. 334
82-3-108	Amended	V. 9, p. 334
82-3-109	Amended	V. 9, p. 335
82-3-110	Amended	V. 9, p. 336
82-3-111	Amended	V. 9, p. 336
82-3-113	Amended	V. 9, p. 336
82-3-117	Amended	V. 9, p. 336
82-3-122	Amended	V. 9, p. 337
82-3-123	Amended	V. 9, p. 337
82-3-123a	Amended	V. 9, p. 337
82-3-124	Amended	V. 9, p. 338
82-3-126	Amended	V. 9, p. 338
82-3-128	through	
82-3-131	Amended	V. 9, p. 339
82-3-133	Amended	V. 9, p. 339
82-3-134	Revoked	V. 9, p. 339
82-3-135	Amended	V. 9, p. 339
82-3-135a	New	V. 9, p. 340
82-3-135b	New	V. 9, p. 340
82-3-138	Amended	V. 9, p. 341
82-3-139	Revoked	V. 9, p. 341
82-3-140	Amended	V. 9, p. 341
82-3-141	Amended	V. 9, p. 341
82-3-142	Revoked	V. 9, p. 342
82-3-143	Revoked	V. 9, p. 342
82-3-201	Amended	V. 9, p. 342
82-3-203	Amended	V. 9, p. 342
82-3-205	Revoked	V. 9, p. 342
82-3-206	Amended	V. 9, p. 342
82-3-208	Amended	V. 9, p. 342
82-3-209	Amended	V. 9, p. 343
82-3-300	Amended	V. 9, p. 343
82-3-300a	New	V. 9, p. 344
82-3-303	Amended	V. 9, p. 344
82-3-304	Amended	V. 9, p. 344
82-3-306	Amended	V. 9, p. 346
82-3-307	Amended	V. 9, p. 346
82-3-311	Amended	V. 9, p. 346
82-3-312	Amended	V. 9, p. 347
82-3-400	Amended	V. 9, p. 347
82-3-401	Amended	V. 9, p. 349
82-3-403	Amended	V. 9, p. 349
82-3-404	through	
82-3-408	Amended	V. 9, p. 349-351
82-3-410	Amended	V. 9, p. 352
82-3-600a	New	V. 9, p. 352
82-3-603	Amended	V. 9, p. 352
82-3-604	New	V. 9, p. 352
82-3-606	New	V. 9, p. 352
82-4-1	Amended	V. 9, p. 381
82-4-3	Amended	V. 9, p. 381
82-4-8a	Amended	V. 9, p. 382
82-4-20	Amended	V. 9, p. 382
82-4-38	Amended	V. 9, p. 383
82-8-100	Amended	V. 9, p. 894
82-8-101	Amended	V. 9, p. 894
82-8-108	New	V. 9, p. 894
82-9-1	Amended	V. 9, p. 1359
82-9-3	Amended	V. 9, p. 1360

82-9-5	Amended	V. 9, p. 1360
82-9-6	Amended	V. 9, p. 1360
82-9-8	Amended	V. 9, p. 1361
82-9-14	Amended	V. 9, p. 1361
82-9-16	Amended	V. 9, p. 1361
82-9-24	Amended	V. 9, p. 1362
82-11-3	Amended	V. 9, p. 298
82-11-4	Amended	V. 9, p. 298
82-11-10	New	V. 9, p. 302

AGENCY 84: PUBLIC EMPLOYEES RELATIONS BOARD

Reg. No.	Action	Register
84-1-1	Amended	V. 9, p. 943
84-1-2	Amended	V. 9, p. 943
84-1-3	New	V. 9, p. 943
84-1-4	New	V. 9, p. 943
84-2-1	through	
84-2-7	Amended	V. 9, p. 943-945
84-2-9	Amended	V. 9, p. 945
84-2-11	through	
84-2-15	Amended	V. 9, p. 945-947
84-3-1	through	
84-3-6	Amended	V. 9, p. 948
84-4-1	through	
84-4-5	Amended	V. 9, p. 948, 949
84-4-7	Amended	V. 9, p. 949
84-5-1	Amended	V. 9, p. 950

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-5	Amended	V. 10, p. 531
86-1-10	Amended	V. 9, p. 835

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-20-1	through	
88-20-11	New	V. 9, p. 165-167

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-27b	Amended	V. 9, p. 1099
91-1-27c	New	V. 9, p. 1099
91-1-32	Amended	V. 9, p. 1857
91-1-34	Amended	V. 9, p. 1817
91-1-58	Amended	V. 9, p. 1099
91-1-62	Revoked	V. 9, p. 1817
91-1-80	Amended	V. 9, p. 1100
91-1-82	Amended	V. 9, p. 1100
91-1-101	Revoked	V. 9, p. 1101
91-1-106a	through	
91-1-106m	New	V. 9, p. 1101-1103
91-1-110	Revoked	V. 9, p. 1103
91-1-123a	New	V. 9, p. 1103
91-1-128b	New	V. 9, p. 1857
91-1-132a	Amended	V. 9, p. 1103
91-1-153	New	V. 9, p. 1817
91-12-48	Amended	V. 9, p. 1674
91-12-63	Amended	V. 9, p. 1674
91-12-70	Revoked	V. 9, p. 1674

AGENCY 92: DEPARTMENT OF REVENUE

Reg. No.	Action	Register
92-23-40	Amended	V. 9, p. 1076
92-55-2a	Amended	V. 10, p. 531, 587

AGENCY 99: BOARD OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Reg. No.	Action	Register
99-26-1	Amended	V. 9, p. 1706, 1753
99-40-1	New	V. 9, p. 1753
99-40-3	New	V. 9, p. 1753

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-46-5	Amended	V. 9, p. 1841
100-47-1	Amended	V. 9, p. 1841
100-49-4	Amended	V. 9, p. 108
100-49-4	Amended	V. 9, p. 257

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-13	Amended	V. 9, p. 1789, 1810
102-2-1a	Amended	V. 10, p. 32
102-2-2a	Amended	V. 10, p. 33
102-2-3	Amended	V. 9, p. 1789, 1810
102-2-4a	Amended	V. 10, p. 34
102-2-7	Amended	V. 10, p. 34
102-2-8	Amended	V. 10, p. 36
102-2-12	Amended	V. 10, p. 36
102-3-1	New	V. 10, p. 37
102-3-2	Amended	V. 9, p. 1790, 1811
102-3-3	New	V. 10, p. 37
102-3-4	New	V. 10, p. 38
102-3-5	New	V. 10, p. 38
102-3-6	New	V. 10, p. 39
102-3-10	New	V. 10, p. 40
102-3-11	New	V. 10, p. 41
102-4-2	Amended	V. 9, p. 1790, 1811
102-4-4	Amended	V. 10, p. 41
102-4-10	New	V. 9, p. 1024

AGENCY 109: EMERGENCY MEDICAL SERVICES BOARD

Reg. No.	Action	Register
109-2-5	Amended	V. 9, p. 1076
109-2-7	Amended	V. 9, p. 1077
109-8-1	Amended	V. 9, p. 1077
109-9-1	Amended	V. 9, p. 1077
109-10-1	Amended	V. 9, p. 1078
109-12-1	Amended	V. 9, p. 1078

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-40-1	through	
110-40-8	New	V. 9, p. 1282-1284

AGENCY 111: THE KANSAS LOTTERY

Reg. No.	Action	Register
111-1-2	Amended	V. 7, p. 1190
111-1-5	Amended	V. 8, p. 586
111-2-1	Amended	V. 7, p. 1995
111-2-2	Amended	V. 9, p. 1675
111-2-2a	Revoked	V. 9, p. 1675
111-2-6	New	V. 8, p. 134
111-2-7	Amended	V. 8, p. 586
111-2-13	New	V. 8, p. 1666
111-2-14	New	V. 9, p. 30
111-2-15	New	V. 9, p. 1812
111-2-16	New	V. 10, p. 199
111-2-17	New	V. 10, p. 529
111-3-1	Amended	V. 10, p. 11
111-3-9	Amended	V. 8, p. 1085
111-3-10	through	
111-3-31	New	V. 7, p. 201-206
111-3-11	Amended	V. 8, p. 299
111-3-12	Amended	V. 10, p. 12
111-3-13	Amended	V. 7, p. 1062
111-3-14	Amended	V. 10, p. 12
111-3-16	Amended	V. 9, p. 1566
111-3-19	through	
111-3-22	Amended	V. 9, p. 30
111-3-20	Amended	V. 8, p. 1085
111-3-21	Amended	V. 7, p. 1606
111-3-22	Amended	V. 8, p. 1085
111-3-25	New	V. 7, p. 1310
111-3-27	New	V. 7, p. 1310
111-3-31	Amended	V. 8, p. 209
111-3-32	New	V. 7, p. 931
111-3-33	New	V. 7, p. 1434
111-4-1	Amended	V. 8, p. 134
111-4-2	Amended	V. 7, p. 1063
111-4-4	Amended	V. 7, p. 1063
111-4-6	Amended	V. 7, p. 1434
111-4-7	Amended	V. 7, p. 1945
111-4-8	Amended	V. 7, p. 1064
111-4-12	Amended	V. 7, p. 1190
111-4-66	through	
111-4-77	New	V. 7, p. 207-209

(continued)

111-4-96		
through		
111-4-114	New	V. 7, p. 1606-1610
111-4-100	Amended	V. 9, p. 1364
111-4-101	Amended	V. 9, p. 1364
111-4-102	Amended	V. 9, p. 1364
111-4-104	Amended	V. 9, p. 1364
111-4-105	Amended	V. 9, p. 1365
111-4-106	Amended	V. 9, p. 1365
111-4-106a	New	V. 9, p. 1365
111-4-107	Amended	V. 9, p. 1366
111-4-108	Amended	V. 9, p. 1366
111-4-111	Amended	V. 9, p. 1366
111-4-113	Amended	V. 9, p. 1366
111-4-114	Amended	V. 9, p. 1366
111-4-153		
through		
111-4-160	Revoked	V. 9, p. 1676, 1677
111-4-177		
through		
111-4-212	Revoked	V. 9, p. 1677, 1678
111-4-213		
through		
111-4-220	New	V. 9, p. 728, 729
111-4-217	Amended	V. 9, p. 986
111-4-221		
through		
111-4-224	New	V. 9, p. 1197
111-4-225		
through		
111-4-228	New	V. 9, p. 1366, 1367
111-4-229		
through		
111-4-236	New	V. 9, p. 1566-1568
111-4-237		
through		
111-4-240	New	V. 9, p. 1678, 1679
111-4-241		
through		
111-4-244	New	V. 9, p. 1812
111-4-245		
through		
111-4-248	New	V. 10, p. 200
111-4-249		
through		
111-4-252	New	V. 9, p. 1813
111-4-253		
through		
111-4-256	New	V. 10, p. 530
111-5-1		
through		
111-5-23	New	V. 7, p. 209-213
111-5-9		
through		
111-5-15	Amended	V. 8, p. 210, 211
111-5-11	Amended	V. 9, p. 505
111-5-17	Amended	V. 8, p. 211
111-5-18	Amended	V. 10, p. 13
111-5-19	Amended	V. 8, p. 212
111-6-1		
through		
111-6-15	New	V. 7, p. 213-217
111-6-1	Amended	V. 10, p. 14
111-6-3	Amended	V. 9, p. 200
111-6-5	Amended	V. 10, p. 14
111-6-6	Amended	V. 9, p. 200
111-6-12	Amended	V. 8, p. 212
111-6-13	Amended	V. 8, p. 299
111-6-17	New	V. 7, p. 1191
111-7-1		
through		
111-7-10	New	V. 7, p. 1192, 1193
111-7-1	Amended	V. 8, p. 212
111-7-3	Amended	V. 9, p. 986
111-7-4	Amended	V. 9, p. 1367
111-7-5	Amended	V. 9, p. 986
111-7-6	Amended	V. 9, p. 987
111-7-9	Amended	V. 9, p. 1569
111-7-11	Amended	V. 9, p. 987
111-7-12		
through		
111-7-32	New	V. 7, p. 1194-1196
111-7-33		
through		
111-7-43	New	V. 7, p. 1197, 1198

111-7-33a	New	V. 8, p. 300
111-7-44		
through		
111-7-54	New	V. 9, p. 1367-1370
111-7-55		
through		
111-7-63	New	V. 10, p. 201, 202
111-7-58	Amended	V. 10, p. 261
111-7-60	Amended	V. 10, p. 262
111-8-1	New	V. 7, p. 1633
111-8-2	New	V. 7, p. 1633
111-8-3	Amended	V. 9, p. 505
111-8-4	New	V. 7, p. 1714
111-8-4a	New	V. 7, p. 1995
111-8-5		
through		
111-8-13	New	V. 7, p. 1634
111-9-1		
through		
111-9-12	New	V. 7, p. 1714-1716
111-9-1		
through		
111-9-6	Revoked	V. 9, p. 1680
111-9-13		
through		
111-9-18	Revoked	V. 9, p. 1680
111-9-25		
through		
111-9-30	New	V. 9, p. 699, 700
111-9-31		
through		
111-9-36	New	V. 10, p. 262
111-10-1		
through		
111-10-9	New	V. 8, p. 136-138
111-10-7	Amended	V. 8, p. 301

AGENCY 112: KANSAS RACING COMMISSION

Reg. No.	Action	Register
112-3-16	Amended	V. 9, p. 153
112-3-19	Amended	V. 9, p. 153
112-4-14b	New	V. 10, p. 162
112-4-21	New	V. 10, p. 162
112-5-1	Amended	V. 9, p. 153
112-5-2	Amended	V. 9, p. 154
112-5-3	Amended	V. 9, p. 154
112-5-8	Amended	V. 9, p. 155
112-5-9	Amended	V. 9, p. 155
112-6-1		
through		
112-6-5	Amended	V. 10, p. 163-165
112-6-6	Amended	V. 9, p. 155
112-6-8	Amended	V. 10, p. 165
112-7-6	Amended	V. 10, p. 165
112-8-3	Amended	V. 10, p. 166
112-8-4	Amended	V. 10, p. 167
112-8-5	Amended	V. 10, p. 167
112-8-8	Amended	V. 10, p. 168
112-8-10	Amended	V. 10, p. 168
112-9-5	Amended	V. 9, p. 155
112-9-7	Amended	V. 9, p. 156
112-9-8	Amended	V. 9, p. 156
112-9-11	Amended	V. 9, p. 156
112-9-13	Amended	V. 9, p. 156
112-9-18	Amended	V. 9, p. 157
112-9-21	Amended	V. 9, p. 157
112-9-22	Amended	V. 9, p. 158
112-9-23	Amended	V. 9, p. 159
112-9-29	Amended	V. 9, p. 159
112-9-34	Amended	V. 9, p. 159
112-9-37	Amended	V. 9, p. 159
112-10-4	Amended	V. 9, p. 160
112-10-34	Amended	V. 10, p. 169
112-10-35	Amended	V. 10, p. 170
112-11-2	Amended	V. 9, p. 160
112-11-3	Amended	V. 9, p. 161
112-11-6	Amended	V. 9, p. 161
112-11-7	Amended	V. 9, p. 161
112-11-9	Amended	V. 9, p. 161
112-11-10	Amended	V. 9, p. 161
112-11-12	Amended	V. 9, p. 162
112-11-14	Amended	V. 9, p. 162
112-11-15	Amended	V. 9, p. 162
112-11-20	Amended	V. 9, p. 162

112-11-21	Amended	V. 10, p. 263, 531
112-12-2	Amended	V. 9, p. 164
112-12-4	Amended	V. 9, p. 164
112-12-12	Amended	V. 10, p. 170
112-13-2	Amended	V. 10, p. 170
112-13-4	New	V. 10, p. 171
112-13-5	New	V. 10, p. 171
112-15-1		
through		
112-15-7	New	V. 9, p. 1074, 1075
112-15-1		
through		
112-15-7	New	V. 9, p. 1346, 1347

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 9, p. 1564
115-2-3	Amended	V. 9, p. 1815
115-2-4	New	V. 9, p. 951
115-4-1	Amended	V. 10, p. 458
115-4-3	Amended	V. 10, p. 458
115-4-5	Amended	V. 10, p. 459
115-4-6	New	V. 9, p. 388
115-4-7	Amended	V. 10, p. 460
115-4-9	New	V. 9, p. 1135
115-4-10	Amended	V. 9, p. 1135
115-4-11	Amended	V. 10, p. 461
115-4-12	New	V. 10, p. 461
115-5-1	New	V. 9, p. 167
115-5-2	New	V. 9, p. 168
115-6-1	New	V. 9, p. 168
115-7-3	New	V. 9, p. 1135
115-7-5	Amended	V. 9, p. 951
115-7-6	New	V. 9, p. 1135
115-8-2	New	V. 9, p. 391
115-8-9	New	V. 9, p. 169
115-8-21	New	V. 9, p. 169
115-10-1		
through		
115-10-8	New	V. 9, p. 391, 392
115-16-1		
through		
115-16-4	New	V. 9, p. 1135-1137
115-17-1		
through		
115-17-5	New	V. 9, p. 1137-1139
115-17-6		
through		
115-17-9	New	V. 9, p. 1564, 1565
115-17-10		
through		
115-17-13	New	V. 10, p. 461, 462
115-20-1	New	V. 9, p. 951
115-20-2	New	V. 9, p. 1139
115-20-3	New	V. 9, p. 1140
115-21-1	New	V. 9, p. 1815
115-21-2	New	V. 9, p. 1816
115-30-2		
through		
115-30-8	New	V. 9, p. 1344, 1345
115-30-9	New	V. 9, p. 1816

AGENCY 116: STATE FAIR BOARD

Reg. No.	Action	Register
116-2-1	Amended	V. 9, p. 1022

AGENCY 117: REAL ESTATE APPRAISAL BOARD

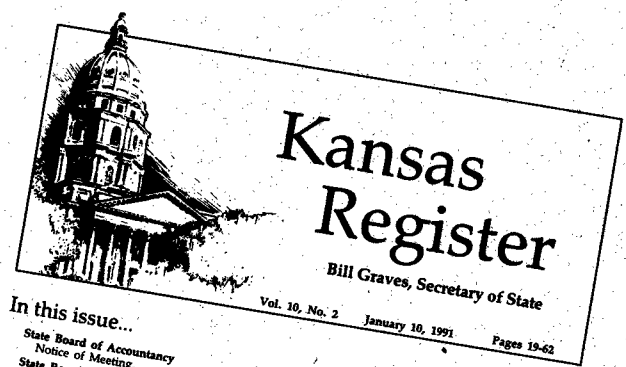
Reg. No.	Action	Register
117-1-1	New	V. 9, p. 1786
117-2-1	New	V. 9, p. 1786
117-2-2	New	V. 9, p. 1787
117-3-1	New	V. 9, p. 1787
117-3-2	New	V. 9, p. 1787
117-6-1	New	V. 9, p. 1788
117-6-2	New	V. 9, p. 1788
117-6-3	New	V. 9, p. 1788
117-7-1	New	V. 9, p. 1789

AGENCY 119: KANSAS DEVELOPMENT FINANCE AUTHORITY

Reg. No.	Action	Register
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119-1-2	New	V. 10, p. 264
119-1-3	New	V. 10, p. 264

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