

Kansas Register

Bill Graves, Secretary of State

Vol. 10, No. 22

May 30, 1991

Pages 777-820

In this issue . . .

	Page
Executive appointments.....	778
Kansas Advocacy and Protective Services, Inc. Notice of meeting.....	779
State Banking Board Notice of meeting.....	779
Social and Rehabilitation Services Public notice.....	779
Notice concerning low-income energy assistance block grant state plan.....	779
Requests for proposals.....	779, 780
Board of Adult Care Home Administrators Notice of meeting.....	780
Department of Health and Environment Notices concerning Kansas water pollution control permits.....	780, 781
Department of Wildlife and Parks Correction notice concerning permanent administrative regulation.....	782
Notice to bidders for state purchases.....	783
Northwest Kansas Groundwater Management District No. 4 Notice of meeting.....	784
Department of Transportation Notice to contractors.....	784
Kansas State University Notice to bidders.....	786
Attorney General Opinion No. 91-56.....	786
Department of Administration Request for proposals.....	786
Notice of Bond Redemption City of Dodge City.....	786
Shawnee County.....	787
Labette County.....	787
Wichita State University Notice to bidders.....	787
Notice of Bond Sale U.S.D. 327, Ellsworth County.....	788
U.S.D. 366, Woodson County.....	789
Hamilton County.....	789
New State Laws Senate Bill 403, creating the Kansas Commission on the Future of Health Care, Inc.	791
House Bill 2650, concerning school districts.....	792
Senate Bill 30, concerning worthless checks.....	792
House Bill 2624, concerning the University of Kansas Medical Center.....	794
Senate Bill 345, relating to motor vehicles.....	795
Senate Substitute for House Bill 2348, relating to railroads; establishing the rail service assistance program.....	809
Senate Bill 73, concerning mergers; relating to cooperative marketing.....	811
Index to administrative regulations.....	815

State of Kansas

Secretary of State

Executive Appointments

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

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

The following appointments were filed May 6-24:

Morris County Attorney

Jennifer Kassebaum, Route 1, Box 29A, Burdick 66838. Term expires when a successor is elected and qualifies according to law. Succeeds Michael Powers, resigned.

Pawnee County Clerk

Ruth Searight, 913 Starks Drive, Larned 67550. Term expires when a successor is elected and qualifies according to law. Succeeds Connie Ratliff, resigned.

Board of Accountancy

J. H. Hay, P.O. Box 2707, Liberal 67901. Term expires July 31, 1993. Succeeds Richard A. Oler.

Secretary of Administration

James R. Cobler, 4401 N.W. Green Hills Place, Topeka 66618. Subject to Senate confirmation. Serves at the pleasure of the Governor.

Kansas All-Sports Hall of Fame
Board of Trustees

Patricia D. Dick, 3371 S.W. Osborn, Topeka 66614. Term expires April 30, 1995. Succeeds Wilfred "Willy" Nicklin.

Rep. Bill Wisdom, 1915 S. 29th Ct., Kansas City 66106. Term expires April 30, 1995. Reappointment.

Citizens' Utility Ratepayer Board

Dr. Stacy Ollar, Jr., 5421 Queal Drive, Shawnee 66203. Term expires June 30, 1995. Reappointment.

Civil Service Board

Joseph Myer, 3426 S.E. Peck, Topeka 66605. Subject to Senate confirmation. Term expires January 31, 1995. Succeeds Donald Cowan.

State Board of Indigents' Defense Services

Rosella Watson, P.O. Box 188, Independence 67301. Term expires July 31, 1993. Succeeds Stanley Wethington, resigned.

Washburn University Board of Regents

Francine Hines, 5623 S.W. Hawick Lane, Topeka 66614. Effective July 1, 1991. Term expires June 30, 1995. Succeeds Warren W. Shaw.

Kansas Wheat Commission

Joe Warren, Route 1, Maple City 67102. Effective July 1, 1991. Term expires June 30, 1995. Succeeds John Junior Armstrong.

Bill Graves
Secretary of State

The Kansas Register (ISSN No. 0744-2254) is an official publication of the State of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly by the Kansas Secretary of State, State Capitol, Topeka, KS 66612-1594. One-year subscriptions are \$60 (Kansas residents must include \$3.15 state and local sales tax). Single copies may be purchased, if available, for \$2 each. Second class postage paid at Topeka, KS.

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

© Kansas Secretary of State 1991. Reproduction of this publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

PUBLISHED BY
Bill Graves
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236



Register Office:
235-N, State Capitol
(913) 296-3489

State of Kansas

Kansas Advocacy and Protective Services, Inc.

Notice of Meeting

The Kansas Advocacy and Protective Services will conduct its governing board meeting at 7 p.m. Monday, June 3, at the City Centre Holiday Inn, 914 S.E. Madison, Topeka. For more information, call (913) 776-1541.

Joan Strickler
Executive Director

Doc. No. 010685

State of Kansas

Social and Rehabilitation Services

Public Notice

Changes in payment methods and standards for setting Medicaid nursing facilities' payment rates for services include the following effective July 1, 1991: A central office cost upper payment limit will be established at the 60th percentile of the nursing facilities reporting central office costs. The central office limit will be within the overall administrative cost center limit. Any excess central office costs that are over the limit and disallowed will be added back to the administrative costs when determining the incentive factor allowance.

The incentive factor formula will be revised. The factor is designed to provide additional reimbursement to providers who keep their administrative and plant operating costs lower. The current six per diem ranges for determining the incentive factors will be reduced down to four ranges and will provide the factors to the most efficiently operated facilities.

The expected estimated total annual aggregate decrease in expenditures is \$936,000.

The agency is changing its methods and standards in accordance with Senate Bill 162, which requested SRS to place a control on central office costs while still providing a reasonable and adequate reimbursement and to revise the incentive factor to reward the most economic and efficient providers.

Copies of the proposed changes will be made available in the local and area SRS offices. Comments may be sent and reviewed by the public at the offices of the Administrative Services Commission, Nursing Facility Reimbursement, 6th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka 66612-1570.

A public hearing will be conducted at 9 a.m. Tuesday, June 4, at the SRS Staff Development Center, State Complex West, 300 S.W. Oakley, Topeka, to consider the adoption of the proposed changes in the payment methodology for nursing facilities.

Robert C. Harder
Acting Secretary of Social and Rehabilitation Services

Doc. No. 010693

State of Kansas

State Banking Board

Notice of Meeting

The State Banking Board will meet at 9:30 a.m. Monday, June 17, in the conference room of the State Banking Department, Suite 300, 700 S.W. Jackson, Topeka. The board reviews matters relating to its supervisory authority set forth in K.S.A. 9-1801 *et seq.*

Frank D. Dunnick
State Bank Commissioner

Doc. No. 010691

State of Kansas

Social and Rehabilitation Services

Notice Concerning 1992 Low-Income Home Energy Assistance Block Grant State Plan

The public is invited to comment on the 1992 Low-Income Home Energy Assistance Block Grant state plan. A summary of the plan is available from SRS area directors or from the SRS Division of Income Maintenance, Room 624-S, Docking State Office Building, Topeka 66612.

A teleconference hearing for public input will be broadcast June 4 to the following SRS offices: Chanute, Emporia, Garden City, Hays, Hutchinson, Kansas City, Lawrence, Manhattan, Olathe, Salina, Topeka, and Wichita. Written comments received by July 3 will also be considered and should be mailed to the address above.

Robert C. Harder
Acting Secretary of Social and Rehabilitation Services

Doc. No. 010681

State of Kansas

Social and Rehabilitation Services

Request for Proposals

The Department of Social and Rehabilitation Services is soliciting grant proposals from private or public agencies for the development and distribution of brochures concerning child abuse and neglect and sexual abuse. The proposal must provide information which is current, relevant and accurate regarding the problem of child abuse and neglect and sexual abuse in Kansas.

Information on the definition and identification of child maltreatment and appropriate reporting procedures are to be provided to the general public and to identified persons who are required by Kansas statutes to report.

Details of the Request for Proposals are available from the Grants Manager, SRS Youth and Adult Services, Smith-Wilson Building, 300 S.W. Oakley, Topeka 66606, (913) 296-2017. Responses to the request are due no later than 5 p.m. June 14.

Carolyn Risley Hill
Acting Commissioner
Youth and Adult Services

Doc. No. 010680

State of Kansas

Board of Adult Care Home Administrators

Notice of Meeting

The Board of Adult Care Home Administrators will meet at 9:30 a.m. Friday, June 7, in Room 108 of the Landon State Office Building, 900 S.W. Jackson, Topeka.

Cathy Rooney, Director Health Occupations Credentialing

Doc. No. 010678

State of Kansas

Social and Rehabilitation Services

Request for Proposals

The Department of Social and Rehabilitation Services is soliciting grant proposals from private or public agencies for the development of a response to the problem of sexual child abuse in families by improving prosecution of alleged offenders of such abuse. The proposal must provide for the development of innovative approaches to the prosecution of intrafamilial sexual offenders which incorporate protection of family members and reduction of trauma to the child victim. To the degree possible, the proposal should address strengthening such families where it is feasible and desirable to do so.

Details of the Request for Proposals are available from the Grants Manager, SRS Youth and Adult Services, Smith-Wilson Building, 300 S.W. Oakley, Topeka 66606, (913) 296-4645. Responses to the request are due no later than 5 p.m. June 14.

Carolyn Risley Hill Acting Commissioner Youth and Adult Services

Doc. No. 010679

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

City of Edna c/o City Clerk City Hall Edna, KS 67342 Labette County, Kansas

Waterway Deer Creek

Type of Discharge

Secondary wastewater treatment facility

Kansas Permit No: M-VE12-0001

Fed. Permit No. KS-0024759

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

Blue River M.S.D. No. 1 c/o Johnson County Unified Wastewater Offices

Waterway Missouri River via Big Blue River via Negro Creek

Type of Discharge

Secondary wastewater treatment facility

10881 Lowell, Suite 100 Overland Park, KS 66210 Johnson County, Kansas

Kansas Permit No: M-MO26-DI05

Fed. Permit No. KS-0079910

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 water quality limited.

Name and Address of Applicant

City of Spring Hill c/o City Hall 100 W. Nichols Spring Hill, KS 66083 Miami County, Kansas

Waterway Sweetwater Creek

Type of Discharge

Secondary wastewater treatment facility

Kansas Permit No: M-MC45-0003

Fed. Permit No. KS-0087441

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 water quality limited.

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 28 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-91-103/105) 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. 010697

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permit

In accordance with state regulations 28-16-57 through 28-16-63 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, a tentative permit has been prepared for discharges to the waters of the United States and the state of Kansas for the applicant 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
Hendrix Acres c/o Thousand Adventures, Inc. P.O. Box 301 Blair, NE 68008	Non-discharge	Non-discharge

Jefferson County, Kansas

Kansas Permit No: C-KS58-N005

Description of Facility: This is a two-cell wastewater treatment lagoon receiving domestic waste only.

Written comments on the proposed permit 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 28 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-NG-91-4) and name of applicant as listed when preparing comments.

If no objections are received, the Secretary of Health and Environment will issue the final determinations. If response to this notice indicates significant public interest, a public hearing may be held in conformance with state regulation 28-16-61. 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. 010696

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permit

In accordance with state regulations 28-16-57 through 63 and 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, 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
William A. Stich Route 4, Box 103 Chanute, KS 66720	SW/4 Section 16, Township 28S, Range 19E, Neosho County, Kansas	Neosho River Basin

Kansas Permit No: A-NENO-S002

The existing facility has capacity for approximately 500 swine. Wastewater Control Facilities: Wastewater will be impounded for subsequent disposal upon agricultural land. Storage capabilities will provide in excess of minimum requirements.

Written comments on the proposed permit may be submitted to Angela Buie, Bureau of Water, Industrial Programs Section, Kansas Department of Health and Environment, Forbes Field, Topeka 66620-0001. All comments received prior to June 29 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate application number (KS-AG-91-33) 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. 010699

State of Kansas

Department of Wildlife and Parks

Correction Notice Concerning
Permanent Administrative Regulation

A mistake was made in the previous publication of K.A.R. 115-4-5. An amendment made by the Wildlife and Parks Commission at the March 7, 1991, meeting was not included in the regulation when later published in the Kansas Register. The regulation appearing below reflects the regulation as amended and passed by the commission.

115-4-5. Deer; legal equipment, taking methods, and general provisions. (a) Hunting equipment for the taking of deer during an archery deer season shall consist of:

- (1) bows and arrows;
 - (A) each bow shall not be less than 45 pounds pull up to or at full draw;
 - (B) each bow shall be hand-drawn;
 - (C) each bow shall have no mechanical device that locks the bow at full or partial draw;
 - (D) each bow shall be designed to shoot only one arrow at a time;
 - (E) each bow shall have no more than 65% let-off;
 - (F) each bow shall have no electronic or chemical devices attached to the bow or arrow with the exception of lighted pin sights attached to the front of the bow; and
 - (G) each arrow used for hunting shall be equipped with a non-barbed broadhead point with all metal cutting edges.
 - (2) crossbows as authorized under K.A.R. 115-18-7.
 - (b) Hunting equipment for the taking of deer during a firearm deer season shall consist of:
 - (1) equipment as authorized in subsection (a);
 - (2) centerfire rifles that fire a bullet greater than .23 inches in diameter;
 - (3) muzzleloading rifles and muskets that fire a bullet of .39 inches in diameter or larger and that can only be loaded through the front of the firing chamber with separate components;
 - (4) shotguns, 20 gauge or larger, using only slugs;
 - (5) centerfire handguns that fire a bullet greater than .23 inches in diameter and use a cartridge case 1.280 inches or more in length;
 - (6) only soft point, hollow point or other expanding bullets shall be used with centerfire rifles or centerfire handguns; and
 - (7) only centerfire rifles and centerfire handguns that are not fully automatic shall be used.
 - (c) Hunting equipment for the taking of deer during a muzzleloader-only firearm season shall be single barrel, muzzleloading rifles and muskets with iron or peep sights and which fire a bullet of .39 inches in diameter or larger and can only be loaded through the front of the firing chamber with separate components.
 - (d) Non-electronic calls, lures and decoys, except live decoys, shall be legal.
 - (e) Blinds and stands may be used while hunting deer.
 - (f) General provisions:

(1) removal of the game tag from the permit shall invalidate the permit for hunting. Each permittee shall sign and date the game tag and attach the tag to the carcass immediately following the kill and before moving the carcass from the site of the kill;

(2) any legally acquired deer meat may be given to and possessed by another, if a written notice that includes the donor's name, address and permit number accompanies the meat;

(3) each permittee receiving an informational card shall report the results of the hunt no later than 48 hours after the close of the season;

(4) each archery-only deer permittee shall not have a firearm in possession while hunting deer;

(5) each muzzleloader-only deer permittee shall not have a rimfire or centerfire firearm in possession while hunting deer;

(6) a permit or game tag shall not be transferable;

(7) a permit or game tag refund shall be granted only if the permittee dies prior to the opening date of the season for which the permit or game tag was issued;

(8) in addition to other penalties prescribed by law, each permit or game tag obtained by an individual through false representation, misrepresentation, or in excess of the number of permits or game tags authorized by rules and regulation shall be invalid from the date of issuance;

(9) each applicant shall not submit more than one application for a deer permit, or apply for or obtain both an archery deer permit and a firearm deer permit in the same calendar year, except:

(A) any individual may apply for any permit or game tag remaining after the drawing for limited permits or game tags has been conducted;

(B) and any individual may apply for a unit archery permit; and

(C) any individual may apply for special season permits and game tags;

(10) only deer permit holders shall be eligible to apply for deer game tags;

(11) in awarding firearm deer permits, the first priority shall be those applicants who did not receive a firearm deer permit the previous year;

(12) the second priority shall be all other applicants; and

(13) landowner-tenants receiving a permit to hunt deer on their own land or permittees receiving a firearm "antlerless only" permit or a deer game tag during the previous regular firearm season or permittees receiving a firearm deer permit or deer game tag for a special deer season shall be considered as not having a firearm deer permit during the previous year. (Authorized by K.S.A. 1990 Supp. 32-807 and K.S.A. 1990 Supp. 32-937; implementing K.S.A. 1990 Supp. 32-807, K.S.A. 1990 Supp. 32-937 and K.S.A. 1990 Supp. 32-1002; effective April 30, 1990; amended May 27, 1991.)

Jack Lacey

Acting Secretary of Wildlife
and Parks

Doc. No. 010682

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

Tuesday, June 11, 1991

A-6375

Department of Human Resources—Replace rooftop units, Wichita

A-6389

Department of Human Resources—Replace HVAC equipment, Arkansas City

A-6557

Department of Human Resources—Heating and A/C equipment replacement

27557

Kansas State University—July (1991) meat products

28502

University of Kansas Medical Center—Miscellaneous groceries

88519

Department of Corrections—Kitchen equipment, Larned

Wednesday, June 12, 1991

A-6444

Rainbow Mental Health Facility—Replace smoke detectors, Building A and Building B

A-6559

Kansas Rehabilitation Center for the Blind—Concrete repair work

88463

Department of Health and Environment—Radon concentration measurement equipment

88464

University of Kansas Medical Center—HPLC system

88465

Department of Transportation—Asphalt Paver

88500

Kansas Correctional Industries—Northern hard maple

88501

Department of Transportation—Argon plasma spectrometer

88502

Department of Transportation—Professional A/V and video equipment

88503

Department of Transportation—Mezzanine

88504

Department of Transportation—Memory upgrades and math coprocessors

Thursday, June 13, 1991

88417

Wichita State University—Mainframe printer with custom character sets

88514

Wichita State University—Musical equipment

88515

Kansas State University—Metal buildings

88516

Pittsburg State University—Professional A/V equipment

88517

Department of Transportation—Hot air lance, Salina and Garden City

88518

Department of Health and Environment—Data recorder and gas analyzer

Friday, June 14, 1991

87657

Adjutant General's Department—Construction of regional training site, Salina

88520

Emporia State University—Mainframe FEP

88554

Hutchinson Correctional Facility—Furnish and install water softener system

88556

Larned Correctional Facility—Storage racks

88557

Fort Hays State University—Carpet

88577

University of Kansas Medical Center—Office furniture

Tuesday, June 18, 1991

A-6506

Kansas Highway Patrol—Remodel Highway Patrol Headquarters, Troop B, Topeka

A-6632

Fort Hays State University—Partial roof repairs, Wiest Hall

Wednesday, June 19, 1991

A-6636

Wichita State University—Hubbard Hall HVAC modification

A-6637

Wichita State University—Heskett Center playfield lighting addition

Thursday, June 20, 1991

A-6624

Wichita State University—Henry Levitt Arena reroof

Monday, July 1, 1991

28503

Youth Center at Beloit—Lease of land, Mitchell County

Nicholas B. Roach
Director of Purchases

Doc. No. 010687

State of Kansas

Northwest Kansas Groundwater
Management District No. 4

Notice of Meeting

The Northwest Kansas Groundwater Management District No. 4 will conduct a board meeting at 10 a.m. Thursday, June 6, at the Ramada Inn, 1950 S. Range, Colby. General administrative matters will be discussed.

In addition, three public hearings will be held as follows: at 11:30 a.m. the board will hear testimony regarding the proposed 1992 operating budget, and at 1 p.m. the board will hear testimony regarding proposed administrative regulations 5-24-2 (allowable withdrawals) and 5-24-5 (allowable appropriations—reasonable use). Immediately following the hearing on proposed regulations, the board will hear testimony regarding adoption of its proposed revised management program. All interested persons are invited to attend and testify.

Wayne A. Bossert
Manager

Doc. No. 010694

State of Kansas

Department of Transportation

Notice to Contractors

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the office of the Chief of Construction and Maintenance, KDOT, Topeka, until 10 a.m. C.D.T. June 20, 1991, and then publicly opened:

District One—Northeast

Jackson—75-43 M-1645-01—U.S. 75, from the Shawnee-Jackson county line north to the junction of K-16, 17.3 miles, pavement patching. (State Funds)

Jefferson—92-44 K-3699-01—K-92, Agnes Street north 1,100 feet in McLouth, 0.2 mile, pavement reconstruction. (State Funds)

Jefferson—24-44 M-1635-01—U.S. 24, 2.2 miles east of the Shawnee County line bridges 35,37,38,39 and 40, bridge repair. (State Funds)

Johnson—35-46 K-4453-01—I-35, southbound Vehicle Inspection Station southwest of Olathe, surface parking area. (State Funds)

Johnson—46 U-1315-01—71st and Nall in Prairie Village, intersection improvement. (Federal Funds)

Leavenworth—5-52 K-2430-01—K-5, Little Snell Creek bridge 16 and 7 Mile Creek bridge 17, northwest of the Wyandotte County line, bridge replacement. (Federal Funds)

Leavenworth—5-52 K-2431-01—K-5, Atchison, Topeka and Santa Fe Railway bridge 20, 0.2 mile east of U.S. 73, bridge removal. (Federal Funds)

Leavenworth—5-52 K-4446-01—K-5, from the junction of U.S. 73 east to Commercial Place in Leaven-

worth, 0.1 mile, intersection improvement. (State Funds)

Leavenworth—73-52 K-2612-01—U.S. 73, Depression Creek bridge 14, 2.9 miles northwest of the north junction of K-92, bridge removal. (Federal Funds)

Leavenworth—52 U-1251-01—County Road, 7th Street at Three Mile Creek in Leavenworth, 0.1 mile, grading, surfacing and bridge. (Federal Funds)

Leavenworth—73-52 U-1296-01—U.S. 73 and K-5 in Leavenworth, traffic signal. (Federal Funds)

Leavenworth—73-52 M-1638-01—U.S. 73 and Helen Street in Lansing, 0.1 mile, overlay. (State Funds)

Leavenworth—73-52 M-1637-01—U.S. 73, railroad crossing 0.2 mile south of Limit Street in Leavenworth, 0.1 mile, overlay. (State Funds)

Marshall—36-58 K-4315-01—U.S. 36 (Center Street) and 20th Street in Marysville, intersection improvement. (State Funds)

Marshall—36-58 K-4467-01—U.S. 36 and 8th Street and U.S. 36 and 10th Street (U.S. 77) in Marysville, traffic signals. (State Funds)

Nemaha—187-66 X-1456-02—K-187, Union Pacific system crossing of K-187, 0.8 mile south of U.S. 36, grading and surfacing. (Federal Funds)

Osage—75-70 M-1639-01—U.S. 75, 3.1 miles north of the Coffey-Osage county line north to the K-31 intersection, 2.8 miles, overlay. (State Funds)

Shawnee—470-89 K-2454-04—I-470, from Wana-maker to KTA connector, I-470 to U.S. 75, 4.2 miles, seeding. (Federal Funds)

Shawnee—75-89 M-1644-01—U.S. 75, from the end of the four lane north to Shawnee-Jackson county line, 3.8 miles, pavement patching. (State Funds)

Wyandotte—105 U-1204-01—County Road, Goddard Avenue viaduct in Kansas City, 0.4 mile, grading, surfacing and bridge. (Federal Funds)

Wyandotte—32-105 U-1290-01—K-32, Intersection of Park Street, 18th Street and Central Avenue in Kansas City, traffic signal. (Federal Funds)

District Two—Northcentral

Chase—57-9 K-4661-01—Fox Creek drainage bridge 23, Fox Creek bridge 24 and U.S. 50 bridge 25, bridge overlay. (State Funds)

Chase—177-9 K-4296-01—K-177, 0.8 mile south of Cottonwood Falls, culvert work. (State Funds)

Cloud—81-15 M-1642-01—U.S. 81, from the north city limits of Concordia, north 1.5 miles, slurry seal. (State Funds)

Dickinson—4-21 X-1451-02—Atchison, Topeka and Santa Fe Railway crossing of K-4 at the south edge of Hope, grading and surfacing. (Federal Funds)

Dickinson—15-21 X-1611-02—K-15, railroad crossing at K-15 and Union Pacific System (Missouri Pacific) at Elmo, grading and surfacing. (Federal Funds)

Jewell—45 K-1804-02—Lovewell State Park, 5.2 miles, overlay. (State Funds)

Mitchell—62 K-1315-04—Glen Elder State Park, 6.0 miles, overlay. (State Funds)

Republic—81-79 M-1643-01—U.S. 81, from the north city limits of Belleville, south 7.1 miles, slurry seal. (State Funds)

Saline—85 C-2842-01—County Road, 3.0 miles south and 2.5 miles west of Solomon, then north, 0.3 mile, grading and bridge. (Federal Funds)

District Three—Northwest

Cheyenne—27-12 K-2106-01—K-27, Cherry Creek bridge 6, 1.4 miles north of U.S. 36, bridge deck. (State Funds)

Ellis—183-26 K-4124-01—U.S. 183, from the Rush-Ellis county line, north to the junction of U.S. 183 alternate in Hays, 11.4 miles, surfacing and bridge. (State Funds)

Smith—281-92 K-3703-01—U.S. 281, Mid-States Port Authority Railroad north to U.S. 56 in Smith Center, 0.7 mile, overlay. (State Funds)

Smith—36-92 K-4336-01—U.S. 36, from the junction of K-8, east to 0.7 mile east of the west junction of U.S. 281, 9.0 miles, recycling. (Federal Funds)

District Four—Southeast

Bourbon—7-6 K-3322-01—K-7, Little Osage River bridge 32, 12.3 miles north of U.S. 54, bridge replacement. (Federal Funds)

Cherokee—57-11 K-3305-01—K-57, from the junction of U.S. 69, east to the Kansas-Missouri state line, 4.9 miles, recycling. (Federal Funds)

Crawford—126-19 K-4287-01—K-126, Middle Cow Creek bridge 38, 0.1 mile west of U.S. 69, bridge overlay. (State Funds)

Labette—160-50 K-4291-01—U.S. 160, Labette Creek bridge 23, 0.6 mile east of U.S. 59, bridge repair. (State Funds)

Montgomery—75-63 K-3231-01—U.S. 75, from the west junction of U.S. 160 east 1,010 feet east of the west city limits of Independence, 1.3 miles, overlay. (State Funds)

Montgomery—75-63 K-4452-01—U.S. 75, Vehicle Inspection Station, south edge of Caney, modification of parking area. (State Funds)

Montgomery—75-63 M-1631-01—U.S. 75, 7.2 miles south of the west junction of U.S. 160, culvert repair. (State Funds)

Montgomery—75-63 M-1633-01—U.S. 75, north of bridge 13 near Sycamore, slope repair. (State Funds)

Montgomery—166-63 M-1634-01—U.S. 166, 4.3 miles east of east city limits of Tyro, east to the west city limits of Coffeyville, 3.7 miles, shoulder work. (State Funds)

Neosho—169-67 K-4660-01—U.S. 169, 0.3 mile north of K-39 north approximately 500 feet, 0.1 mile, grading and surfacing. (State Funds)

District Five—Southcentral

Butler—54-8 K-3694-01—U.S. 54, from Lula Street to Walnut Street in Augusta, 0.4 mile, overlay and widening. (State Funds)

Butler—54-8 K-4220-01—U.S. 54, Lula Street intersection in Augusta, traffic signal. (State Funds)

Butler—8 C-2715-01—County Road, 4.5 miles south and 1.8 miles west of El Dorado, then west 0.2 mile, grading and bridge. (Federal Funds)

Harvey—135-40 M-1641-01—I-135, 8.3 miles north of the Sedgwick-Harvey county line, north to K-15, 4.1 miles, overlay. (State Funds)

Kiowa—54-49 M-1640-01—U.S. 54, from the east city limits of Greensburg, east 9.9 miles, slurry seal. (State Funds)

Reno—78 C-2777-01—County road, 5.0 miles north and 3.2 miles west of Pretty Prairie, 0.1 mile, bridge rehabilitation. (Federal Funds)

Reno—78 U-0983-01—County road, 11th Avenue over Cow Creek in Hutchinson, 0.1 mile, bridge replacement. (Federal Funds)

Sedgwick—96-87 K-4434-01—K-96, from the east city limits of Wichita, south to U.S. 54, 4.5 miles, grading and bridge. (State Funds)

Sedgwick—87 U-1294-01—Hillside and 13th in Wichita, traffic signal. (Federal Funds)

District Six—Southwest

Finney—50-28 K-4526-01—U.S. 50, railroad crossings 0.5 and 2.5 miles west of the west junction U.S. 50 and U.S. 83, railroad crossing improvement. (State Funds)

Ford—54-29 M-1636-01—U.S. 54, from the Ford-Clark county line, northeast to the west city limits of Bucklin, 17.5 miles, milling. (State Funds)

Hamilton—38 C-2748-01—County Road, 8.0 miles south and 5.2 miles east of Syracuse, then east, 0.3 mile, grading and bridge. (Federal Funds)

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

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

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

Gary Stotts
Secretary of Transportation

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.

Tuesday, June 11, 1991

#10210

Automatic backup and recovery management system software for MVS/XA

Realtime, display-oriented performance management tool software

Back/Restore facility software for VM/XA environment

MVS/JES batch workload management facility software

William H. Sesler
Director of Purchasing

Doc. No. 010686

State of Kansas

Attorney General

Opinion No. 91-56

Constitution of the State of Kansas—Corporations—Cities' Powers of Home Rule; General Improvement and Assessment Law. Michael P. Howe, Lenexa City Attorney, Lenexa, May 17, 1991.

The home rule amendment to the Kansas constitution authorizes a city to utilize home rule legislation in all areas of local government subject only to the provisions of article 12, section 5. A city may implement a program to provide for the prepayment of costs for certain street improvements by private property owners of a development district if such a program is supplemental to and does not attempt to replace or circumvent provisions of a uniform statutory enactment. A city's use of home rule authority to establish a non-conflicting procedure to address a local government problem not dealt with by state legislation is authorized by article 12, § 5 of the Kansas constitution. Cited herein: Kan. Const., art. 5, sec. 5; K.S.A. 12-6a01 *et seq.* REF

Robert T. Stephan
Attorney General

Doc. No. 010698

State of Kansas

Department of Administration

Division of Facilities Management

Request for Proposals

The Department of Administration requests proposals for a fixed base operator leased facility to hangar the state's executive aircraft, to provide full service and fuel, and to be located in the Topeka metropolitan area. The guidelines for the proposal describe the services and facilities required and are available by mail or can be obtained in Room 852, Landon State Office Building, 900 S.W. Jackson, Topeka. Interested proposers are invited to secure a copy of the guidelines by 5 p.m. Thursday, June 6.

Proposals shall be submitted for evaluation to the Division of Facilities Management, State Department of Administration, Attention: Barry Greis, Room 852, Landon State Office Building, Topeka 66612-1286, no later than 4 p.m. Thursday, June 13. Questions regarding the guidelines, mailing, or pickup should be directed to Barry Greis, (913) 296-1318.

James R. Cobler
Secretary of Administration

Doc. No. 010702

(Published in the Kansas Register, May 30, 1991.)

Notice of Redemption
City of Dodge City, Kansas
Industrial Revenue Bonds
Series 1 of 1984

Notice is hereby given that \$300,000 principal amount of bonds, as listed below, are called for redemption on July 1, 1991, at the price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date.

Registered Bonds
Cusip #256-335-DQ-O

R6, R112, R138, R168, R184, R200, R206, R211, R212, R213, R215, R216, R242, R251, R260, R266, R268, R270, R276, R279, R280, R282, R295, R299, R301, R305, R306, R310, R312, R314, R322, R324, R325, R326

On July 1, 1991, all bonds designated for redemption will become due and payable upon presentation thereof at the address given below. On and after July 1, 1991, interest on the principal amount called for redemption shall cease to accrue. The bonds, along with IRS form W-9 (verification of taxpayer identification number), may be presented for payment in person or by mail at the following address: The Merchants National Bank of Topeka, Attn: Corporate Trust, P.O. Box 178, Topeka, KS 66601-0178.

Dodge City, Kansas

Doc. No. 010700

State of Kansas

Wichita State University

Notice to Bidders

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

Liquid Scintillation Counter
Quotation #910538-H
Closing June 12, 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. 010703

(Published in the Kansas Register, May 30, 1991.)

**Notice of Redemption
Shawnee County, Kansas
Single Family
Mortgage Revenue Bonds
1981 Series A**

Notice is hereby given that \$705,000 principal amount of bonds, as listed below, are called for redemption on July 1, 1991, at the price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date.

**Serial Bonds
Cusip #820624-AY-0**

215, 293, 360, 498, 855, 1028, 1029, 1032, 1091, 1101, 1174, 1332, 1442, 1595, 1610, 1615, 1703, 1758, 1785, 1832, 2015, 2091, 2094, 2256, 2273, 2295, 2303, 2304, 2314, 2416, 2522, 2841, 2892, 2918, 3031, 3182, 3188, 3240, 3301, 3340, 3448, 3470, 3528, 3576, 3577, 3618, 3622, 3643, 3726, 3958, 3977, 3982, 4005, 4138, 4159, 4160, 4161, 4336, 4778

**Registered Bonds
Cusip #820624-AY-0**

R14, R124, R138, R140, R158, R161, R184, R195, R207, R214, R215

Please present registered bonds to Merchants National Bank of Topeka only.

On July 1, 1991, all bonds designated for redemption will become due and payable upon presentation thereof at the address given below. On and after July 1, 1991, interest on the principal amount called for redemption shall cease to accrue. The bonds, along with IRS form W-9 (verification of taxpayer identification number), may be presented for payment in person or by mail at the following address: The Merchants National Bank of Topeka, Attn: Corporate Trust, P.O. Box 178, Topeka, KS 66601-0178.

Shawnee County, Kansas

Doc. No. 010701

(Published in the Kansas Register, May 30, 1991.)

**Notice of Redemption
Labette County, Kansas
Single Family Mortgage Revenue Bonds
1980 Series A**

Notice is hereby given, pursuant to Section 3.01 of the Trust Indenture dated as of January 1, 1980, \$465,000 principal amount of the bonds are called for redemption July 1, 1991, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date. This notice was first published on May 30, 1991, in The Bond Buyer and the Kansas Register.

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

(Note: Coupons due July 1, 1991, should be presented in the normal manner. Coupons due January 1, 1992, and all subsequent coupons must be attached to bonds called for redemption.)

Due January 1, 1992: 665, 740
CUSIP 505395-AM-5

Due January 1, 1993: 763, 769
CUSIP 505395-AN-3

Due January 1, 1994: 966
CUSIP 505395-AP-8

Due January 1, 1995: 1059, 1081
CUSIP 505395-AQ-6

Due January 1, 1996: 1198, 1210
CUSIP 505395-AR-4

Due January 1, 1997: 1350, 1402
CUSIP 505395-AS-2

Due January 1, 1998: 1489, 1549, 1577
CUSIP 505395-AT-0

Due January 1, 1999: 1658, 1716, 1746
CUSIP 505395-AU-7

Due January 1, 2000: 1841, 1866, 1911, 1942
CUSIP 505395-AV-5

Due January 1, 2011 (CUSIP 505395-AW-3)

2111	2998	3720	4398	5426	5759
2267	3033	3785	4694	5518	5848
2277	3117	3869	4700	5590	5871
2333	3126	3965	4798	5609	5888
2518	3308	4085	5336	5732	6042
					6134

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

Due January 1, 1994:
CUSIP 505395-AP-8

Registered Bond Number	Amount Called
R218	\$5,000

Due January 1, 1997:
CUSIP 505395-AS-2

Registered Bond Number	Amount Called
R221	\$5,000

(continued)

Due January 1, 2011:
CUSIP 505395-AW-3

Registered Bond Number	Amount Called
R261	\$ 5,000
R350	20,000
R351	25,000
R352	10,000
R353	25,000
R354	15,000
R355	10,000
R356	25,000
R357	5,000
R358	5,000
R359	10,000
R360	10,000
R362	5,000
R367	5,000
R368	10,000
R373	5,000
R374	5,000

Payment of the redemption price of the bearer bonds and registered bonds to be redeemed will be made at Security Bank of Kansas City, One Security Plaza, Kansas City, KS 66101. To avoid a 20 percent backup withholding required by the Interest and Dividend Tax Act of 1983, bondholders should submit certified taxpayer identification numbers on IRS Form W-9 when presenting their securities for redemption.

Notice is hereby given that on and after July 1, 1991, interest on the bonds shall cease to accrue.

Security Bank of Kansas City
Kansas City, Kansas Trustee

Doc. No. 010692

(Published in the Kansas Register, May 30, 1991.)

Summary Notice of Bond Sale
Unified School District 327
Ellsworth County, Kansas
(Ellsworth-Kanopolis)
\$425,000

Asbestos Control General Obligation Bonds
Series 1991
(general obligation bonds payable from
unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated May 20, 1991, and preliminary official statement dated May 30, 1991, sealed bids will be received by the clerk of the Unified School District 327, Ellsworth County, Kansas (Ellsworth-Kanopolis), on behalf of the governing body at the Administration Center, P.O. Box 212, Ellsworth, KS 67439, until 5 p.m. C.D.T. on June 10, 1991, for the purchase of \$425,000 principal amount of Asbestos Control General Obligation Bonds, Series 1991. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple

thereof. The bonds will be dated June 1, 1991, and will become due on December 1 in the years as follows:

Year	Principal Amount
1992	\$25,000
1993	30,000
1994	30,000
1995	35,000
1996	35,000
1997	40,000
1998	40,000
1999	45,000
2000	45,000
2001	50,000
2002	50,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on June 1 and December 1 in each year, beginning on June 1, 1992.

Paying Agent and Bond Registrar

Citizens State Bank and Trust Company, Ellsworth, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$8,500 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before June 27, 1991, at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1990 is \$19,801,775. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$1,635,000.

Approval of Bonds

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

Additional Information

Additional information regarding the bonds may be obtained from the clerk (913/472-5561) or from the financial advisor, The Columbian Securities Corporation, BANK IV Building, North Concourse, Topeka, KS 66603, Attention: Charles Learned, (913) 232-7283 or (501) 855-3894.

Dated May 20, 1991.

U.S.D. 327
Ellsworth County, Kansas

Doc. No. 010695

(Published in the Kansas Register, May 30, 1991.)

Summary Notice of Bond Sale
\$200,000
Unified School District 366
Woodson County, Kansas
General Obligation
Capital Outlay Levy Bonds
Series 1991

(general obligation bonds payable from unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated May 23, 1991, sealed bids will be received by the city clerk of the Board of Education of Unified School District 366, Woodson County, Kansas, on behalf of the Board of Education of said school district at the school district's office, P.O. Box 160, Yates Center, KS 66783, until 7:30 p.m. C.D.T. on Monday, June 10, 1991, for the purchase of \$200,000 principal amount of General Obligation Capital Outlay Levy Bonds, Series 1991. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 each or any integral multiple thereof. The bonds will be dated June 1, 1991, and will become due serially on October 1 in the years as follows:

Maturity Schedule

Maturity Date	Principal Amount Maturing
October 1, 1992	\$50,000
October 1, 1993	50,000
October 1, 1994	50,000
October 1, 1995	50,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning on April 1, 1992.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$4,000 (2 percent of the principal amount of the bonds).

Delivery

The school district will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about July 15, 1991, at such bank or trust company in the state of Kansas or in Kansas City, Missouri, as may be specified by the successful bidder.

Redemption Provisions

Bonds maturing in 1994 and thereafter are subject to call and redemption at the option of the school district in inverse order of maturity on October 1, 1993,

or on any interest payment date thereafter, at par and accrued interest to date of redemption, without premium, in the manner described in the bond ordinance.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 1990 is \$19,544,483. The total general obligation indebtedness of the school district as of the date of the bonds, including the bonds being sold, is \$200,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Fred W. Rausch, Jr., Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the school district, printed on the bonds and delivered to the successful bidder as and when the bonds are delivered.

Bond Rating

The school district has not applied for a rating on the bonds herein offered for sale and said bonds have not been assigned a rating by Moody's Investors Service or by Standard and Poor's or by any other rating agency.

Additional Information

Additional information regarding the bonds may be obtained from Doris Ryan, Clerk of the Board of Education, P.O. Box 160, Yates Center, KS 66783 (316) 625-3205; or from Bond Counsel, Suite 201, 220 S.W. 33rd, Topeka, KS 66611, (913) 267-3470.

Dated May 23, 1991.

Doris Ryan
 Clerk of the Board of Education
 Unified School District 366
 Woodson County, Kansas

Doc. No. 010683

(Published in the Kansas Register, May 30, 1991.)

Summary Notice of Bond Sale
\$700,000

Hamilton County, Kansas
General Obligation Hospital Improvement Bonds
 (general obligation bonds payable from unlimited ad valorem taxes)

Details of the Sale

Subject to the terms and conditions of the complete official notice of bond sale dated as of May 21, 1991, of Hamilton County, Kansas, sealed, written bids shall be received at the offices of the county commissioners, Hamilton County Courthouse, Syracuse, Kansas, until 11 a.m. Mountain Time on Monday, June 10, 1991, for the purchase of the county's General Obligation Hospital Improvement Bonds, Series 1991, which are hereinafter described. All bids shall be publicly opened, read aloud and considered on said date and at said time and shall be immediately thereafter acted upon by the board of county commissioners of the county.

No oral or auction bids for the bonds shall be considered, and no bids for less than the entire amount of the bonds shall be considered.

Bids shall be accepted only on the official bid form

(continued)

that has been prepared for these bonds, which may be obtained from the county clerk or from the county's financial advisor. Bids may be submitted by mail or may be delivered in person, and must be received at the place and no later than the date and time hereinafter specified. Each bid shall be accompanied by a good faith deposit in the form of a certified or cashier's check drawn on a bank located within the United States and made payable to the order of the county, and shall be in an amount equal to 2 percent of the principal amount of the bonds.

Details of the Bonds

The bonds to be sold are in the aggregate principal amount of \$700,000. The bonds shall be issued as fully registered bonds in the denomination of \$5,000 or any integral multiple thereof not exceeding the principal amount of bonds maturing in any year. The bonds shall bear a dated date of June 1, 1991. The bonds shall bear interest, payable as hereinafter set forth, at the rates specified by the successful bidder for the bonds. Certain of the bonds shall be subject to redemption prior to their respective maturities as set forth in the official notice of bond sale.

Interest on the bonds shall be payable semiannually on June 1 and December 1 in each year, commencing June 1, 1992, and the bonds shall mature serially on December 1 in each of the years and principal amounts as follows:

Principal Amount	Maturity Date
\$100,000	12-01-92
100,000	12-01-93
100,000	12-01-94
100,000	12-01-95
100,000	12-01-96
100,000	12-01-97
100,000	12-01-98

Payment of Principal and Interest

The Kansas State Treasurer shall serve as the bond registrar and paying agent for the bonds, and the principal of the bonds shall be paid upon surrender at the paying agent's principal offices in the city of Topeka, Kansas. Interest shall be paid by the mailing of a check or draft of the paying agent to the registered owners of the bonds.

Security for the Bonds

The bonds and the interest thereon constitute general obligations of the county, and the full faith, credit and resources of the county shall be pledged to the payment thereof. The county shall be obligated to levy ad valorem taxes without limitation as to rate or amount upon all of the taxable tangible property within the territorial limits of the county for the purpose of paying the bonds and the interest thereon.

Delivery of the Bonds

The bonds, duly printed, executed and registered, shall be furnished and delivered at the expense of the county to the successful bidder, or at its direction, on or about Tuesday, June 25, 1991, at such location in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere shall be made at the expense of the successful bidder.

Legal Opinion

The bonds will be sold subject to the legal opinion of Hinkle, Eberhart & Elkouri, Wichita, Kansas, bond counsel, whose fees will be paid by the county. Bond counsel's approving legal opinion as to the validity of the bonds will be printed on the bonds and will be delivered to the successful bidder upon delivery of the bonds. (Reference is made to the official notice of bond sale for a discussion of tax exemption and other legal matters.)

Financial Matters

The county's assessed valuation for the year 1990 is as follows:

Assessed valuation of taxable tangible property ...	\$41,938,298
Taxable value of motor vehicles	2,518,336
Equalized assessed tangible valuation for computation of bonded debt limitations	\$44,456,634

On June 1, 1991, the county's outstanding bonded indebtedness, not including the bonds described herein, will be in the amount of \$515,000.

Official Statement

The county has prepared a preliminary official statement relating to the bonds, copies of which may be obtained from the county or the county's financial advisor. The preliminary official statement is in a form "deemed final" by the county for the purpose of the Securities and Exchange Commission's Rule 15c2-12(b)(1), but is subject to revision, amendment and completion in the final official statement. Upon the sale of the bonds, the county shall furnish the successful bidder with a reasonable number of copies of the final official statement, without additional cost, upon request. Copies of the final official statement in excess of a reasonable number may be ordered at the successful bidder's expense.

Additional Information

For additional information regarding the county, the bonds and the sale, interested parties are invited to request copies of the complete official notice of bond sale and the county's preliminary official statement and official bid form for the bonds, all of which may be obtained from the undersigned or from the county's financial advisor by contacting Ray T. Reed, Jr., President, First Securities Company of Kansas, Inc., 200 Hardage Center, 100 S. Main, Wichita, KS 67202, (316) 262-4411.

Hamilton County, Kansas
 By Twyla Reed, County Clerk
 Hamilton County Courthouse
 P.O. Box Y
 Syracuse, KS 67878
 (316) 384-5629

Doc. No. 010684

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 30, 1991.)

SENATE BILL No. 403

AN ACT creating the Kansas commission on the future of health care, inc.; providing for the powers, duties and functions thereof; making and concerning appropriations for the fiscal year ending June 30, 1992.

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

Section 1. (a) There is hereby created a body politic and corporate to be known as the Kansas commission on the future of health care, inc. The commission is hereby constituted a public instrumentality and the exercise of the authority and powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) The purpose of the commission is to develop a long-range health care policy plan, including both short- and long-term strategies, to identify social values of Kansans and to provide a forum for Kansans to participate in the development of health policy. The long-range health care policy plan shall address prevention oriented services, critical health care needs and incorporate the social values of Kansans. In the process of developing the plan, the commission shall directly involve interested citizens by establishing a network of town hall meetings throughout the state where Kansans can participate in open discussions about health policy matters.

(c) In its reports under this act the commission shall propose and recommend changes to laws and rules and regulations as the commission deems appropriate to achieve the health care goals identified by the commission and monitor such recommendations to encourage their implementation.

Sec. 2. (a) The Kansas commission on the future of health care, inc., shall be governed by a board of 11 directors who shall be residents of this state. The board shall consist of seven directors appointed by the governor as follows: One director appointed from a list of three nominees submitted by the Kansas chamber of commerce and industry, who is not a provider of health care services; one director appointed from a list of three nominees submitted by the Kansas AFL-CIO, who is not a provider of health care services; one director who is a representative of Kansas hospitals, appointed from a list of three nominees who are hospital administrators submitted by the Kansas hospital association; one director who is a licensed nurse appointed from a list of three nominees who are licensed nurses submitted by the Kansas state nurses' association; one director who is trained in medical and health care ethics; one director who is licensed to practice medicine and surgery appointed from a list of three nominees who are licensed to practice medicine and surgery submitted by the Kansas medical society; and one director who is licensed to practice medicine and surgery appointed from a list of three nominees who are licensed to practice medicine and surgery submitted by the Kansas association of osteopathic medicine. The additional four directors of the board shall be appointed as follows: One director who is not a provider of health care services appointed by the president of the senate; one director who is not a provider of health care services appointed by the minority leader of the senate; one director who is not a provider of health care services appointed by the speaker of the house of representatives; one director who is not a provider of health care services appointed by the minority leader of the house of representatives.

(b) Directors appointed under this section shall serve for terms which shall expire upon the date of expiration of the provisions of

this act under section 8 and amendments thereto. In case of a vacancy in a position of director appointed under this section, a successor shall be appointed in like manner and subject to the same qualifications and conditions as the original appointment of the director creating the vacancy.

(c) The director appointed by the president of the senate shall call the first meeting of the Kansas commission on the future of health care, inc. The board of directors shall select a chairperson and vice-chairperson of the board from among the members of the board. The board of directors shall meet at least once during each calendar quarter and at such other times as may be provided in the rules of the corporation, or upon call of the chairperson or upon written request of a majority of the directors. The board of directors shall hold all board meetings within the state of Kansas. A majority of the board of directors shall be necessary to transact corporate business and all actions of the directors shall be by a majority vote of the full number of corporate directors.

(d) Members of the board of directors attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

Sec. 3. (a) The Kansas commission on the future of health care, inc., shall have all the powers necessary to achieve the purposes of the commission under this act, including the power to:

- (1) Make, amend and repeal bylaws, rules and regulations for the management of its affairs;
- (2) sue and be sued;
- (3) make contracts and execute all instruments necessary or convenient for carrying out its business;
- (4) acquire, own, hold and dispose of real and personal property;
- (5) enter into agreements or other transactions with any federal, state, county or municipal agency and with any individual, corporation, enterprise, association or any other entity;
- (6) appoint officers, consultants, agents and advisors and prescribe their duties and compensation, except that to the extent possible volunteers and existing governmental and private sector resources should be utilized to reduce costs of operation;
- (7) apply for and accept donations, grants, bequests and devises, conditional or otherwise, of money, property, services or other things of value which may be received from the United States government or any agency thereof, any governmental agency, any not-for-profit entity or any for profit entity to be held, used and applied for any or all of the purposes specified in this act, in accordance with the terms and conditions of any such grant, except that contributions received from any for profit entity shall not exceed \$20,000;
- (8) appoint subcommittees or task-forces to study and advise the commission with respect to matters under consideration by the commission including, but not limited to, questions concerning health objectives, rural health, health care costs, identification of social values related to health, methods for citizens to participate in health care planning and health decisions project;
- (9) provide and pay for such advisory services and technical assistance that may be necessary or desirable to carry out the purposes of this act, such services and assistance to be obtained from organizations either incorporated in or domiciled in the state of Kansas, whenever possible; and
- (10) exercise any other powers necessary for the operation and functioning of the corporation within the purposes authorized in this act.

(b) The corporation shall be exempt from all franchise, corporate business and income taxes levied by the state. The corporation shall not be subject to state purchasing laws.

Sec. 4. (a) The staff of the office of the revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the Kansas commission on the future of health care, inc., and authorized by the legislative coordinating council. The legislative division of post audit shall provide such assistance as may be requested by the commission and authorized by the legislative post audit committee.

(b) Each state agency shall provide assistance to the commission as may be requested by the commission.

(continued)

(Published in the Kansas Register, May 30, 1991.)

HOUSE BILL No. 2650

AN ACT concerning school districts; relating to the duration of the school term in case of the occurrence of disaster; affecting the definition of enrollment as applied to certain school districts for purposes of the school district equalization act.

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

Section 1. (a) For the 1990-91 and 1991-92 school years, the state board of education may waive the requirements of law relating to the duration of the school term upon application for such waiver by a school district. The waiver may be granted by the state board of education upon: (1) Certification by a board of education that, due to disaster, conditions resulting from widespread or severe property damage caused by the disaster will exist in the school district for an inordinate period of time; and (2) a determination by the state board that the school district cannot reasonably adjust its schedule to comply with such requirements of law. The period of time school is not maintained during the 1990-91 and 1991-92 school years due to conditions resulting from disaster, upon granting of the waiver by the state board of education, shall be considered a part of the school term.

(b) As used in this section, the term "disaster" means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, tornado, wind, storm, epidemics, air contamination, blight, drought, infestation, or explosion.

(c) The provisions of this section shall expire on July 1, 1992.

Sec. 2. (a) For the purposes of determining the limitation on operating expenses per pupil and determining local effort rate under the school district equalization act, and notwithstanding any provision of such act to the contrary, the term "enrollment" or "E" as applied to unified school district No. 260, Sedgwick county, and unified school district No. 385, Butler county, shall mean the number of pupils regularly enrolled in the district on September 20, 1990, or the number of pupils regularly enrolled in the district on September 20, 1991, whichever is the greater number. The definition of enrollment or E provided in this subsection shall be in force and effect for the 1991-92 school year.

(b) The provisions of this section shall expire on July 1, 1992.

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 30, 1991.)

SENATE BILL No. 30

AN ACT concerning worthless checks; relating to the service charge; amending K.S.A. 1990 Supp. 16a-2-501 and 60-2610 and repealing the existing sections.

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

Section 1. K.S.A. 1990 Supp. 16a-2-501 is hereby amended to read as follows: 16a-2-501. (1) In addition to the finance charge permitted by the parts of this article on maximum finance charges for consumer credit sales and consumer loans (parts 2 and 4), a creditor may contract for and receive the following additional charges in connection with a consumer credit transaction:

(a) Official fees and taxes;

(b) charges for insurance as described in subsection (2);

(c) annual fees payable in advance or monthly fees, delinquency charges, insufficient check charges as provided in paragraph (e) of this subsection, over-limit fees and cash advance fees, for the privilege of using a lender credit card which entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the lender credit card, under an arrangement pursuant to which the debts resulting from the purchases are payable to the issuer;

(d) charges for other benefits, including insurance, conferred on the consumer, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, are of a type which is not for credit, and are excluded as permissible additional charges from the finance charge by rules and regulations adopted by the administrator;

(e) a service charge for an insufficient check as defined and authorized by this subsection:

(i) For the purposes of this subsection, "insufficient check" means

Sec. 5. The Kansas commission on the future of health care, inc., shall report periodically, but not less than semiannually, to the governor and to the joint committee on health care decisions for the 1990s concerning the activities of the commission and any findings and recommendations developed by the commission since its last such report. The final report of the commission shall be submitted to the governor and to the joint committee on health care decisions for the 1990s on or before June 30, 1994.

Sec. 6. (a) All officers and employees of the Kansas commission on the future of health care, inc., shall be considered to be state employees and the commission shall be considered to be a state agency for purposes of the laws and procedures governing the payroll accounting system for state agencies under K.S.A. 75-5501 et seq. and amendments thereto, the deferred compensation plan developed and approved for state employees under K.S.A. 75-5521 through 75-5529 and amendments thereto, the Kansas public employees retirement system, the employment security law, the workmen's compensation act, including the state workmen's compensation self-insurance fund as provided in K.S.A. 44-575 through 44-580 and amendments thereto, the state health care benefits program and remittances pursuant to the federal social security act, federal insurance compensation act and the federal internal revenue code. The officers and employees of the commission shall be considered to be state employees and the corporation shall be considered to be a state agency only for the purposes specified in this subsection.

(b) Except as provided in subsection (d) of section 2 and amendments thereto for members of the board of directors of the Kansas commission on the future of health care, inc., the provisions of article 32 of chapter 75 of the Kansas Statutes Annotated, any acts amendatory thereof or supplemental thereto, and any rules and regulations adopted thereunder, shall not apply to officers or employees of Kansas commission on the future of health care, inc. Subject to policies established by the board of directors, the chairperson of the board or the chairperson's designee shall approve all travel and travel expenses of such officers and employees.

(c) Nothing in this act shall be construed as placing any officer or employee of the Kansas commission on the future of health care, inc., in the classified service or in the unclassified service under the Kansas civil service act.

Sec. 7. (a) All state appropriations to or grants of state appropriations to the Kansas commission on the future of health care, inc., shall remain in the state treasury until expended or transferred to other state agencies as provided by law.

(b) Any matching funds or other moneys received by the commission from any source outside the state treasury shall be remitted to the state treasurer and deposited in the state treasury to the credit of the future of health care fund.

Sec. 8. The provisions of sections 1 to 8, inclusive, and amendments thereto shall expire on July 1, 1994, unless reauthorized by the legislature.

Sec. 9.

KANSAS COMMISSION ON THE FUTURE OF HEALTH CARE, INC.

(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 other than refunds authorized by law shall not exceed the following:

Future of health care fund	No limit
----------------------------------	----------

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

any check, order or draft drawn on any bank, credit union, savings and loan association, or other financial institution for the payment of money and delivered in payment, in whole or in part, of preexisting indebtedness of the drawer or maker, which is refused payment by the drawee because the drawer or maker does not have sufficient funds in or credits with the drawee to pay the amount of the check, order or draft upon presentation, provided that any check, order or draft which is postdated or delivered to a payee who has knowledge at the time of delivery that the drawer or maker did not have sufficient funds in or credits with the drawee to pay the amount of the check, draft or order upon presentation shall not be deemed an insufficient check.

(ii) "Written notice" shall be presumed to have been given a drawer or maker of an insufficient check when notice is sent by restricted mail as defined by K.S.A. 60-103, and amendments thereto, addressed to the person to be given notice of such person's address as it appears on the insufficient check or to such person's last known address.

(iii) When an insufficient check has been given to a payee, the payee may charge and collect a \$10 insufficient check service charge from the drawer or maker, *subject to limitations contained in this subsection or, if a larger amount is posted conspicuously, the larger amount*, if the payee has given the drawer or maker oral or written notice of demand that the amount of the insufficient check plus the \$10 insufficient check service charge be paid to the payee within 14 days from the giving of notice. *In no event shall the amount of such insufficient check service charge exceed \$30.*

(iv) If the drawer or maker of an insufficient check does not pay the amount of the insufficient check plus the insufficient check service charge provided for in subsection (iii) to the payee within 14 days from the giving of notice as provided in subsection (iii), the payee may add the \$10 insufficient check service charge to the outstanding balance of the preexisting indebtedness of the drawer or maker to draw interest at the contract rate applicable to the preexisting indebtedness.

(2) An additional charge may be made for insurance written in connection with the transaction, including vendor's single interest insurance with respect to which the insurer has no right of subrogation against the consumer but excluding other insurance protecting the creditor against the consumer's default or other credit loss:

(a) With respect to insurance against loss of or damage to property, or against liability, if the creditor furnishes a clear and specific statement in writing to the consumer setting forth the cost of the insurance if obtained from or through the creditor and stating that the consumer may choose the person through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident and health, or loss of employment coverage, if the insurance coverage is not a factor in the approval by the creditor of the extension of credit, and this fact is clearly disclosed in writing to the consumer, and if, in order to obtain the insurance in connection with the extension of credit, the consumer gives specific affirmative written indication of the consumer's desire to do so after written disclosure to the consumer of the cost thereof.

Sec. 2. K.S.A. 1990 Supp. 60-2610 is hereby amended to read as follows: 60-2610. (a) If a person gives a worthless check, as defined by subsection (g), the person shall be liable to the holder of the check for the amount of the check, *the incurred court costs and the service charge and the costs of collection, including but not limited to reasonable attorney fees*, plus an amount equal to the greater of the following:

(1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or

(2) \$100.
The court may waive attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check.

(b) The amounts specified by subsection (a) shall be recoverable in a civil action brought by or on behalf of the holder of the check only if: (1) Not less than 14 days before ~~commencing~~ *filing* the action, the holder of the check made written demand on the maker or drawer for payment of the amount of the check and the incurred service charge; and (2) the maker or drawer failed to tender to the holder, prior to ~~commencement~~ *the filing* of the action, an amount

not less than the amount demanded. The written demand shall be sent by restricted mail, as defined by K.S.A. 60-103 and ~~amendments thereto~~ *subsection (g)*, to the person to be given notice at such person's address as it appears on such check, draft or order or to the last known address of the maker or drawer and shall include notice that, if the money is not paid within 14 days, triple damages in addition to an amount of money equal to the sum of the amount of the check, the incurred court costs, service charge and the costs of collection *including but not limited to reasonable attorney fees unless the court otherwise orders*, may be incurred by the maker or drawer of the check.

(c) Subsequent to the ~~commencement~~ *filing* of an action under this section but prior to the ~~judgment~~ *hearing* of the court, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the sum of the amount of the check, the incurred court costs, service charge and the costs of collection, including but not limited to reasonable attorney fees. *The court may waive attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check.*

(d) If the trier of fact determines that the failure of the defendant to satisfy the dishonored check was due to economic hardship, the court may waive all or part of the damages provided for by this section, but the court shall render judgment against defendant for not less than the amount of the dishonored check, the incurred court costs, service charge and the costs of collection, including but not limited to reasonable attorney fees, *unless otherwise provided in this subsection. The court may waive attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check.*

(e) Any amount previously paid as restitution or reparations to the holder of the check by its maker or drawer shall be credited against the amount for which the maker or drawer is liable under subsection (a).

(f) Conviction of giving a worthless check or habitually giving a worthless check, as defined by K.S.A. 21-3707 and 21-3708 and amendments thereto, shall not be a prerequisite or bar to recovery pursuant to this section.

(g) As used in this section:

(1) "Giving a worthless check" means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent:

(A) With intent to defraud or in payment for a preexisting debt; and

(B) which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(2) "Restricted mail" means mail which carries on its face the endorsements "restricted mail" and "deliver to addressee only."

(3) "Service charge" means the ~~dollar charge authorized by subsection (2) of K.S.A. 21-3707 and subsection (1)(c)(iii) of K.S.A. 16a-2-501, and amendments thereto~~ *\$10, or subject to limitations contained in this subsection, if a larger amount is posted conspicuously, the larger amount. In no event shall the amount of such insufficient check service charge exceed \$30.*

Sec. 3. K.S.A. 1990 Supp. 16a-2-501 and 60-2610 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 30, 1991.)

HOUSE BILL No. 2624

AN ACT concerning the university of Kansas medical center; relating to an out-patient cancer treatment service center; authorizing certain capital improvement projects by the university of Kansas medical center and a certain private organization, a lease agreement and acquisition of certain real estate in connection therewith; authorizing certain bond financing therefor; prescribing certain guidelines and limitations; amending K.S.A. 76-6a13, as amended by section 17 of 1991 Senate Bill No. 22, and repealing the existing section.

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

New Section 1. As used in sections 1 through 5:

(a) "Building" has the meaning ascribed thereto in K.S.A. 76-6a13 and amendments thereto; and

(b) "private organization" means any private corporation organized for profit or not for profit and existing or qualified to do business under the laws of Kansas for the delivery of out-patient detection, screening, diagnostic and treatment services relating to cancer.

New Sec. 2. (a) In accordance with an agreement entered into with the chancellor of the university of Kansas and approved by the state board of regents, a private organization is authorized to construct one or more buildings on state-owned property of the university of Kansas medical center in Kansas City, Kansas, from any moneys of the private organization, if the capital improvement projects for such buildings have received prior approval by the state board of regents and the plans and specifications for such projects have received prior approval by the secretary of administration. Such capital improvement projects shall be totally financed from private moneys of the private organization and the buildings constructed shall become the property of Kansas upon completion and acceptance by the secretary of administration. No such capital improvement project for a building shall be approved by the state board of regents unless the state board of regents has: (1) Advised and consulted with the joint committee on state building construction regarding such capital improvement project; and (2) determined that such project will generate additional hospital revenues from the out-patient center providing detection, screening, diagnostic and treatment services relating to cancer that exceed the costs incurred by the university of Kansas medical center under this act during the term of any revenue bonds issued under this act.

(b) In accordance with an agreement entered into with the chancellor of the university of Kansas and approved by the state board of regents, a private organization is authorized to repair, remodel or renovate one or more state buildings of the university of Kansas medical center in Kansas City, Kansas, from any moneys of the private organization, if the capital improvement projects for such repairs, remodeling or renovations have received prior approval by the state board of regents and the plans and specifications for such projects have received prior approval by the secretary of administration. Such capital improvement projects shall be totally financed from private moneys of the private organization and the repairs, remodeling or renovations shall become the property of the state of Kansas upon completion and acceptance by the secretary of administration. No such capital improvement project to repair, remodel or renovate any state building shall be approved by the state board of regents unless the state board of regents has: (1) First advised and consulted with the joint committee on state building construction on such capital improvement project; and (2) determined that such project will generate additional hospital revenues from the out-patient center providing detection, screening, diagnostic and treatment services relating to cancer that exceed the costs incurred by the university of Kansas medical center under this act during the term of any revenue bonds issued under this act.

New Sec. 3. (a) At the request of the chancellor of the university of Kansas and subject to the provisions of appropriation acts, the state board of regents is hereby authorized to construct, repair, remodel or renovate one or more buildings on state-owned property at the university of Kansas medical center for an out-patient center providing detection, screening, diagnostic and treatment services relating to cancer and is hereby authorized and empowered to acquire fee simple title to lots or tracts of land and any improvements thereon located adjacent to the university of Kansas medical center for such outpatient center. No such building shall be constructed,

repaired, remodeled or renovated and no such real estate shall be acquired therefor under the authority of this section unless the state board of regents has: (1) First advised and consulted on such construction, repair, remodeling or renovation and on any such acquisition with the joint committee on state building construction; and (2) determined that such construction, repair, remodeling or renovation will generate additional hospital revenues from the out-patient center providing detection, screening, diagnostic and treatment services relating to cancer that exceed the costs incurred by the university of Kansas medical center under this act during the term of any revenue bonds issued under this act.

(b) For the purpose of paying all or a part of the cost of the construction of any such building on state-owned property at the university of Kansas medical center, the cost of repairing, remodeling or renovating one or more state buildings at the university of Kansas medical center and the cost of acquiring such real estate adjacent to the university of Kansas medical center for such outpatient center, under the authority of this act, the state board of regents is authorized to issue revenue bonds pursuant to K.S.A. 76-6a12 *et seq.*, and amendments thereto, except that (1) the state board of regents shall not issue any such bonds unless the state board of regents has first advised and consulted on such capital improvement projects for construction, repair, remodeling or renovation of one or more buildings and on any such acquisition of real estate adjacent to the university of Kansas medical center for such outpatient center with the joint committee on state building construction; and (2) such bonds shall be payable as to both principal and interest solely and only out of income and revenues arising from the operation of the university of Kansas hospital or an out-patient center providing detection, screening, diagnostic and treatment services relating to cancer.

(c) Before paying the consideration for any such purchase of such real estate adjacent to the university of Kansas medical center for such outpatient center, the state board of regents shall secure an approval of the title and the form of the deed from the attorney general. Each such conveyance shall be made to the state of Kansas and shall be filed in the office of the secretary of state. The provisions of K.S.A. 75-3043a and amendments thereto shall not apply to any purchase of real estate under this section.

(d) If the state board of regents and the owners of any real estate which the state board of regents desires to purchase under this section cannot agree as to the price to be paid therefor, or if the owner of the property refuses to sell the real property, the state board of regents is authorized to exercise the right of eminent domain in the manner provided by K.S.A. 26-501 through 26-516 and amendments thereto.

New Sec. 4. (a) The state board of regents for and on behalf of the university of Kansas medical center, with or without receiving direct monetary consideration therefor, may negotiate and enter into an agreement with a private organization for not to exceed 35 years in duration to lease a portion of the property of the university of Kansas medical center for the purposes of the establishment and operation of an out-patient center providing detection, screening, diagnostic and treatment services relating to cancer by such private organization, together with such other restrictions as to use as the state board of regents deems necessary.

(b) The agreement shall specify the purposes for which the leased property may be used, including any restrictions upon the use of such property, and, in the event such property shall cease to be used for such purposes or the restrictions specified upon the use of such property are violated, the lease shall terminate and the possession of the property shall immediately revert to Kansas. The proposed agreement shall be submitted to the attorney general for review and approval as to form and legality. After such approval, the agreement shall be signed by the chairperson of the state board of regents.

(c) The agreement entered into pursuant to the provisions of this act shall be renewable at the end of the term of the agreement or may be deemed canceled at the end of the term of the lease at the insistence of either of the parties thereto. Upon the termination of the agreement, all improvements on the real estate of such agreement made by the private organization shall become property of the state of Kansas.

(d) The agreement authorized by this section shall not be entered into until after the proposed agreement and the terms thereof have

been presented to the joint committee on state building construction and the state board of regents has determined that pursuant to such proposed agreement and the terms thereof additional hospital revenues will be generated from the out-patient center providing detection, screening, diagnostic and treatment services relating to cancer in an amount that will exceed the costs incurred by the university of Kansas medical center under this act during the term of any revenue bonds issued under this act. The provisions of K.S.A. 75-430a and 75-3739 and amendments thereto shall not apply to the agreement authorized by this section.

New Sec. 5. (a) The state board of regents is hereby authorized and empowered to acquire fee simple title to lots or tracts of land and any improvements thereon located within Wyandotte county, Kansas, for the use by the university of Kansas medical center for storage facilities. Before paying the consideration for any such purchase of such real estate, the state board of regents shall secure an approval of the title and the form of the deed from the attorney general. Each such conveyance shall be made to the state of Kansas and shall be filed in the office of the secretary of state. The provisions of K.S.A. 75-3043a and amendments thereto shall not apply to any purchase of real property under this section.

(b) If the state board of regents and the owners of any real estate which the state board of regents desires to purchase under this section cannot agree as to the price to be paid therefor, or if the owner of the property refuses to sell the real property, the state board of regents is authorized to exercise the right of eminent domain in the manner provided by K.S.A. 26-501 through 26-516 and amendments thereto.

(c) For the purpose of paying all or a part of the cost of the acquisition of such real estate, the state board of regents is authorized to issue revenue bonds pursuant to K.S.A. 76-6a12 *et seq.*, and amendments thereto, except that (1) the state board of regents shall not issue any such bonds unless the state board of regents has first advised and consulted on such acquisition with the joint committee on state building construction, and (2) such bonds shall be payable as to both principal and interest solely and only out of income and revenues arising from the operation of the university of Kansas hospital.

Sec. 6. K.S.A. 76-6a13, as amended by section 17 of 1991 Senate Bill No. 22, is hereby amended to read as follows: 76-6a13. As used in this act, unless the context otherwise requires:

(a) "Board" means the state board of regents or a board of regents of a municipal university or a board of education of a unified school district in any county having a population of more than 7,250 and less than 9,000 in which there is located an area vocational-technical school campus, or the board of control of any such area vocational-technical school or the board of trustees of any community college.

(b) "Institution" means and includes the university of Kansas, university of Kansas school of medicine medical center, Fort Hays state university, Kansas state university of agriculture and applied science, Wichita state university, Emporia state university, and Pittsburg state university, together with all other state institutions of learning now or hereafter under the control and supervision of the state board of regents, any municipal university organized under the laws of Kansas, any community college or any area vocational-technical school the buildings of which are located in a county having a population of more than 7,250 and less than 9,000.

(c) "Building," when heretofore or hereafter constructed by the state board of regents for any institution under the control and supervision of the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking, hospital buildings or facilities for the university of Kansas medical center, including out-patient treatment or support facilities and acquisition of any real estate therefor, additions heretofore or hereafter erected in connection therewith, or rehabilitation or renovation of an existing building, or any combination thereof, or any stadium, structure or facility when the same is deemed necessary by the state board of regents to carry out the purposes of the institution, or additions heretofore or hereafter erected in connection with such stadium, structure or facility. The state board of regents shall not issue any revenue bonds for construction of any structure or facility or additions erected in connection therewith, or for rehabilitation or renovation

of an existing building, as authorized by this section, unless such construction or rehabilitation or renovation has been authorized by appropriation or other act of the legislature and the state board of regents has first advised and consulted on such construction or rehabilitation or renovation with the joint committee on state building construction.

(d) "Revenue bonds" means bonds issued hereunder for the purposes herein authorized and payable as to both principal and interest solely and only out of (1) the income and revenues arising from the operation of the building for which such bonds are issued, or (2) in the case of a building to be constructed for an institution under the control and supervision of the state board of regents and upon a determination by the state board of regents that the best interests of the state and the institution will be served thereby, the revenues derived from student fees levied for this purpose or for other bonds after such other bonds are retired, or both, (3) any combination of the revenues described in clauses (1), (2) or (3), in the discretion of the board, out of one or both of the following additional sources: (A) The proceeds of any grant in aid of such project which may be received from any source, and (B) the net income and revenues arising from the operation of another building already owned and operated by the board and located on the same campus of the institution where the building for which bonds are to be issued will be located.

(e) "Net income and revenue" means the income arising from the operation of a building remaining after providing for the costs of operation of such building and the costs of maintenance thereof.

(f) "Building," when heretofore or hereafter constructed by a board other than the state board of regents, means and includes one or more dormitories, kitchens, dining halls, student union buildings, field houses, student hospitals, libraries, on-campus parking or additions heretofore or hereafter erected in connection therewith, or any combination thereof.

Sec. 7. K.S.A. 76-6a13, as amended by section 17 of 1991 Senate Bill No. 22, is hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 30, 1991.)

SENATE BILL No. 345

AN ACT relating to motor vehicles; concerning the Kansas uniform commercial drivers' license act; relating to certain exemptions; changing the class designation for motorcycles; increasing fees for certain records of the division of vehicles and providing for the disposition thereof; amending K.S.A. 1990 Supp. 8-234b, 8-235, 8-236, 8-237, 8-239, 8-240, 8-241, 8-247, 8-255, 8-259, 8-267, 8-2,127, 8-2,128, 8-2,133, 8-2,142, 8-1001, 8-1002, 8-1567, 8-2110, as amended by section 6 of 1991 Senate Bill No. 118, 8-2115, 74-2012 and 74-2134 and repealing the existing sections; also repealing K.S.A. 1990 Supp. 8-241, as amended by section 1 of 1991 House Bill No. 2436.

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

New Section 1. (a) No person shall drive any commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, within this state while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .04 or more;

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) committing a violation of subsection (a) of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder.

(b) Violation of this section is a misdemeanor. In addition to any penalties ordered under K.S.A. 8-1567, and amendments thereto, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months imprisonment, and fined not less than \$200 nor more than \$500.

(c) The court shall report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the di-

(continued)

vision a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state.

(d) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall disqualify the person from driving a commercial motor vehicle under K.S.A. 1990 Supp. 8-2,142, and amendments thereto.

(e) For the purpose of this section, "alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

New Sec. 2. (a) Prior to requesting a test or tests pursuant to K.S.A. 1990 Supp. 8-2,137, and amendments thereto, in addition to any notices provided pursuant to paragraph (1) of subsection (f) of K.S.A. 8-1001, and amendments thereto, the following notice shall be provided orally and in writing: Whenever a law enforcement officer has reasonable grounds to believe a person has been driving a commercial motor vehicle while having alcohol or other drugs in such person's system and the person refuses to submit to and complete a test or tests requested by a law enforcement officer or submits to and completes a test requested by a law enforcement officer which determines that the person's alcohol concentration is .04 or greater, the person will be disqualified from driving a commercial motor vehicle for at least one year, pursuant to Kansas law.

(b) It shall not be a defense that the person did not understand the notices required by this section.

(c) Upon completion of the notices set out in paragraph (1) of subsection (f) of K.S.A. 8-1001, and amendments thereto, and the notices in subsection (a), the law enforcement officer shall proceed to request a test or tests. In addition to the completion of any certification required under K.S.A. 8-1002, and amendments thereto, a law enforcement officer's certification shall be prepared and signed by one or more officers to certify:

(1) There existed reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;

(2) the person had been placed under arrest, was in custody or had been involved in a motor vehicle accident or collision;

(3) a law enforcement officer had presented the person with the notices required by this section; and

(4) the person refused to submit to and complete a test or the test result for alcohol content of blood or breath was .04 or greater.

(d) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the division authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B misdemeanor.

(e) Upon completing a certification under subsection (c), the officer shall serve upon the person notice of disqualification of the privilege to drive a commercial motor vehicle pursuant to K.S.A. 1990 Supp. 8-2,142, and amendments thereto, together with a copy of the certification. In cases where a .04 or greater test result is established by a subsequent analysis of a breath or blood sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test. If the determination of a test refusal or .04 or greater test result is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles.

(f) The notice shall contain the following information:

(1) The person's name, driver's license number and current address pursuant to K.S.A. 8-248, and amendments thereto;

(2) the reason and statutory grounds for the disqualification;

(3) the date notice is being served and the effective date of the disqualification, which shall be the 20th day after the date of service;

(4) the right of the person to request an administrative hearing; and

(5) the procedure the person must follow to request an administrative hearing.

The notice of disqualification shall also inform the person that all correspondence will be mailed to the person at the address contained in the notice of disqualification unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

(g) If the person mails a written request which is postmarked within 10 days after service of the notice, if by personal service, or 13 days after service, if by mail, the division shall schedule a hearing in the county where the alleged violation occurred, or in a county adjacent thereto. The licensee may request that subpoenas be issued in accordance with the notice provided pursuant to subsection (d). Any request made by the licensee to subpoena witnesses must be made in writing at the time the hearing is requested and must include the name and current address of such witness and, except for the certifying law enforcement officer or officers, a statement of how the testimony of such witness is relevant. Upon receiving a timely request for a hearing, the division shall mail to the person notice of the time, date and place of hearing in accordance with subsection (i) and extend the person's temporary driving privileges until the date set for the hearing by the division, unless otherwise disqualified, suspended, revoked or cancelled.

(h) The law enforcement officer shall forward the certification required under subsection (c) to the director within five days of the date of certification. Upon receipt of the certification, the division shall review the certification to determine that it meets the requirements of subsection (c). Upon so determining, the director shall proceed to disqualify the driver from driving a commercial motor vehicle in accordance with the notice of disqualification previously served.

(i) All notices of disqualification under this section and all notices of a hearing held under this section shall be sent by first-class mail and a United States post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing.

(j) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(k) The rules regarding evidence and procedure at hearings held under K.S.A. 8-1002, and amendments thereto, shall be applicable to hearings held under this section. At the hearing on a disqualification of commercial driving privileges, the issues shall be limited to those set out in the certification.

(l) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

New Sec. 3. When any person applies for a commercial driver's license, and has a commercial driver's license issued by another state, the person shall surrender the license issued by the prior state of domicile and complete the application form required by subsection (b) of K.S.A. 1990 Supp. 8-2,134, and amendments thereto, including all required information and certifications. If the applicant previously held and desires to retain a hazardous materials endorsement, and it has been more than two years since the applicant passed the written test for the endorsement, the applicant shall be required to take and pass the written test administered by this state for the hazardous materials endorsement.

Sec. 4. K.S.A. 1990 Supp. 8-234b is hereby amended to read as follows: 8-234b. (a) Every original driver's license issued by the division shall indicate the class or classes of motor vehicles which the licensee is entitled to drive. For this purpose the following classes are established:

(1) Commercial class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, providing the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds and all other lawful combinations of vehicles with a gross combination weight rating of 26,001 pounds, or more;

(2) commercial class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating;

(3) commercial class C motor vehicles include any single vehicle less than 26,001 pounds gross vehicle weight rating, or any such vehicle towing a vehicle not in excess of 10,000 pounds, or any vehicle less than 26,001 pounds gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided the gross combination weight rating of the combination is less than 26,001 pounds comprising:

(A) Vehicles designed to transport 16 or more passengers, including the driver; or

(B) vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded;

(4) class A motor vehicles include any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross combination weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds, and all other lawful combinations of vehicles with a gross combination weight rating of 26,001 pounds, or more; except that, class A does not include a combination of vehicles that has a truck registered as a farm truck under subsection (2) of K.S.A. 8-143, and amendments thereto;

(5) class B motor vehicles include any single vehicle with a gross vehicle weight rating of 26,001 pounds or more, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating. Class B motor vehicles do not include a single vehicle registered as a farm truck under subsection (2) of K.S.A. 8-143, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more;

(6) class C motor vehicles include any single vehicle with a gross vehicle weight rating less than 26,001 pounds, or any such vehicle towing a vehicle not in excess of 10,000 pounds gross vehicle weight rating, or any vehicle with a less than 26,001 gross vehicle weight rating towing a vehicle in excess of 10,000 pounds gross vehicle weight rating, provided the gross combination weight rating of the combination is less than 26,001 pounds, or any oil field pulling units of any gross weight, or any single vehicle registered as a farm truck under subsection (2) of K.S.A. 8-143, and amendments thereto, when such farm truck has a gross vehicle weight rating of 26,001 pounds, or more; and

(7) class \bar{D} M motor vehicles includes motorcycles.

As used in this subsection, "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle, commonly referred to as the gross combination weight rating, is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units.

(b) Every applicant for an original driver's license shall indicate on such person's application the class or classes of motor vehicles for which the applicant desires a license to drive, and the division shall not issue a driver's license to any person unless such person has demonstrated satisfactorily ability to exercise ordinary and reasonable control in the operation of motor vehicles in the class or classes for which the applicant desires a license to drive. The division shall administer an appropriate examination of each applicant's ability to drive such motor vehicles. Except as provided in K.S.A. 1989 1990 Supp. 8-2,125 through 8-2,142, and amendments thereto, the director of vehicles may accept a copy of the certificate of a person's road test issued to an individual under the regulatory requirements of the United States department of transportation, in lieu of requiring the person to demonstrate ability to operate any motor vehicle or combination of vehicles, if such certificate was issued not more than three years prior to the person's application for a driver's license.

(c) Any person who is the holder of a valid driver's license which entitles the person to drive class A motor vehicles may also drive class B and C motor vehicles. Any person who is the holder of a valid driver's license which entitles the person to drive class B motor vehicles may also drive class C motor vehicles.

(d) The secretary of revenue shall adopt rules and regulations establishing qualifications for the safe operation of the various types, sizes and combinations of vehicles in each class of motor vehicles established in subsection (a). Such rules and regulations shall include the adoption of at least the minimum qualifications for commercial drivers' licenses contained in the commercial motor vehicle safety act of 1986.

(e) Any reference in the motor vehicle drivers' license act to a class or classes of motor vehicles is a reference to the classes of motor vehicles established in subsection (a), and any reference in the motor vehicle drivers' license act to a classified driver's license or a class of driver's license means a driver's license which restricts the holder thereof to driving one or more of such classes of motor vehicles.

(f) The secretary of revenue may enter into a contract with any person, who meets the qualifications imposed on persons regularly employed by the division as drivers' license examiners, to accept applications for drivers' licenses and to administer the examinations required for the issuance of drivers' licenses.

(g) Notwithstanding the provisions of subsection (a), any person employed as an automotive mechanic who possesses a valid class C driver's license may drive any class A or class B motor vehicle on the highways for the purpose of determining the proper performance of the vehicle, except that this does not include commercial class A, B or C vehicles.

Sec. 5. K.S.A. 1990 Supp. 8-235 is hereby amended to read as follows: 8-235. (a) No person, except those expressly exempted, shall drive any motor vehicle upon a highway in this state unless such person has a valid driver's license. No person shall receive a driver's license unless and until such person surrenders or with the approval of the division, lists to the division all valid licenses in such person's possession issued to such person by any other jurisdiction. All surrendered licenses or the information listed on foreign licenses shall be returned by the division to the issuing department, together with information that the licensee is now licensed in a new jurisdiction. No person shall be permitted to have more than one valid license at any time.

(b) Any person licensed under the motor vehicle drivers' license act may exercise the privilege granted upon all streets and highways in this state and shall not be required to obtain any other license to exercise such privilege by any local authority. Nothing herein shall prevent cities from requiring licenses of persons who drive taxicabs or municipally franchised transit systems for hire upon city streets, to protect the public from drivers whose character or habits make them unfit to transport the public. If a license is denied, the applicant may appeal such decision to the district court of the county in which such city is located by filing within 10 days after such denial, a notice of appeal with the clerk of the district court and by filing a copy of such notice with the city clerk of the involved city. The city clerk shall certify a copy of such decision of the city governing body to the clerk of the district court and the matter shall be docketed as any other cause and the applicant shall be granted a trial of such person's character and habits. The matter shall be heard by the court *de novo* in accordance with the code of civil procedure. The cost of such appeal shall be assessed in such manner as the court may direct.

(c) Any person operating in this state a motor vehicle, except a motorcycle, which is registered in this state other than under a temporary fifteen-day permit shall be the holder of a driver's license which is classified for the operation of such motor vehicle, and any person operating in this state a motorcycle which is registered in this state shall be the holder of a class \bar{D} M driver's license, except that any person operating in this state a motorcycle which is registered under a temporary fifteen-day permit shall be the holder of a driver's license for any class of motor vehicles.

(d) No person shall drive any motorized bicycle upon a highway of this state unless: (1) Such person has a valid driver's license which entitles the licensee to drive a motor vehicle in any class or classes; or (2) such person is at least 14 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license which clearly indicates such license is valid only for the operation of motorized bicycles.

(e) Violation of this section shall constitute a class B misdemeanor.

Sec. 6. K.S.A. 1990 Supp. 8-236 is hereby amended to read as follows: 8-236. (a) The following persons are exempt from the license requirements of the motor vehicle drivers' license act:

(1) A nonresident who is at least 16 years of age and who has

(continued)

in such person's immediate possession a valid license issued to such nonresident in such person's home state or country may operate in this state any motor vehicle in class C or $\mathcal{D} M$, as designated in K.S.A. 8-234b, and amendments thereto;

(2) a nonresident who is at least 18 years of age and who has in such person's immediate possession a valid license issued to such nonresident in such person's home state or country which authorizes such person to operate any motor vehicle in class A or class B, as designated in K.S.A. 8-234b, and amendments thereto, may operate any such motor vehicle in this state, subject to the age limits applicable in this state to the operation of any type or class of vehicle operated by such person;

(3) any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers, may operate any motor vehicle in class C or class $\mathcal{D} M$, as designated in K.S.A. 8-234b, and amendments thereto, for a period of not more than 90 days in any calendar year, if the motor vehicle so operated is duly registered in the home state or country of such nonresident;

(4) any person while driving or operating during the hours between sunrise and sunset any farm tractor or implement of husbandry, from the farm residence to a field farmed in connection with such farm residence, or from one farm field to another.

(b) No exemption granted by this section shall apply to any person while such person's license to operate a motor vehicle is under suspension or revocation.

Sec. 7. K.S.A. 1990 Supp. 8-237 is hereby amended to read as follows: 8-237. The division of vehicles shall not issue any driver's license to any person:

(a) Who is under the age of 16 years, except that the division may issue a restricted class C or $\mathcal{D} M$ license, as provided in this act, to any person who is at least 14 years of age upon the written application of the person's parent or guardian. Except as hereafter provided, the application of the parent or guardian shall be submitted to the division. The governing body of any city, by ordinance, may require the application of any person who is under 16 years of age and who resides within the city to be first submitted to the chief law enforcement officer of the city. The board of county commissioners of any county, by resolution, may require the application of any person who is under 16 years of age and who resides within the county and outside the corporate limits of any city to be first submitted to the chief law enforcement officer of the county. No ordinance or resolution authorized by this subsection shall become effective until a copy of it is transmitted to the division of vehicles. The chief law enforcement officer of any city or county which has adopted the ordinance or resolution authorized by this subsection shall make a recommendation on the application as to the necessity for the issuance of the restricted license, and the recommendation shall be transmitted, with the application, to the division of vehicles. If the division finds that it is necessary to issue the restricted license, it shall issue a driver's license to the person.

A restricted class C license issued under this subsection shall entitle the licensee, while possessing the license, to operate any motor vehicle in class C, as designated in K.S.A. 8-234b, and amendments thereto. A restricted class $\mathcal{D} M$ license shall entitle the licensee, while possessing such license, to operate a motorcycle. The restricted license shall entitle the licensee to operate the appropriate vehicle at any time: (1) While going to or from or in connection with any job, employment or farm-related work; (2) on days while school is in session, over the most direct and accessible route between the licensee's residence and school of enrollment for the purposes of school attendance; (3) when the licensee is operating a passenger car, at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class A, B or C driver's license and who is actually occupying a seat beside the driver; or (4) when the licensee is operating a motorcycle, at any time when accompanied by an adult who is the holder of a valid class $\mathcal{D} M$ driver's license and who is operating a motorcycle in the general proximity of the licensee.

A restricted driver's license issued under this subsection is subject to suspension or revocation in the same manner as any other driver's license. In addition, the division may suspend the restricted driver's license upon receiving satisfactory evidence that: (1) The licensee has violated the restriction of the license, (2) the licensee has been involved in two or more accidents chargeable to the licensee or (3)

the recommendation of the chief law enforcement officer of any city or county requiring the recommendation has been withdrawn. The suspended license shall not be reinstated for one year or until the licensee reaches the age of 16, whichever period is longer.

(b) Who is under the age of 18 years for the purpose of driving a commercial or class A or B motor vehicle.

(c) Whose license is currently revoked, suspended or canceled in this or any other state, except as provided in K.S.A. 8-256, and amendments thereto.

(d) Who is a habitual drunkard, habitual user of narcotic drugs or habitual user of any other drug to a degree which renders the user incapable of safely driving a motor vehicle.

(e) Who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of making application for a driver's license, has not been restored to capacity in the manner provided by law, except that this limitation shall apply to any person known to have suffered any seizure disorder, until the procedure specified in paragraph (7) of subsection (f) of K.S.A. 8-247, and amendments thereto, has been complied with.

(f) Who is required by the motor vehicle drivers' license act to take an examination, unless the person has successfully passed the examination.

(g) Who is at least 16 years of age and less than 17 years of age, who is applying for a driver's license for the first time since reaching 16 years of age and who, three times or more, has been adjudged to be a traffic offender under the Kansas juvenile code or a juvenile offender under the Kansas juvenile offenders code, by reason of violation of one or more statutes regulating the movement of traffic on the roads, streets or highways of this state, except that, in the discretion of the director, the person may be issued a driver's license which is restricted in the same manner as drivers' licenses issued to persons under the age of 16 years. No person described by this subsection shall be eligible to receive a driver's license which is not restricted until the person has reached the age of 17 years.

Sec. 8. K.S.A. 1990 Supp. 8-239 is hereby amended to read as follows: 8-239. (a) Any person who is at least 14 years of age may apply to the division for an instruction permit. The division may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in such person's immediate possession to drive a passenger car upon the public highways for a period of six months subject to the restrictions herein contained. The division may issue an instruction or restricted instruction permit to any person who is at least 14 years of age and under the age of 16 years only upon the written application of a parent or guardian of the minor. The one having the instruction permit may operate a passenger car at any time when accompanied by an adult who is the holder of a valid commercial driver's license, class B or C driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver. Any person who is at least 14 years of age may apply for an instruction permit to operate a motorcycle either separate from or in conjunction with an instruction permit to operate a passenger car, and such permit shall entitle the permittee to operate a motorcycle if such person is accompanied by an adult who is the holder of a valid class $\mathcal{D} M$ driver's license and who is riding a motorcycle in the general proximity of the permittee.

(b) The division upon receiving proper application may issue in its discretion a restricted instruction permit effective for a school year or for a more restricted period to an applicant who is at least 14 years of age and who is enrolled in a driver-education program which includes practice driving and which is approved by the division, even though the applicant has not reached the legal age to be eligible for a driver's license. Such instruction permit shall entitle the permittee when the person has such permit in such person's immediate possession to operate a passenger car only on a designated highway or within a designated area but only when an approved instructor is occupying a seat beside the permittee or when such permit has been endorsed by an approved instructor to operate a passenger car with a parent or guardian who is the holder of a valid commercial driver's license, class A, B or C driver's license, who has had at least one year of driving experience and who is occupying a seat beside the driver.

(c) The division, in its discretion, may issue a temporary driver's permit to an applicant for a classified driver's license permitting the applicant to operate a motor vehicle within such classification while the division is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. The division may issue such a temporary driver's permit to any applicant whose employer certifies that such permit is necessary to complete seasonal agricultural operations of the employer. Any such temporary driver's permit issued pursuant to this subsection shall be in the immediate possession of the permittee while operating a motor vehicle, and it shall be invalid on the date specified thereon, which shall not be more than 15 days after its issuance, or when the applicant's license has been issued or for good cause has been refused.

Sec. 9. K.S.A. 1990 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B or C, and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally applied, which license shall be issued to expire as if the applicant had passed the original examination.

(b) For the purposes of obtaining any driver's license, an applicant, except for any applicant under 16 years of age, shall provide at least two of the documents specified in K.S.A. 8-246, and amendments thereto. Any applicant under 16 years of age shall provide at least one of the documents specified in K.S.A. 8-246, and amendments thereto, and such applicant's parent or guardian shall sign the application for any driver's license.

(c) Every application shall state the name, date of birth, sex and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as a driver, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal. In addition to the above criteria, applications for commercial drivers' licenses and instruction permits for commercial licenses must include the following: The applicant's social security number; the person's signature; the person's color photograph; certifications, including those required by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release driving record information; and, any other information required by the division.

(d) When an application is received from a person previously licensed in another jurisdiction, the division shall request a copy of the driver's record from the other jurisdiction. When received, the driver's record shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(e) When the division receives a request for a driver's record from another licensing jurisdiction the record shall be forwarded without charge.

(f) A fee of \$8 shall be charged for a class C driver's license, a fee of \$5 shall be charged for a class D M driver's license and a fee of \$12 shall be charged for a class A or B driver's license and a fee of \$14 for any class of commercial license. A fee of \$10 shall be charged for each commercial driver's license endorsement, except air brake endorsements which shall have no charge.

If one fails to make an original application or renewal application for a driver's license within the time required by law, or fails to make application within 60 days after becoming a resident of Kansas, a penalty of \$1 shall be added to the fee charged for the driver's license.

Sec. 10. K.S.A. 1990 Supp. 8-247 is hereby amended to read as follows: 8-247. (a) All original licenses shall expire on the fourth anniversary of the date of birth of the licensee which is nearest the date of application. All renewals thereof, shall expire on every fourth anniversary of the date of birth of the licensee. No driver's license shall expire in the same calendar year in which the original license or renewal license is issued, except that if the foregoing provisions of this section shall require the issuance of a renewal license or an original license for a period of less than six calendar months, the license issued to the applicant shall expire at midnight on every fourth anniversary of the date of birth of the applicant.

(b) If the driver's license of any person expires while such person is outside of the state of Kansas and on active duty in the armed forces of the United States, the license of such person shall be renewable, without examination, at any time prior to the end of the sixth month following the discharge of such person from the armed forces, or within 90 days after reestablished residence within the state, whichever time is sooner. If the driver's license of any person expires while such person is outside the United States, the division shall provide for renewal by mail.

(c) At least 30 days prior to the expiration of a person's license the division shall mail a notice of expiration or renewal application to such person at the address shown on the license. The division shall include with such notice a copy of the eyesight examination form and a copy of the written examination prescribed by subsection (e). In addition, a copy of the Kansas driver's manual, prepared pursuant to K.S.A. 8-266b and amendments thereto also shall be included.

(d) Every driver's license shall be renewable on or before its expiration upon application and payment of the required fee and successful completion of the examinations required by subsection (e). Application for renewal of a valid driver's license shall be made to the division in accordance with rules and regulations adopted by the secretary of revenue. Such application shall contain all the requirements of subsection (b) of K.S.A. 8-240, and amendments thereto. Upon satisfying the foregoing requirements of this subsection, and if the division makes the findings required by K.S.A. 8-235b, and amendments thereto, for the issuance of an original license, the license shall be renewed without examination of the applicant's driving ability. If the division finds that any of the statements relating to revocation, suspension or refusal of licenses required under subsection (b) of K.S.A. 8-240, and amendments thereto, are in the affirmative, or if it finds that the license held by the applicant is not a valid one, or if the applicant has failed to make application for renewal of such person's license on or before the expiration date thereof, the division may require the applicant to take an examination of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as provided in K.S.A. 8-235d, and amendments thereto.

(e) (1) Prior to renewal of a driver's license, the applicant shall pass an examination of eyesight and a written examination of ability to read and understand highway signs regulating, warning and directing traffic and knowledge of the traffic laws of this state. Such examination shall be equivalent to the tests required for an original driver's license under K.S.A. 8-235d, and amendments thereto. A driver's license examiner shall administer the examinations without charge and shall report the results of the examinations on a form provided by the division, which shall be submitted by the applicant to the division at the time such applicant applies for license renewal.

(2) In lieu of the examination of the applicant's eyesight by the examiner, the applicant may submit a report on the examination of eyesight by a physician licensed to practice medicine and surgery

(continued)

or by a licensed optometrist. The report shall be based on an examination of the applicant's eyesight not more than three months prior to the date the report is submitted, and it shall be made on a form furnished the applicant with the notice of the expiration of license under subsection (c).

(3) In lieu of the driver's license examiner administering the written examination, the applicant may complete the examination furnished with the notice of the expiration of license under subsection (c) and submit the completed examination to the division.

(4) The division shall determine whether the results of the written examination and the eyesight reported are sufficient for renewal of the license and, if the results of either or both of the examinations are insufficient, the division shall notify the applicant of such fact and return the license fee. In determining the sufficiency of an applicant's eyesight, the division may request an advisory opinion of the medical advisory board, which is hereby authorized to render such opinions.

(5) An applicant who is denied a license under this subsection (e) may reapply for renewal of such person's driver's license, except that if such application is not made within 90 days of the date the division sent notice to the applicant that the license would not be renewed, the applicant shall proceed as if applying for an original driver's license. If the applicant has been denied renewal of such person's driver's license because such applicant failed to pass the written examination, the applicant shall pay an examination fee of \$1.50 to take the test again.

(6) When the division has good cause to believe that an applicant for renewal of a driver's license is incompetent or otherwise not qualified to operate a motor vehicle in accord with the public safety and welfare, the division may require such applicant to submit to such additional examinations as are necessary to determine that the applicant is qualified to receive the license applied for. Subject to subsection (e)(7), in so evaluating such qualifications, the division may request an advisory opinion of the medical advisory board which is hereby authorized to render such opinions in addition to its duties prescribed by subsection (b) of K.S.A. 8-255b, and amendments thereto. Any such applicant who is denied the renewal of such a driver's license because of a mental or physical disability shall be afforded a hearing in the manner prescribed by subsection (c) of K.S.A. 8-255, and amendments thereto.

(7) Seizure disorders which are controlled by prescribed medication shall not be considered a disability under the preceding subpart unless the medical advisory board finds that the applicant's condition is such that the applicant is likely to be a danger to such applicant or others, while operating a motor vehicle. In appropriate cases to which this subpart applies, the medical advisory board may recommend that such person be issued a driver's license to drive class C or D M vehicles and restricted to operating such vehicles at any time while going directly to such person's place of employment or while coming directly from such place, or in an emergency or on days while school is in session, over the most direct and accessible route between the licensee's residence and such person's school of enrollment for the purposes of school attendance. Restricted licenses issued pursuant to this subsection (e)(7) shall be subject to suspension or revocation as provided in subsection (a) of K.S.A. 8-237, and amendments thereto.

Sec. 11. K.S.A. 1990 Supp. 8-255 is hereby amended to read as follows: 8-255. (a) The division is authorized to suspend or revoke a person's driving privileges upon a showing by its records or other sufficient evidence the person:

(1) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(2) has been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period;

(3) is incompetent to drive a motor vehicle;

(4) has been convicted of a moving traffic violation, committed at a time when the person's driving privileges were suspended or revoked; or

(5) is a member of the armed forces of the United States stationed at a military installation located in the state of Kansas, and the authorities of the military establishment certify that such person's

on-base driving privileges have been suspended, by action of the proper military authorities, for violating the rules and regulations of the military installation governing the movement of vehicular traffic or for any other reason relating to the person's inability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(b) The division shall suspend a person's driving privileges when required by K.S.A. 8-262, and amendments thereto, and K.S.A. 1989 1990 Supp. 8-1014, and amendments thereto, and shall disqualify a person's privilege to drive commercial motor vehicles when required by K.S.A. 1990 Supp. 8-2,142, and amendments thereto.

(c) When the action by the division suspending, revoking or disqualifying a person's driving privileges is based upon a report of conviction from the convicting court of a violation of K.S.A. 8-262 or 8-1567, and amendments thereto, any offense listed in K.S.A. 8-254, and amendments thereto, or the offenses listed in paragraphs (1), (2) or (3) of subsection (a) of K.S.A. 1990 Supp. 8-2,142, and amendments thereto, the person may not request a hearing but, within 30 days after notice of suspension, revocation or disqualification is mailed, may submit a written request for administrative review and provide evidence to the division to show the person whose driving privileges have been suspended, revoked or disqualified by the division was not convicted of the offense upon which the suspension, revocation or disqualification is based. Within 30 days of its receipt of the request for administrative review, the division shall notify the person whether the suspension, revocation or disqualification has been affirmed or set aside. The request for administrative review shall not stay any action taken by the division.

(d) Upon suspending or, revoking or disqualifying the driving privileges of any person as authorized by this act, the division shall immediately notify the person in writing. Except as provided by K.S.A. 8-1002, and amendments thereto, section 2 of this act and subsection (c) of this section, if the person makes a written request for hearing within 30 days after such notice of suspension or revocation is mailed, the division shall afford the person an opportunity for a hearing as early as practical not sooner than five days nor more than 30 days after such request is mailed. If the division has not revoked or suspended the person's driving privileges or vehicle registration prior to the hearing, the hearing may be held within not to exceed 45 days. Except as provided by K.S.A. 8-1002, and amendments thereto, and section 2 of this act, the hearing shall be held in the person's county of residence or a county adjacent thereto, unless the division and the person agree that the hearing may be held in some other county. Upon the hearing, the director or the director's duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require an examination or reexamination of the person. When the action proposed or taken by the division is authorized but not required, the division, upon the hearing, shall either rescind or affirm its order of suspension or revocation or, good cause appearing therefor, extend the suspension of the person's driving privileges, modify the terms of the suspension or revoke the person's driving privileges. When the action proposed or taken by the division is required, the division, upon the hearing, shall either affirm its order of suspension or, revocation or disqualification, or, good cause appearing therefor, dismiss the administrative action. If the person fails to request a hearing within the time prescribed or if, after a hearing, the order of suspension or, revocation or disqualification is upheld, the person shall surrender to the division, upon proper demand, any driver's license in the person's possession.

(e) In case of failure on the part of any person to comply with any subpoena issued in behalf of the division or the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of the division, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the director or the director's duly authorized agent by order or subpoena, other than an officer or employee of the state or of a political subdivision of the state, shall receive for the witness' attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness.

(e) (f) The division, in the interest of traffic and safety, may establish driver improvement clinics throughout the state and, upon reviewing the driving record of a person whose driving privileges are subject to suspension under subsection (a)(2), may permit the person to retain such person's driving privileges by attending a driver improvement clinic. A person who is required to attend a driver improvement clinic shall pay a fee of \$15. Amounts received under this subsection shall be remitted at least monthly to the state treasurer who shall deposit the same in the state treasury and shall be credited to the division of vehicles operating fund.

Sec. 12. K.S.A. 1990 Supp. 8-259 is hereby amended to read as follows: 8-259. (a) Except in the case of mandatory revocation under K.S.A. 8-254, and amendments thereto, or mandatory suspension under subsection (c) of K.S.A. 1989 1990 Supp. 8-1014, and amendments thereto, mandatory suspension under K.S.A. 8-262, and amendments thereto, or mandatory disqualification of the privilege to drive a commercial motor vehicle under paragraphs (1), (2) or (3) of subsection (a) of K.S.A. 1990 Supp. 8-2,142, and amendments thereto, the cancellation, suspension, revocation, disqualification or denial of a person's driving privileges by the division is subject to review. Such review shall be in accordance with the act for judicial review and civil enforcement of agency actions. In the case of review of an order of suspension under K.S.A. 8-1001 *et seq.*, and amendments thereto, or of an order of disqualification under paragraph (4) of subsection (a) of K.S.A. 1990 Supp. 8-2,142, and amendments thereto, the petition for review shall be filed within 10 days after the effective date of the order and venue of the action for review is the county where the administrative proceeding was held. In all other cases, the time for filing the petition is as provided by K.S.A. 77-613, and amendments thereto, and venue is the county where the licensee resides. The action for review shall be by trial *de novo* to the court. The court shall take testimony, examine the facts of the case and determine whether the petitioner is entitled to driving privileges or whether the petitioner's driving privileges are subject to suspension, cancellation or revocation under the provisions of this act. The court on review shall consider the petitioner's traffic violations record and liability insurance coverage before granting a stay or other temporary remedy pursuant to K.S.A. 77-616, and amendments thereto. If a stay is granted, it shall be considered equivalent to any license surrendered. If a stay is not granted, trial shall be set upon 20 days' notice to the legal services bureau of the department of revenue. No stay shall be issued if a person's driving privileges are canceled pursuant to K.S.A. 8-250, and amendments thereto.

(b) The clerk of any court to which an appeal has been taken under this section shall, within 10 days after the final disposition of such appeal, shall forward a notification of the final disposition to the division.

Sec. 13. K.S.A. 1990 Supp. 8-267 is hereby amended to read as follows: 8-267. All moneys received under this act shall be paid over by the secretary of revenue to the state treasurer who shall:

(a) Credit 37.5% of all moneys so received from class C driver's licenses and 20% of all moneys so received from class D M driver's licenses and 20% of all moneys so received from all commercial driver licensee classes remaining after the \$2 credit provided in subsection (c) to a special fund, which is hereby created and shall be known as the "state safety fund";

(b) credit 20% of all moneys so received from class D M driver's licenses to a special fund which is hereby created and shall be known as the "motorcycle safety fund"; and

(c) credit \$2 from each commercial driver's license fee to a special fund which is hereby created and shall be known as the "truck driver training fund."

Moneys in the state safety fund and in the motorcycle safety fund shall be distributed to provide funds for driver training courses in the schools in Kansas and for the administration of this act, as the legislature shall provide. In addition, moneys in the motorcycle safety fund shall be distributed to provide funds for courses in motorcycle safety in community colleges in Kansas. Moneys in the truck driver training fund shall be distributed to provide funds for courses in truck driver training in community colleges, area vocational schools

and area vocational-technical schools in Kansas. Except as otherwise provided by K.S.A. 8-241, and amendments thereto, the state treasurer shall credit the balance of all moneys received under this act, including all moneys received from commercial driver's license endorsements to the state highway fund.

Sec. 14. K.S.A. 1990 Supp. 8-2,127 is hereby amended to read as follows: 8-2,127. Vehicles that are exempt from this act include:

(a) Farm vehicles, defined as follows:

(1) Registered as a farm truck or truck tractor under K.S.A. 8-143, and amendments thereto;

(2) used to transport either agricultural products, farm machinery, farm supplies, or both, to or from a farm;

(3) not used in the operations of a common or contract motor carrier; and

(4) used within 150 air miles of the person's any farm or farms owned or leased by the registered owner of such farm vehicle; and

(5) not used to transport hazardous material which requires the vehicle to be placarded;

(b) operators of firefighting equipment;

(c) military vehicles which are operated by military personnel in pursuit of military purposes and all noncivilian operators of equipment owned or operated by the United States department of defense.

This applies to any active duty military personnel and members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, civilians who are required to wear military uniforms and are subject to the code of military justice; and

(d) motor vehicles, which would otherwise be considered commercial motor vehicles, if such vehicles are used solely and exclusively for private noncommercial use and any operator of such vehicles.

Sec. 15. K.S.A. 1990 Supp. 8-2,128 is hereby amended to read as follows: 8-2,128. As used in this act:

(a) "Alcohol" means any substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol and isopropanol;

(b) "alcohol concentration" means:

(1) The number of grams of alcohol per 100 milliliters of blood; or

(2) the number of grams of alcohol per 210 liters of breath;

(c) "commercial driver's license" means a license issued pursuant to K.S.A. 8-234b, and amendments thereto;

(d) "commercial driver license system" means the information system established pursuant to the commercial motor vehicle safety act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(e) "instruction permit" means a permit issued pursuant to K.S.A. 1989 1990 Supp. 8-294, and amendments thereto;

(f) "commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

(1) The vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;

(2) the vehicle is designed to transport 16 or more passengers, including the driver; or

(3) the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F, effective January 1, 1991;

(g) "controlled substance" means any substance so classified under K.S.A. 65-4101, and amendments thereto;

(h) "conviction" means an unvacated, adjudication of guilt or a determination that a person has violated or failed to comply with the law and in a court of original jurisdiction or an administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is, rebated, suspended or probated;

(i) "disqualification" means a prohibition against driving a com-

(continued)

mercial motor vehicle, including the suspension, revocation or cancellation of the privilege to drive a commercial motor vehicle.

(j) "drive" means to drive, operate or be in physical control of a motor vehicle in any place open to the general public for purposes of vehicular traffic. For purposes of sections 1 and 2 of this act and K.S.A. 1989-1990 Supp. 8-2,137, 8-2,138 and 8-2,142, and amendments thereto, "drive" includes operation or physical control of a motor vehicle anywhere in the state;

(k) "driver" means any person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver's license;

(l) "driver's license" means any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (1) Any temporary license or instruction;
- (2) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; or
- (3) any nonresident's operating privilege;

(m) "employer" means any person, including the United States, a state or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle;

(n) "endorsement" means an authorization to an individual's commercial driver's license required to permit the individual to operate certain types of commercial motor vehicles;

(o) "felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

(p) "gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination (articulated) vehicle, or registered gross weight, whichever is greater. The gross vehicle weight rating of a combination (articulated) vehicle (commonly referred to as the "gross combination weight rating" is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of the towed unit or units;

(q) "hazardous materials" has the meaning as that found in section 103 of the hazardous materials transportation act, 49 U.S.C. 1801 *et seq.*;

(r) "motor vehicle" means every vehicle which is self-propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheel chairs;

(s) "out of service order" means a temporary prohibition against driving a commercial motor vehicle, which is imposed when a driver has any measured or detected alcohol concentration while on duty, or operating, or in physical control of a commercial motor vehicle;

(t) "residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence;

(u) "secretary" means the secretary of the Kansas department of revenue;

(v) "serious traffic violation" means:

- (1) Excessive speeding, is defined as 15 miles per hour or more over the posted speed limit;
- (2) reckless driving, as defined under K.S.A. 8-1566, and amendments thereto;
- (3) a violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death to any person;
- (4) changing lanes of traffic illegally or erratically, as defined under K.S.A. 8-1548, and amendments thereto;
- (5) following another vehicle too closely, as defined under K.S.A. 8-1523, and amendments thereto; or
- (6) any other violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, which the secretary determines by rule and regulation to be serious;

(w) "state" means a state of the United States and the District of Columbia;

(x) "state of domicile" means that state where a person has such person's true, fixed and permanent home and principal residence and to which such person has the intention of returning whenever such person is absent;

(y) "tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks, as defined in 49 C.F.R. 171 in effect on January 1, 1991. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons;

(z) "United States" means the 50 states and the District of Columbia;

(aa) "division" means the division of motor vehicles of the Kansas department of revenue;

(bb) "director" means the director of the division of vehicles of the Kansas department of revenue.

Sec. 16. K.S.A. 1990 Supp. 8-2,133 is hereby amended to read as follows: 8-2,133. (a) No person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with minimum federal standards established by 49 C.F.R. 383, subparts G and H, effective January 1, 1991, and has satisfied all other requirements of the commercial motor vehicle safety act in addition to other requirements imposed by state law or federal regulation. The tests shall be prescribed and conducted by the secretary;

(b) ~~except as otherwise provided in this act, the following criteria shall be met before an applicant who has been is currently licensed to drive a commercial motor vehicle prior to July 15, 1988, and is currently licensed, may be exempt from the driving skills portion of the commercial driver license testing. Waivers for the knowledge test and endorsement portions of the driving skills test, except for the air brake endorsement, may not be obtained.~~ The applicant shall provide evidence and certify that for the two-year period, except that for paragraph (F) of subsection (1) it shall be a five-year period, immediately prior to applying for a commercial driver's license, the applicant:

(1) (A) Has held only one license, except under the conditions outlined in 49 C.F.R. 383.21(b), effective January 1, 1991;

(B) currently has no actions pending which could result in the license of the driver being revoked, suspended or canceled or the driver being disqualified pursuant to 49 C.F.R. 383.51, effective January 1, 1991;

(C) has not had any driver's license suspended, revoked or canceled, except as otherwise provided within this statute;

(D) has not been convicted of any type of the disqualifications listed in paragraph (2) of subsection (b) of 49 C.F.R. 383.51, effective January 1, 1991; and

(E) has no violations under either not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than parking, arising out of a recorded traffic accident, and has no record of an accident in which the applicant was at fault; and

(F) had no convictions for violations enumerated in K.S.A. 8-254, and amendments thereto, or K.S.A. 8-285, and amendments thereto; and

(G) had no more than two violations of K.A.R. 02-52-0, arising from two separate incidents excepting defective equipment violations within the previous two years has not had more than one conviction for serious traffic violations as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto; and

(2) (A) has previously taken and passed, within the previous two years, the required skills test through a state with a classified licensing and testing system and behind the wheel test in a representative vehicle in the class the applicant is now desiring to be tested in; or

(B) operated, for at least two years immediately preceding the application for a commercial driver's license, a representative vehicle that the applicant currently operates or expects to operate;

(c) the secretary may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of local government, to administer the skills test specified by this section, if:

(1) The test is the same which would otherwise be administered by the state; and

(2) the third party has entered into an agreement with the state

which complies with requirements of 49 C.F.R. 383.75, effective January 1, 1991.

(d) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked or cancelled in any state; nor shall a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

Sec. 17. K.S.A. 1990 Supp. 8-2,142 is hereby amended to read as follows: 8-2,142. (a) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of: (1) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance or both which impairs driving ability; (2) driving a commercial motor vehicle while the alcohol concentration of the person's blood, breath or other bodily substance is 0.04 or more; upon a first occurrence of any one of the following:

(1) The person's conviction of a violation of section 1 of this act;

(2) leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(3) the person's conviction of using a commercial motor vehicle in the commission of any felony as defined in this act; or

(4) refuses to submit to a test to determine the driver's alcohol or other drug concentration while driving a commercial motor vehicle.

(4) the person's test refusal or test failure, as defined by subsection (i).

(b) If any of the violations offenses, test refusal or test failure specified in subsection (a) occurred while transporting a hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

(c) A person shall be disqualified for life if convicted of two or more violations of any of the offenses upon the second or a subsequent occurrence of any offense, test refusal or test failure specified in subsection (a), or any combination of those offenses thereof, arising from two or more separate incidents.

(d) The secretary of revenue may adopt rules and regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than 10 years.

(e) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance.

(f) A person is disqualified from driving a commercial motor vehicle for a period of not less than 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(g) After suspending, revoking or canceling a commercial driver's license, the division shall update its records to reflect that action within 10 days. After suspending, revoking or canceling a nonresident commercial driver's privileges, the division shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's certificate license within 10 days.

(h) After suspending, revoking or canceling a commercial driver's license, the court shall include in its report to the division, the specific convictions incurred and whether or not the convictions occurred in a commercial motor vehicle.

(i) Upon suspension, revocation, cancellation or disqualification of a commercial driver's license under this act, the driver shall go to the nearest driver's license exam station and relinquish the commercial driver's license, if it is still in the licensee's possession, and if authorized and upon payment of a fee of \$9 will be issued a class C driver's license for the period of suspension, revocation or disqualification of the commercial driver's license under the same identifier number for the classes of vehicles the driver is currently able to drive license will be immediately surrendered to the division if still in the licensee's possession. If otherwise eligible, and upon payment of the required fees, the licensee may be issued a noncommercial driver's

license for the period of suspension, revocation, cancellation or disqualification of the commercial driver's license under the same identifier number.

(i) As used in this section, "test refusal" means a person's refusal to submit to and complete a test requested pursuant to section 2 of this act; "test failure" means a person's submission to and completion of a test which determines that the person's alcohol concentration is .04 or greater, pursuant to section 2 of this act.

Sec. 18. K.S.A. 1990 Supp. 8-1001 is hereby amended to read as follows: 8-1001. (a) Any person who operates or attempts to operate a motor vehicle within this state is deemed to have given consent, subject to the provisions of this act, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a) if the officer has reasonable grounds to believe the person was operating or attempting to operate a motor vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system; and one of the following conditions exists: (1) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both, or involving driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, in violation of a state statute or a city ordinance; or (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury or death. The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician. When presented with a written statement by a law enforcement officer directing blood to be withdrawn from a person who has tentatively agreed to allow the withdrawal of blood under this section, the person authorized herein to withdraw blood and the medical care facility where blood is withdrawn may rely on such a statement as evidence that the person has consented to the medical procedure used and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person authorized by this subsection to withdraw blood, nor any person assisting in the performance of a blood test nor any medical care facility where blood is withdrawn or tested that has been directed by any law enforcement officer to withdraw or test blood, shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(d) If there are reasonable grounds to believe that there is impairment by a drug which is not subject to detection by the blood or breath test used, a urine test may be required. If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by persons of the same sex as the person being tested and shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. The results of qualitative testing for drug presence shall be admissible

(continued)

in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence.

(e) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceeding involving the action.

(f) (1) Before a test or tests are administered under this section, the person shall be given oral and written notice that: (A) Kansas law requires the person to submit to and complete one or more tests of breath, blood or urine to determine if the person is under the influence of alcohol or drugs, or both; (B) the opportunity to consent to or refuse a test is not a constitutional right; (C) there is no constitutional right to consult with an attorney regarding whether to submit to testing; (D) if the person refuses to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, the person's driving privileges will be suspended for at least one year; (E) if the person submits to and completes the test or tests and the test results show an alcohol concentration of .10 or greater, the person's driving privileges will be suspended for at least 30 days; (F) if the person refuses a test or the test results show an alcohol concentration of .10 or greater and if, within the past five years, the person has been convicted or granted diversion on a charge of driving under the influence of alcohol or drugs, or both, or a related offense or has refused or failed a test, the person's driving privileges will be suspended for at least one year; (G) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both; (H) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both; and (I) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities and physicians. *If a law enforcement officer has reasonable grounds to believe that the person has been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system, the person must also be provided the oral and written notice pursuant to section 2 of this act. Any failure to give the notices required by section 2 of this act shall not invalidate any action taken as a result of the requirements of this section.* After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given unless the certifying officer has probable cause to believe that the person, while under the influence of alcohol or drugs, or both, has operated a motor vehicle in such a manner as to have caused the death of or serious injury to another person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto. If the test results show a blood or breath alcohol concentration of .10 or greater, the person's driving privileges shall be subject to suspension, or suspension and restriction, as provided in K.S.A. 8-1002, and amendments thereto, and K.S.A. 1989 1990 Supp. 8-1014, and amendments thereto. The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a motor vehicle while under the influence of alcohol or drugs, or both. *If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 1990 Supp. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .10 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving*

a commercial motor vehicle pursuant to K.S.A. 1990 Supp. 8-2,142, and amendments thereto.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(g) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

(h) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

Sec. 19. K.S.A. 1990 Supp. 8-1002 is hereby amended to read as follows: 8-1002. (a) Whenever a test is requested pursuant to this act and results in either a test failure or test refusal, a law enforcement officer's certification shall be prepared. *If the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, a separate certification pursuant to section 2 of this act, shall be prepared in addition to any certification required by this section.* The certification required by this section shall be signed by one or more officers to certify:

(1) With regard to a test refusal, that: (A) There existed reasonable grounds to believe the person was operating or attempting to operate a motor vehicle while under the influence of alcohol or drugs, or both, *or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;* (B) the person had been placed under arrest, was in custody or had been involved in a motor vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; *or, if operating a commercial motor vehicle, as defined in K.S.A. 1989 Supp. 8-2,128, the person requested was informed by the law enforcement officer requesting the test, that refusal to submit to the test will result in that person being disqualified from operating a commercial motor vehicle under K.S.A. 1989 Supp. 8-2,142;* and (D) the person refused to submit to and complete test as requested by a law enforcement officer.

(2) With regard to a test failure, that: (A) There existed reasonable grounds to believe the person was operating a motor vehicle while under the influence of alcohol or drugs, or both, *or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system;* (B) the person had been placed under arrest, was in custody or had been involved in a motor vehicle accident or collision; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; *or, if operating a commercial motor vehicle, as defined in K.S.A. 1989 Supp. 8-2,128, the person was apprised of the penalties outlined in K.S.A. 1989 Supp. 8-2,142;* and (D) the result of the test showed that the person had an alcohol concentration of .10 or greater in such person's blood or breath *and if the person was operating a commercial motor vehicle, as defined in K.S.A. 1989 Supp. 8-2,128, an alcohol concentration of .04, or greater, in such person's blood, breath or urine.*

(3) With regard to failure of a breath test, in addition to those matters required to be certified under subsection (a)(2), that: (A) The testing equipment used was certified by the Kansas department of health and environment; (B) the testing procedures used were in accordance with the requirements set out by the Kansas department of health and environment; and (C) the person who operated the testing equipment was certified by the Kansas department of health and environment to operate such equipment.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to the act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any

person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B misdemeanor.

(c) When the officer directing administration of the testing determines that a person has refused a test and the criteria of subsection (a)(1) have been met or determines that a person has failed a test and the criteria of subsection (a)(2) have been met, the officer shall serve upon the person notice of suspension of driving privileges pursuant to K.S.A. 1989 1990 Supp. 8-1014, and amendments thereto. If the determination is made while the person is still in custody, service shall be made in person by the officer on behalf of the division of vehicles. In cases where a test failure is established by a subsequent analysis of a breath, blood or urine sample, the officer shall serve notice of such suspension in person or by another designated officer or by mailing the notice to the person at the address provided at the time of the test.

(d) The notice shall contain the following information: (1) The person's name, driver's license number and current address; (2) the reason and statutory grounds for the suspension; (3) the date notice is being served and the effective date of the suspension, which shall be the 20th day after the date of service; (4) the right of the person to request an administrative hearing; and (5) the procedure the person must follow to request an administrative hearing. The notice of suspension shall also inform the person that all correspondence will be mailed to the person at the address contained in the notice of suspension unless the person notifies the division in writing of a different address or change of address. The address provided will be considered a change of address for purposes of K.S.A. 8-248, and amendments thereto, if the address furnished is different from that on file with the division.

(e) If a person refuses a test or if a person is still in custody when it is determined that the person has failed a test, the officer shall take any license in the possession of the person and, if the license is not expired, suspended, revoked or canceled, shall issue a temporary license effective until the date of suspension stated in the notice. If the test failure is established by a subsequent analysis of a breath or blood sample, the temporary license shall be served together with the notice of suspension. A temporary license issued pursuant to this subsection shall bear the same restrictions and limitations as the license for which it was exchanged. The officer shall also provide the person with a copy of the officer's certification as set forth in subsection (c). Within five days after the date of certification of the test refusal or test failure, the officer who effected service shall forward the officer's certification and a copy of the notice of suspension, along with any licenses taken, to the division.

(f) Upon receipt of the law enforcement officer's certification, the division shall review the certification to determine that it meets the requirements of subsection (a). Upon so determining, the division shall proceed to suspend the person's driving privileges in accordance with the notice of suspension previously served. If the requirements of subsection (a) are not met, the division shall dismiss the administrative proceeding and return any license surrendered by the person.

(g) If the person mails a written request which is postmarked within 10 days after service of the notice, if by personal service, or 13 days after service, if by mail, the division shall schedule a hearing in the county where the alleged violation occurred, or in a county adjacent thereto. The licensee's licensee may request for that subpoenas must be made be issued in accordance with the notice provided pursuant to subsection (d) and may extend only to. Any request made by the licensee to subpoena witnesses must be made in writing at the time the hearing is requested and must include the name and current address of such witnesses and, except for the law enforcement officer or officers certifying refusal or failure, a statement of how the testimony of such witness is relevant. Upon receiving a timely request for a hearing, the division shall mail to the person notice of the time, date and place of hearing in accordance with subsection (i) and extend the person's temporary driving privileges until the date set for the hearing by the division.

(h) (1) If the officer certifies that the person refused the test, scope of the hearing shall be limited to whether: (A) A law enforcement officer had reasonable grounds to believe the person was operating or attempting to operate a motor vehicle while under the influence of alcohol or drugs, or both, or to believe that the

person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; and (D) the person refused to submit to and complete a test as requested by a law enforcement officer.

(2) If the officer certifies that the person failed the test, the scope of the hearing shall be limited to whether: (A) A law enforcement officer had reasonable grounds to believe the person was operating a motor vehicle while under the influence of alcohol or drugs, or both, or to believe that the person had been driving a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system; (B) the person was in custody or arrested for an alcohol or drug related offense or was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death; (C) a law enforcement officer had presented the person with the oral and written notice required by K.S.A. 8-1001, and amendments thereto; (D) the testing equipment used was reliable; (E) the person who operated the testing equipment was qualified; (F) the testing procedures used were reliable; (G) the test result determined that the person had an alcohol concentration of .10 or greater in such person's blood or breath; and (H) the person was operating a motor vehicle.

(i) At a hearing pursuant to this section, or upon court review of an order entered at such a hearing, an affidavit of the custodian of records at the Kansas department of health and environment stating that the breath testing device was certified and the operator of such device was certified on the date of the test shall be admissible into evidence in the same manner and with the same force and effect as if the certifying officer or employee of the Kansas department of health and environment had testified in person. Such affidavit shall be admitted to prove such reliability without further foundation requirement. A certified operator of a breath testing device shall be competent to testify regarding the proper procedures to be used in conducting the test.

(j) At a hearing pursuant to this section, or upon court review of an order entered at such hearing, in which the report of blood test results have been prepared by the Kansas bureau of investigation or other forensic laboratory of a state or local law enforcement agency are to be introduced as evidence, the report, or a copy of the report, of the findings of the forensic examiner shall be admissible into evidence in the same manner and with the same force and effect as if the forensic examiner who performed such examination, analysis, comparison or identification and prepared the report thereon had testified in person.

(k) If no timely request for hearing is made, the suspension period imposed pursuant to this section shall begin upon the expiration of the temporary license granted under subsection (e). If a timely request for hearing is made, the hearing shall be held within 30 days of the date the request for hearing is received by the division. At the hearing, the director or the representative of the director, shall either affirm the order of suspension or suspension and restriction or dismiss the administrative action. If the division is unable to hold a hearing within 30 days of the date upon which the request for hearing is received, the division shall extend the person's temporary driving privileges until the date set for the hearing by the division. No extension of temporary driving privileges shall be issued for continuances requested by or on behalf of the licensee. If the person whose privileges are suspended is a nonresident licensee, the license of the person shall be forwarded to the appropriate licensing authority in the person's state of residence if the result at the hearing is adverse to such person or if no timely request for a hearing is received.

(l) All notices affirming or canceling a suspension under this section, all notices of a hearing held under this section and all issuances of temporary driving privileges pursuant to subsection (k) shall be sent by first-class mail and a U.S. post office certificate of mailing shall be obtained therefor. All notices so mailed shall be deemed received three days after mailing.

(continued)

(m) The division shall prepare and distribute forms for use by law enforcement officers in giving the notice required by this section.

Sec. 20. K.S.A. 1990 Supp. 8-1567 is hereby amended to read as follows: 8-1567. (a) No person shall operate or attempt to operate any vehicle within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (f) of K.S.A. 8-1013, and amendments thereto, is .10 or more, ~~except that an alcohol concentration of .04 or more, shall be used for persons operating or attempting to operate commercial motor vehicles, as defined in K.S.A. 1989 Supp. 8-2,128, and amendments thereto;~~

(2) the alcohol concentration in the person's blood or breath, as measured within two hours of the time of operating or attempting to operate a vehicle, is .10 or more, ~~except that an alcohol concentration of .04 or more, shall be used for persons operating or attempting to operate commercial motor vehicles, as defined in K.S.A. 1989 Supp. 8-2,128, and amendments thereto;~~

(3) under the influence of alcohol;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) No person shall operate or attempt to operate any vehicle within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(d) ~~Any person operating or attempting to operate a commercial motor vehicle who refuses testing or submits to a test which discloses an alcohol concentration of .04, or more, the law enforcement officer shall submit a sworn report to the secretary certifying that the test was requested pursuant to subsection (a) and that the person refused to submit to testing or submitted to a test which disclosed an alcohol concentration of .04, or more.~~

~~(e) Upon receipt of the sworn report of the law enforcement officer submitted under subsection (d), the secretary shall disqualify the driver from driving a commercial motor vehicle under K.S.A. 1989 Supp. 8-2,142, and amendments thereto.~~

(f) (d) Violation of this section is a misdemeanor. Upon a first conviction of a violation of this section, a person shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$200 nor more than \$500. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(g) (e) On a second conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to confinement at the end of each day in the work release program. Except as provided in subsection (h) (g), the person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

(h) (f) On the third or a subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days

nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. Except as provided in subsection (h) (g), the person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court may also require as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008, and amendments thereto. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

(i) (g) On a second or subsequent conviction of a violation of this section, the court may place the person convicted under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.

(j) (h) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(k) (i) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(l) (j) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provision of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(m) (k) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:

(1) "Conviction" includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;

(2) "conviction" includes being convicted of a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;

(3) only convictions occurring in the immediately preceding five years, including prior to the effective date of this act, shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable; and

(4) it is irrelevant whether an offense occurred before or after conviction for a previous offense.

(n) (l) Upon conviction of a person of a violation of this section or a violation of a city ordinance or county resolution prohibiting the acts prohibited by this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 1989 1990 Supp. 8-1014, and amendments thereto.

(o) (m) Nothing contained in this section shall be construed as preventing any city from enacting ordinances, or any county from adopting resolutions, declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city or county and prescribing penalties for violation thereof, but the minimum penalty prescribed by any such ordinance or resolution shall not be less than nor exceed the minimum penalty prescribed by this act for the same

violation, nor shall the maximum penalty in any such ordinance or resolution exceed the maximum penalty prescribed for the same violation. In addition, any such ordinance or resolution shall authorize the court to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(p) (n) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or a violation of any ordinance of a city or resolution of any county in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section or by the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.* or 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

(q) (o) The alternatives set out in subsections (a)(1) and (2) and (3) may be pleaded in the alternative, and the state, city or county may, but shall not be required to, may elect one or two of the two three prior to submission of the case to the fact finder.

(r) (p) For the purpose of this section, "alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Sec. 21. K.S.A. 1990 Supp. 8-2115 is hereby amended to read as follows: 8-2115. (a) Every municipal judge or judge of a court not of record and every clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of this act or of any other law regulating the operation of vehicles on highways or for the violation of an ordinance of any city defining any offense the provisions of which are identical with provisions of this act, or fixing a limitation upon the speed of vehicles pursuant to the provisions of this act.

(b) Within 10 days after the conviction or forfeiture of bail or an appearance bond of a person upon a charge of violating any provisions of this act or other law or city ordinance regulating the operation of vehicles on highways, every judge or clerk of the court in which such conviction was had or bail or bond was forfeited shall prepare and immediately forward to the division an abstract of the record of the court covering the case in which such person was so convicted or forfeited bail or bond, which abstract must be certified by the judge or clerk to be true and correct. Report need not be made of any conviction or forfeiture involving the illegal parking or standing of a vehicle. The provisions of this subsection shall be deemed to be satisfied for any conviction or forfeiture except for those in respect to any violation specified in K.S.A. 8-254 or 8-285, and amendments thereto, by the submission of consolidated magnetic tape reports prepared by computer and containing the name, date of birth and driver's license number of the party charged, the case number, the nature of the offense and, the arrest date, *the vehicle identification number of the vehicle involved and a statement as to whether or not the vehicle involved was a commercial motor vehicle, as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto.* The format of such magnetic tape reports and the frequency of submission shall be in accordance with specifications of the division.

(c) Such abstract shall be made upon a form furnished by the division and shall include the name and address of the party charged, the ~~registration~~ *vehicle identification* number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether bail or bond forfeited and, the amount of the fine or forfeiture as the case may be *and a statement as to whether or not the vehicle involved was a commercial motor vehicle as defined in K.S.A. 1990 Supp. 8-2,128, and amendments thereto.*

(d) Every court of record also shall forward a like report to the division upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

(e) The failure, refusal or neglect of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be ground for removal therefrom.

(f) The division shall keep all abstracts received hereunder at its main office and the same shall be open to public inspection during reasonable business hours.

(g) The clerk of any court of record to which a conviction for violation of any of the laws described in subsection (a) has been

appealed shall forward within 10 days of the final disposition of such appeal a notification of such final disposition to the division.

Sec. 22. K.S.A. 1990 Supp. 74-2012 is hereby amended to read as follows: 74-2012. (a) All records of the division of vehicles relating to the physical or mental condition of any person or to expungement shall be confidential. Records of the division relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2906, and amendments thereto, shall be confidential and shall be disclosed by direct computer access only to: (1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion; (2) a municipal or district court, for the purpose of using the record in connection with any matter before the court; (3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under (1) or (2); or (4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

All other records of the division of vehicles shall be subject to the provisions of the open records act except as otherwise provided by this section.

(b) Lists of persons' names and addresses contained in or derived from records of the division of vehicles shall not be sold, given or received for the purposes prohibited by K.S.A. 21-3914, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from public records of the division upon written certification that the requesting party shall use the list solely for the purpose of: (A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to: (i) Have safety-related defects, (ii) fail to comply with emission standards or (iii) have any defect to be remedied at the expense of the manufacturer; or (B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(2) Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(c) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (b)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, shall be paid monthly to the secretary of revenue.

(d) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from records of the division of vehicles.

(e) A fee in an amount fixed by the secretary of revenue and approved by the director of accounts and reports pursuant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto, of not less than \$2 for each request for information in the public records of the division concerning any vehicle or licensed driver shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under subsection (b), and such fee shall not be less than the minimum fee established under this subsection and shall not be less than the cost of production or reproduction of any information requested. *Of the amount charged for each such fee, \$1 shall be credited to the highway patrol training center fund.*

(f) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.

(continued)

Kansas Register

Sec. 23. K.S.A. 1990 Supp. 8-241 is hereby amended to read as follows: 8-241. (a) *Except as provided in K.S.A. 1990 Supp. 8-2,125 through 8-2,142, and amendments thereto*, any person licensed to operate a motor vehicle in this state shall submit to an examination whenever: (1) The division of vehicles has good cause to believe that such person is incompetent or otherwise not qualified to be licensed; or (2) such person has been convicted of a violation of K.S.A. 8-1567, and amendments thereto.

(b) When a person is required to submit to an examination pursuant to subsection (a)(1), the fee for such examination shall be in the amount provided by K.S.A. 8-240, and amendments thereto. When a person is required to submit to an examination pursuant to subsection (a)(2), the fee for such examination shall be \$5. In addition, any person required to submit to an examination pursuant to subsection (a)(2) shall be required, at the time of examination, to pay a reinstatement fee of \$25. All examination fees collected pursuant to this section shall be disposed of as provided in K.S.A. 8-267, and amendments thereto. All reinstatement fees collected pursuant to this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit ~~50%~~ 75% to the community alcoholism and intoxication programs fund created pursuant to K.S.A. 41-1126, and amendments thereto, ~~25% to the highway patrol training center fund created by K.S.A. 1990 Supp. 74-2134~~ and 25% to the juvenile detention facilities capital improvements fund created by K.S.A. 1990 Supp. 38-556, and amendments thereto.

(c) When an examination is required pursuant to subsection (a), at least five days' written notice of the examination shall be given to the licensee. The examination administered hereunder shall be at least equivalent to the examination required by subsection (e) of K.S.A. 8-247, and amendments thereto, with such additional tests as the division deems necessary. Upon the conclusion of such examination, the division shall take action as may be appropriate and may suspend or revoke the license of such person or permit the licensee to retain such license, or may issue a license subject to restrictions as permitted under K.S.A. 8-245, and amendments thereto.

(d) Refusal or neglect of the licensee to submit to an examination as required by this section shall be grounds for suspension or revocation of the license.

Sec. 24. K.S.A. 1990 Supp. 8-2110, as amended by section 6 of 1991 Senate Bill No. 118, is hereby amended to read as follows: 8-2110. (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 1990 Supp. 8-2118 and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing or stopping, the district or municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing, the division of vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such 30 days, the district or municipal court shall notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished the informing court. Upon such compliance the informing court shall notify the division of vehicles and the suspension or suspension action shall be terminated.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$50 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and

other penalties. The court shall, at least monthly, remit all reinstatement fees to the state treasurer who shall credit 50% of such moneys to the division of vehicles operating fund, ~~25%~~ 37.5% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, ~~12.5% to the highway patrol training center fund created by K.S.A. 1990 Supp. 74-2134 and amendments thereto~~ and 12.5% to the juvenile detention facilities capital improvements fund created by K.S.A. 1990 Supp. 38-556, and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

Sec. 25. K.S.A. 1990 Supp. 74-2134 is hereby amended to read as follows: 74-2134. (a) There is hereby created in the state treasury the highway patrol training center fund. All moneys credited to such fund under the provisions of this act or any other law shall be expended only for the purpose and in the manner prescribed by law.

(b) *Commencing on June 30, 1992, and on each June 30 thereafter, the director of accounts and reports shall transfer from the highway patrol training center fund to the state general fund \$500,000.*

(c) *All amounts transferred from the highway patrol training center fund to the state general fund under subsection (b) are to reimburse the state general fund for the cost of financing the training of the personnel of the Kansas highway patrol which is financed from the state general fund and for accounting, auditing, budgeting, legal, payroll, personnel and purchasing services and any other 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. Such reimbursements are in addition to those authorized by K.S.A. 75-3170a, and amendments thereto.*

Sec. 26. On and after July 1, 1991, K.S.A. 1990 Supp. 8-241, as amended by section 1 of 1991 House Bill No. 2436, is hereby repealed.

Sec. 27. K.S.A. 1990 Supp. 8-234b, 8-235, 8-236, 8-237, 8-239, 8-240, 8-241, 8-247, 8-255, 8-259, 8-267, 8-2,127, 8-2,128, 8-2,133, 8-2,142, 8-1001, 8-1002, 8-1567, 8-2110, as amended by section 6 of 1991 Senate Bill No. 118, 8-2115, 74-2012 and 74-2134 are hereby repealed.

Sec. 28. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 30, 1991.)

Senate Substitute for HOUSE BILL No. 2348

AN ACT relating to railroads; establishing the rail service assistance program; creating the rail service assistance program loan guarantee fund; establishing the rail service improvement fund; amending K.S.A. 1990 Supp. 45-221 and repealing the existing section.

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

New Section 1. The legislature finds and determines that integrated systems, including railways, highways and airways, are necessary in order to meet the economic and energy needs of the citizens of the state, both now and in the future. The legislature finds that a portion of the present railroad system in the state does not provide adequate service to citizens of the state. The legislature further finds and determines that it is in the best interest of the state to establish a rail service assistance program in order to preserve and revitalize essential rail service in the state.

New Sec. 2. There is hereby established the rail service assistance program to provide assistance for the preservation and revitalization of rail service in the state, including the guarantee of loans pursuant to section 7 of this act.

New Sec. 3. There is hereby established the rail service assistance program advisory committee hereinafter referred to as the advisory committee. The advisory committee shall be advisory to the secretary of transportation.

New Sec. 4. The advisory committee shall consist of nine members appointed by the governor as follows:

- (a) Two shall be rail shippers;
- (b) two shall be representatives of railroad management, one shall represent a class I railroad and one shall represent a regional or short line railroad;
- (c) two shall represent railroad labor, one shall be an employee of a class I railroad and one shall be an employee of a regional or short line railroad; and
- (d) three shall represent the general public. A person appointed to fill a vacancy which occurs prior to the expiration of a term shall be appointed for the unexpired term. Each member of the advisory committee shall be appointed for a three-year term.

New Sec. 5. (a) The advisory committee shall organize annually by the election from its membership of a chairperson and a secretary. The advisory committee may adopt such rules of procedure as the committee deems necessary for the conduct of business.

(b) The advisory committee shall meet at least four times a year. The chairperson may call additional meetings. A majority of members shall constitute a quorum.

(c) Members of the advisory committee attending meetings of such committee shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

New Sec. 6. The advisory committee shall have the following functions, powers and duties:

(a) To assist the secretary of transportation in setting priorities under the rail service assistance program; and

(b) to provide such advice and assistance as the secretary of transportation deems necessary in carrying out the provisions of the rail service assistance program.

New Sec. 7. (a) Subject to the provisions of subsection (f), the secretary of transportation is hereby authorized upon application by a qualified entity and its lender to enter into an agreement to guarantee the repayment of loans made for the purpose of facilitating the financing, acquisition or rehabilitation of railroads in the state of Kansas.

(b) Such agreement may contain such terms and conditions as the secretary of transportation may deem appropriate to carry out the purposes of this section, except that the aggregate unpaid principal amount of obligations guaranteed thereby shall not exceed \$20,000,000 of which not more than \$5,000,000 may be available each fiscal year. Any loan guaranteed by the secretary of transportation pursuant to this section, at a minimum, shall meet the following requirements:

(1) The ratio of benefits to costs for any project funded by such guaranteed loan shall be greater than one. The benefit/cost methodology to be used for this determination shall be the most recent

standard benefit/cost methodology approved by the federal railroad administration of the United States department of transportation;

(2) the qualified entity shall demonstrate that it is financially sound and capable of fulfilling all obligations created by the proposed loan guarantee agreement; and

(3) the qualified entity shall demonstrate that adequate funding for the proposed project is not otherwise available, on terms that would make the proposed project financially feasible, in the absence of a state loan guarantee.

(c) Prior to any loan being guaranteed under the provisions of this section, the secretary of transportation shall make a determination as to whether the guaranteeing of such loan would adversely affect the rating of bonds issued pursuant to K.S.A. 1990 Supp. 68-2314 *et seq.*, and amendments thereto. If the guaranteeing of such loan would adversely affect the rating of such bonds, the secretary of transportation shall not guarantee such loan. Such determination shall be documented in writing by the secretary of transportation.

(d) The secretary of transportation may adopt rules and regulations consistent with and for the purpose of implementing the provisions of this section, including the priorities contained in subsection (a) of section 6 of this act.

(e) "Qualified entity" means any interstate commerce commission certificated railroad, a port authority established in accordance with Kansas laws, or any entity meeting the rules and regulations established by this section.

(f) The secretary of transportation shall not enter into any agreement to guarantee a loan under the provisions of this section unless such action has been authorized by act of the legislature or has been approved by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed by subsection (c) of K.S.A. 75-3711c and amendments thereto, except that such approval may also be given when the legislature is in session.

New Sec. 8. (a) The rail service assistance program loan guarantee fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to the rail service assistance program in sections 1 through 8 and for the refinancing thereof. The secretary of transportation shall administer the rail service assistance program loan guarantee fund. All expenditures from the rail service assistance program loan guarantee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(b) The secretary of transportation shall pay from the rail service assistance program loan guarantee fund to a lender of a qualified entity, the amounts for any loan which is in default, which is for the financing, acquisition or rehabilitation of railroads pursuant to the provisions of section 7.

New Sec. 9. (a) The secretary of transportation is hereby authorized to make loans or grants to a qualified entity for the purpose of facilitating the financing, acquisition or rehabilitation of railroads in the state of Kansas.

(b) Such loans or grants shall be made upon such terms and conditions as the secretary of transportation may deem appropriate, and such loans or grants shall be made from funds credited to the rail service improvement fund.

(c) The rail service improvement fund is hereby established in the state treasury which shall be for the purpose of facilitating the financing, acquisition and rehabilitation of railroads pursuant to subsection (a) of this section and for the refinancing thereof. The secretary of transportation shall administer the rail service improvement fund. All expenditures from the rail service improvement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of transportation or by a person or persons designated by the secretary.

(d) All moneys received from the federal government under the local rail freight assistance program (49 U.S.C. 1654) shall be remitted to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the rail service improvement fund.

(continued)

(e) "Qualified entity" means any interstate commerce commission certificated railroad, a port authority established in accordance with Kansas laws, or any entity meeting the rules and regulations established by section 11.

New Sec. 10. The secretary in making any loan pursuant to section 9 may:

(a) Stipulate minimum operating standards for rail lines designed to achieve reasonable transportation service for shippers and to achieve best use of funds invested in rail line rehabilitation;

(b) require a portion of the total assistance for improving a rail line to be loaned to the railroad by rail users and require the railroad to reimburse rail users for any loan on the basis of use of the line and the revenues produced when the line has been improved;

(c) determine the terms and conditions under which all or any portion of funds loaned shall be repaid to the department of transportation by the railroads. Reimbursement may be made as a portion of the increased revenue derived from the improved rail line. Any reimbursement received by the department pursuant to this subsection shall be deposited in the state treasury to the credit of the rail service improvement fund and shall be appropriated exclusively for the rehabilitation of other rail lines in the state pursuant to section 9.

New Sec. 11. The secretary of transportation may adopt rules and regulations for the purpose of implementing the provisions of sections 9 and 10.

Sec. 12. K.S.A. 1990 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public; and

(E) would not endanger the life or physical safety of any person.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication

or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service,

except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate, except that:

(A) The name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate shall be subject to disclosure to any person other than another inmate; and

(B) the ombudsman of corrections, the corrections ombudsman board, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency.

(35) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(36) Any report or record which is made pursuant to K.S.A. 1988 1990 Supp. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or K.S.A. 1988 1990 Supp. 65-4925, and amendments thereto.

(37) Information which would reveal the precise location of an archeological site.

(38) *Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.*

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics, so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this

If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to

this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

Sec. 13. K.S.A. 1990 Supp. 45-221 is hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, May 30, 1991.)

SENATE BILL No. 73

AN ACT concerning mergers; relating to cooperative marketing.

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

Section 1. (a) Any two or more associations incorporated under the cooperative marketing act, cited at K.S.A. 17-1601, *et seq.*, and amendments thereto, or any association incorporated under the cooperative marketing act, cited at K.S.A. 17-1601, *et seq.*, and amendments thereto, and a corporation existing under the laws of this state, may merge into a single association or corporation, which may be any of the constituent associations or corporations or they may consolidate into a new association or corporation formed by the consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

(b) The board of directors of each association or corporation which desires to merge or consolidate shall adopt a resolution approving an agreement of merger or consolidation. The agreement shall state:

(1) The terms and conditions of the merger or consolidation;

(2) the mode of carrying the same into effect;

(3) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving association or corporation as are desired to be effected by the merger or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving association or corporation shall be its articles of incorporation;

(4) in the case of consolidation, that the articles of incorporation of the resulting association or corporation shall be as is set forth in an attachment to the agreement;

(5) the manner of converting the shares of each of the constituents into shares or other securities of the association or corporation surviving or resulting from the merger or consolidation, and, if any shares of any of the constituents are not to be converted solely into shares or other securities of the surviving or resulting association or corporation, the cash, property, rights or securities of any other association or corporation which the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of the certificates evidencing certificated shares, which cash, property, rights or securities of any other association or corporation may be in addition to or in lieu of shares or other securities of the surviving or resulting association or corporation; and

(6) such other details or provisions as are deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares, interests or rights; or for any other arrangement with respect thereto, consistent with the provisions of K.S.A. 17-6405, and amendments thereto.

(c) The agreement so adopted shall be executed in accordance with K.S.A. 17-6003, and amendments thereto. Any terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement

(continued)

is clearly and expressly set forth in the agreement of merger or consolidation.

(d) The agreement required by subsection (b) shall be submitted to the members or stockholders of each constituent association or corporation at an annual or special meeting for the purpose of acting on the agreement. Due notice of the time, place and purpose of the meeting shall be mailed to each member or holder of stock of the association or corporation, whether voting or nonvoting, at the member's or stockholder's address as it appears on the records of the association or corporation, at least 20 days prior to the date of the meeting. At the meeting the agreement shall be considered and a vote taken for its adoption or rejection. If the agreement is adopted by a vote representing a majority of all members of the association or, a majority vote of all outstanding stock of the corporation entitled to vote thereon, as applicable, that fact shall be certified on the agreement by the secretary or assistant secretary of the association or corporation. In lieu of an affirmative vote of a majority of all members of the association or, a majority vote of all outstanding stock of the association entitled to vote, as applicable, the agreement may be adopted by a vote of $\frac{2}{3}$ of the members or voting stockholders present and voting at any annual meeting or special meeting called for such purpose. The method of adoption and the votes cast shall be certified on the agreement by the secretary or assistant secretary of the association or corporation. If the agreement shall be so adopted and certified by each constituent association or corporation, the agreement shall then be executed, acknowledged and filed, and shall become effective, in accordance with K.S.A. 17-6003, and amendments thereto. It shall be recorded in the office of the register of deeds of each county of this state in which the registered office of any such constituent association or corporation is located; or if any of the constituents shall have been specially created by an act of the legislature, then the agreement shall be recorded in the county where such association or corporation had its principal place of business in this state. In lieu of filing and recording the agreement of merger or consolidation, the surviving or resulting association or corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. 17-6003, and amendments thereto, which states:

(1) The name and state of incorporation of each of the constituent associations or corporations;

(2) That an agreement of merger or consolidation has been approved, adopted, certified, executed and acknowledged by each of the constituent associations or corporations in accordance with this subsection;

(3) the name of the surviving or resulting association or corporation;

(4) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving association or corporation as are desired to be effected by the merger or, if no such changes or amendments are desired, a statement that the articles of incorporation of one of the surviving associations or corporation shall be the articles of incorporation;

(5) in the case of a consolidation, that the articles of incorporation of the resulting corporation shall be as is set forth in an attachment to the certificate;

(6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving association or corporation, stating the address thereof; and

(7) that a copy of the agreement of consolidation or merger will be furnished by the surviving association or corporation, on request and without cost, to any member or stockholder of any constituent association or corporation.

(e) Any agreement of merger or consolidation may contain a provision that at any time prior to the filing of the agreement with the secretary of state, the agreement may be terminated by the board of directors of any constituent association or corporation notwithstanding approval of the agreement by the members or stockholders of all or any of the constituent associations or corporations. Any agreement of merger or consolidation may contain a provision that the boards of directors of the constituent associations or corporations may amend the agreement at any time prior to the filing of the agreement, or a certificate in lieu thereof, with the secretary of state provided that an amendment made subsequent to the adoption of

the agreement by the members or stockholders of any constituent association or corporation shall not:

(1) Alter or change the amount or kind of shares, securities, cash, property or rights, or any of the proceedings, in exchange for or on conversion of all or any of the shares of any class or series thereof of such constituent association or corporation;

(2) alter or change any term of the articles of incorporation of the surviving association or corporation to be effected by the merger or consolidation; or

(3) alter or change any of the terms and conditions of the agreement if such alteration or change would adversely affect the members or holders of any class of series thereof of such constituent association or corporation.

(f) In the case of a merger, the articles of incorporation of the surviving association or corporation shall automatically be amended to the extent, if any, that change in the articles of incorporation are set forth in the agreement of merger.

(g) Notwithstanding the requirements of subsection (d), unless required by its articles of incorporation, no vote of members or stockholders of a constituent association or corporation surviving a merger shall be necessary to authorize a merger if:

(1) The agreement of merger does not amend in any respect the articles of incorporation of the surviving corporation; and

(2) the aggregate stockholders' equity, as determined in accordance with generally accepted accounting principles, of the stock or other equity of the surviving association or corporation to be issued or delivered under the plan of merger does not constitute more than 25% of the aggregate stockholders' equity, as determined in accordance with generally accepted accounting principles, of all classes of stock or other equity of the surviving association or corporation immediately following the effectiveness of the merger. If an agreement of merger is adopted by the constituent association or corporation surviving the merger, by action of its board of directors and without any vote of the constituent association's or corporation's members or stockholders pursuant to this subsection, the secretary or assistant secretary of such association or corporation shall certify on the agreement, under the seal, that the agreement has been adopted pursuant to this subsection and that, as of the date of such certificate, the stockholders' equity of the association or corporation was such as to render this subsection applicable. The agreement so adopted and certified shall then be executed, acknowledged and filed, and shall become effective, in accordance with K.S.A. 17-6003, and amendments thereto. Such filing shall constitute a representation by the person who executes the agreement that the facts stated in the certificate remain true immediately prior to such filing.

Sec. 2. (a) Any one or more associations incorporated under the cooperative marketing act, cited at K.S.A. 17-1601 *et seq.*, and amendments thereto, may merge or consolidate with one or more other associations or corporations of any other state or states of the United States, or of the District of Columbia if the laws of such other jurisdiction permit an association or corporation of such jurisdiction to merge or consolidate with an association or corporation of another jurisdiction. The constituent associations or corporations may merge into a single association or corporation, which may be any one of the constituents, or they may consolidate into a new association or corporation formed by the consolidation, which may be an association or corporation of the state of incorporation of any one of the constituent associations or corporations, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section. In addition, any one or more associations or corporations organized under the laws of any jurisdiction other than one of the United States may merge or consolidate with one or more associations incorporated under the cooperative marketing act, cited at K.S.A. 17-1601 *et seq.*, and amendments thereto, if the surviving or resulting association or corporation will be an association or corporation of this state, and if the laws under which the other associations or corporations are formed permit an association or corporation of such jurisdiction to merge or consolidate with an association or corporation of another jurisdiction.

(b) All the constituent associations or corporations shall enter into an agreement of merger or consolidation. The agreement shall

- (1) The terms and conditions of the merger or consolidation;
- (2) the mode of carrying the same into effect;
- (3) the manner of converting the shares of each of the constituent

associations or corporations into shares or other securities of the association or corporation surviving or resulting from the merger or consolidation* and, if any shares of any of the constituents are not to be converted solely into shares or other securities of the surviving or resulting association or corporation, the cash, property, rights or securities of any other association or corporation which the holders of such shares are to receive in exchange for, or upon conversion of, such shares and the surrender of the certificates evidencing certificated shares, which cash, property, rights or securities of any other association or corporation may be in addition to or in lieu of the shares or other securities of the surviving or resulting association or corporation;

(4) such other details or provisions as are deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance or recognition of fractional shares of the surviving or resulting association or corporation or of any other association or corporation the securities of which are to be received in the merger or consolidation, or for some other arrangement with respect thereto consistent with the provisions of K.S.A. 17-6405, and amendments thereto; and

(5) such other provisions or facts as shall be required to be set forth in articles of incorporation by the laws of the state which are stated in the agreement to be the laws that shall govern the surviving or resulting association or corporation and that can be stated in the case of a merger or consolidation.

(c) Any of the terms of the agreement of merger or consolidation may be made dependent upon facts ascertainable outside of such agreement, provided that the manner in which such facts shall operate upon the terms of the agreement is clearly and expressly set forth in the agreement of merger or consolidation.

(d) The agreement shall be adopted, approved, certified, executed and acknowledged by each of the constituent associations or corporations in accordance with the laws under which it is formed, and, in the case of a Kansas association, in the same manner as provided in section 1. The agreement shall be filed and recorded and shall become effective for all purposes of the laws of this state as provided in section 1 with respect to the merger or consolidation of associations or corporations of this state. In lieu of filing and recording the agreement of merger or consolidation, the surviving or resulting association or corporation may file a certificate of merger or consolidation, executed in accordance with K.S.A. 17-6003, and amendments thereto, which states:

(1) The name and state of incorporation of each of the constituents;

(2) that an agreement of merger or consolidation has been approved, adopted, certified, executed and acknowledged by each of the constituents in accordance with this subsection;

(3) the name of the surviving or resulting association or corporation;

(4) in the case of a merger, such amendments or changes in the articles of incorporation of the surviving association or corporation as are desired to be effected by the merger or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving association or corporation shall be the association's or corporation's articles of incorporation;

(5) in the case of a consolidation, that the articles of incorporation of the resulting association or corporation shall be as is set forth in an attachment to the certificate;

(6) that the executed agreement of consolidation or merger is on file at the principal place of business of the surviving association or corporation and address thereof;

(7) that a copy of the agreement of consolidation or merger will be furnished by the surviving association or corporation, on request and without cost, to any member or stockholder of any constituent;

(8) if the association or corporation surviving or resulting from the merger or consolidation is to be an association or corporation of this state, the authorized capital stock of each constituent association or corporation which is not an association or corporation of this state; and

the agreement, if any, required by subsection (e).

If the association or corporation surviving or resulting from the merger or consolidation is to be governed by the laws of the District of Columbia or any state other than this state, it shall agree

that it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent association or corporation of this state, as well as for enforcement of any obligation of the surviving or resulting association or corporation arising from the merger or consolidation, including any suit or other proceeding to enforce the right of any member or stockholder as determined in appraisal proceedings pursuant to the provisions of section 6, and shall irrevocably appoint the secretary of state as such association's or corporation's last known agent to accept service of process in any such suit or other proceedings and shall specify the address to which a copy of such process shall be mailed by the secretary of state. Service of such process shall be made by personally delivering to and leaving with the secretary of state duplicate copies of such process. The secretary of state shall forthwith send by registered mail one of such copies to such surviving or resulting association or corporation at such association's or corporation's last known address.

(f) The provisions of subsection (e) of section 1 shall apply to any merger or consolidation under this section. The provisions of subsection (f) of section 1 shall apply to a merger under this section in which the surviving association or corporation is an association or corporation of this state. The provisions of subsection (g) of section 1 shall apply to any merger under this section.

Sec. 3. No merger or consolidation shall become effective under this act until all corporate fees and taxes due to or assessable by the state have been paid by the constituent associations or corporations. Any fees or taxes which become due to or assessable by the state with respect to any such constituent, subsequent to the merger or consolidation, shall become the debt of the resulting or surviving association or corporation. When any merger or consolidation shall have become effective under this act, for all purposes of the laws of this state the separate existence of all constituent associations or corporations, or of all such constituents except the one into which the other or others of such constituents have been merged, shall cease and the constituents shall become a new association or corporation, or be merged into one of such associations or corporations, possessing all rights, privileges, powers and franchises of a public as well as of a private nature. Such associations or corporations shall be subject to all the restrictions, disabilities and duties of each of such associations or corporations so merged or consolidated. The rights, privileges, powers and franchises of each of such associations or corporations; property, real, personal and mixed; debts due to any of such constituents on whatever account; and stock subscriptions as all other things in action or belonging to each of such associations or corporations shall be vested in the association or corporation surviving or resulting from such merger or consolidation. All property, rights, privileges, powers and franchises, and every other interest shall be thereafter as effectually the property of the surviving or resulting association or corporation as such associations or corporations were of the several and respective constituents, and the title to any real estate vested by deed or otherwise, under the laws of this state, in any of such constituents, shall not revert or be in any way impaired by reason of this act. All rights of creditors and all liens upon this property of any of such constituents shall be preserved unimpaired, and all debts, liabilities and duties of the respective constituents shall attach to such surviving or resulting association or corporation, and may be enforced against the association or corporation to the same extent as if such debts, liabilities and duties had been incurred or contracted by the association or corporation.

Sec. 4. When two or more associations or corporations are merged or consolidated, the association or corporation surviving or resulting from the merger or consolidation may issue bonds or other obligations, negotiable or otherwise, and with or without coupons or interest certificates thereto attached, to an amount sufficient with the association's or corporation's capital stock to provide for all the payments the association or corporation will be required to make, or obligations it will be required to assume, in order to effect the merger or consolidation. For the purpose of securing the payment of any such bonds and obligations, it shall be lawful for the surviving or resulting association or corporation to mortgage the association's or corporation's corporate franchise, rights, privileges and property, real, personal or mixed. The surviving or resulting association or

(continued)

corporation may issue certificated or uncertificated shares of the association's or corporation's capital stock and other securities to the members of the constituent associations or corporations in exchange or payment for the original shares, in such amount as shall be necessary in accordance with the terms of the agreement of merger or consolidation in order to effect such merger or consolidation in the manner and on the terms specified in the agreement.

Sec. 5. Any action or proceeding, whether civil, criminal or administrative, pending by or against any association or corporation which is a party to a merger or consolidation shall be prosecuted as if such merger or consolidation had not taken place, or the association or corporation surviving or resulting from such merger or consolidation may be substituted in such action or proceeding.

Sec. 6. (a) Except as provided in subsection (j), the association or corporation surviving or resulting from any merger or consolidation, within 10 days after the effective date of the merger or consolidation, shall notify each member or stockholder of any association or corporation of this state so merging or consolidating who objected thereto in writing and whose shares either were not entitled to vote or were not voted in favor of the merger or consolidation, and who filed such written objection with the association or corporation before the taking of the vote on the merger or consolidation, that the merger or consolidation has become effective. If any such member or stockholder, within 20 days after the date of mailing of the notice, shall demand in writing, from the association or corporation surviving or resulting from the merger or consolidation, payment of the value of the member's or stockholder's interest, the surviving or resulting association or corporation shall pay to the member or stockholder, within 30 days after the expiration of the period of 20 days, the value of the member's or stockholder's interest on the effective date of the merger or consolidation, exclusive of any element of value arising from the expectation or accomplishment of the merger or consolidation.

(b) If during a period of 30 days following the period of 20 days provided for in subsection (a), the association and any such member or stockholder fail to agree upon the value of such member's or stockholder's interest, any such member or stockholder, or the association or corporation surviving or resulting from the merger or consolidation, may demand a determination of the value of the member's or stockholder's interest by an appraiser or appraisers to be appointed by the district court, by filing a petition with the court within four months after the expiration of the thirty-day period.

(c) Upon the filing of any such petition by a member or stockholder, service of a copy shall be made upon the surviving association or corporation, which shall file with the clerk of the district court, within 10 days after such service, a duly verified list containing the names and addresses of all members or stockholders who have demanded payment for such member's or stockholder's interest and with whom agreements as to the value of such member's or stockholder's interest have not been reached by the association or corporation. If the petition is filed by the surviving association or corporation, the petition shall be accompanied by such duly verified list. The surviving association or corporation shall give notice of the time and place fixed for the hearing of such petition pursuant to subsection (b) of K.S.A. 60-303, and amendments thereto, to the members or stockholders shown upon the list at the addresses therein stated and notice shall also be given by publishing a notice at least once, at least one week before the day of the hearing, in a newspaper of general circulation in the county in which the district court is located. The court may direct such additional publication of notice as the court deems advisable. The forms of the notices by mail and by publication shall be approved by the court.

(d) After the hearing on the petition the court shall determine the members or stockholders who have complied with the provisions of this section and become entitled to the valuation of and payment for such member's or stockholder's interest, and shall appoint an appraiser or appraisers to determine such value. The appraiser or appraisers may examine any of the books and records of the associations or corporations the stock of which such appraiser or appraisers is charged with the duty of valuing, and following an investigation, the appraiser or appraisers shall make a determination of the value of the member's or stockholder's interest. The appraiser or appraisers shall also afford a reasonable opportunity to the parties

interested to submit to the appraiser or appraisers pertinent evidence on the value of the member's or stockholder's interest. The appraiser or appraisers, also, shall have the powers and authority conferred upon masters by K.S.A. 60-253, and amendments thereto.

(e) The appraiser or appraisers shall determine the value of the stock of the members or stockholders adjudged by the district court to be entitled to payment therefor and shall file a report respecting such value in the office of the clerk of the district court, and notice of the filing of such report shall be given by the petitioners to the parties in interest. Such report shall be subject to exceptions to be heard before the court both upon the law and facts. The court by decree shall determine the value of the stock of the members or stockholders entitled to payment and shall direct the payment of such value, together with interest, if any, to the members or stockholders entitled by the surviving or resulting corporation. Upon payment of the judgment by the surviving or resulting corporation, the clerk of the district court shall surrender to the surviving association or corporation the certificates of shares of stock held by the clerk pursuant to subsection (f). The decree may be enforced as other judgments of the district court may be enforced, whether such surviving or resulting association be an association of this state or of any other state.

(f) At the time of appointing the appraiser or appraisers, the court shall require the members or stockholders who hold certificated shares and who demanded payment for the shares to submit the certificates of stock to the clerk of the court, to be held by the clerk pending the appraisal proceedings. If any member or stockholder fails to comply with such direction, the court shall dismiss the proceedings as to such member or stockholder.

(g) The cost of any such appraisal, including reasonable fees and expenses of the appraiser or appraisers, but exclusive of fees of counsel or of experts retained by any party, shall be determined by the court and taxed upon the parties to such appraisal or any of them as appears to be equitable, except that the cost of giving the notice by publication and by certified mail shall be paid by the surviving association or corporation. Postjudgment interest, if any, shall be in accordance with K.S.A. 16-204, and amendments thereto, to be paid upon the value of the stock of the members or stockholders entitled thereto.

(h) Any member or stockholder who has demanded payment of the member's or stockholder's interest as herein provided shall not thereafter be entitled to vote such member's or stockholder's stock for any purpose or be entitled to the payment of dividends or other distribution on such stock, except dividends or other distributions payable to members or stockholders of record at a date which is prior to the effective date of the merger or consolidation, unless the appointment of an appraiser or appraisers shall not be applied for within the time herein provided, or the proceeding be dismissed as to such member or stockholder, or unless such member or stockholder with the written approval of the surviving association or corporation shall deliver to the association or corporation a written withdrawal of the member's or stockholder's objections to and an acceptance of the merger or consolidation, in any of which cases the right of such member or stockholder to payment for the member's or stockholder's interest shall cease.

(i) The shares of the surviving or resulting association or corporation into which the shares of such objecting members or stockholders would have been converted had they assented to the merger or consolidation shall have the status of authorized and unissued shares of the surviving or resulting association or corporation.

(j) This section shall not be applicable to the members, stockholders or other holders of equity securities of the surviving association or corporation in any merger where the active members of the surviving association or corporation continue to be eligible to be members of the surviving association or corporation after the merger and the agreement of merger does not amend the articles of incorporation, and shall not apply to the members, stockholders or other holders of equity securities of the constituent association or corporation not surviving the merger in any merger where the active members of such constituent association or corporation are eligible to become members of the surviving association or corporation on the same terms and conditions as other similarly classified members of the surviving association or corporation.

Sec. 7. This act shall be part of and supplemental to the cooperative marketing act, cited at K.S.A. 17-1601 et seq., and amendments thereto.

Sec. 8. This act shall take effect and be in force from and after its publication in the Kansas register.

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.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 1-5-30 through 1-16-18a.

AGENCY 4: BOARD OF AGRICULTURE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-4-900 through 4-7-802.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-7-903 through 4-20-14.

AGENCY 5: BOARD OF AGRICULTURE— DIVISION OF WATER RESOURCES

Table with 3 columns: Reg. No., Action, Register. Lists regulations 5-1-1 through 5-23-3.

AGENCY 7: SECRETARY OF STATE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 7-23-4 through 7-33-2.

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Table with 3 columns: Reg. No., Action, Register. Lists regulations 9-2-1 through 9-13-4.

AGENCY 11: STATE CONSERVATION COMMISSION

Table with 3 columns: Reg. No., Action, Register. Lists regulations 11-7-1 through 11-7-10.

AGENCY 14: DEPARTMENT OF REVENUE— DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Table with 3 columns: Reg. No., Action, Register. Lists regulations 14-5-4 through 14-13-11.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 14-14-7 through 14-23-14.

AGENCY 22: STATE FIRE MARSHAL

Table with 3 columns: Reg. No., Action, Register. Lists regulations 22-1-1 through 22-20-1.

AGENCY 23: DEPARTMENT OF WILDLIFE AND PARKS

Table with 3 columns: Reg. No., Action, Register. Lists regulations 23-1-8 through 23-11-8.

(continued)

44-6-114c	New	V. 9, p. 1425
44-6-120	Amended	V. 9, p. 1425
44-6-121	Amended	V. 9, p. 1425
44-6-124	Amended	V. 9, p. 1426
44-6-125	Amended	V. 9, p. 1426
44-6-126	Amended	V. 9, p. 1426
44-6-134	Amended	V. 9, p. 1427
44-6-135	Amended	V. 9, p. 1427
44-6-135a	New	V. 9, p. 1427
44-6-136a	New	V. 9, p. 1427
44-6-143	New	V. 9, p. 1428
44-7-104	Amended	V. 9, p. 1428
44-7-114	New	V. 9, p. 577
44-8-115	New	V. 9, p. 577
44-8-116	New	V. 9, p. 577
44-9-103	Amended	V. 9, p. 123
44-9-104	Amended	V. 9, p. 123
44-11-111	Amended	V. 9, p. 950
44-11-112	Amended	V. 9, p. 80
44-11-113	Amended	V. 9, p. 80
44-11-114	Amended	V. 9, p. 80
44-11-116	Revoked	V. 9, p. 81
44-11-121	Amended	V. 9, p. 81
44-11-122	Amended	V. 9, p. 81
44-11-123	Amended	V. 9, p. 950
44-11-126	Revoked	V. 9, p. 81
44-11-128	Revoked	V. 9, p. 81
44-11-129	Amended	V. 9, p. 81
44-11-130		
through		
44-11-135	New	V. 9, p. 82

AGENCY 47: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
47-1-1	New	Vol. 9, p. 1872
47-1-3	Amended	Vol. 9, p. 1872
47-1-4	Amended	Vol. 9, p. 1872
47-1-8	Amended	Vol. 9, p. 1872
47-1-9	Amended	Vol. 9, p. 1872
47-1-10	Amended	Vol. 9, p. 1872
47-1-11	Amended	Vol. 9, p. 1873
47-2-14	Amended	Vol. 9, p. 1873
47-2-21	Amended	Vol. 9, p. 1873
47-2-53	Amended	Vol. 9, p. 1873
47-2-53a	Amended	Vol. 9, p. 1873
47-2-67	Amended	Vol. 9, p. 1873
47-2-75	Amended	Vol. 9, p. 1873
47-3-1	Amended	Vol. 9, p. 1874
47-3-2	Amended	Vol. 9, p. 1874
47-3-3a	Amended	Vol. 9, p. 1874
47-3-42	Amended	Vol. 9, p. 1874
47-4-14	Revoked	Vol. 9, p. 1876
47-4-14a	New	Vol. 9, p. 1876
47-4-15	Amended	Vol. 9, p. 1881
47-4-16	Amended	Vol. 9, p. 1884
47-4-17	Amended	Vol. 9, p. 1884
47-5-5a	Amended	Vol. 9, p. 1885
47-5-16	Amended	Vol. 9, p. 1887
47-6-1	Amended	Vol. 9, p. 1887
47-6-2	Amended	Vol. 9, p. 1887
47-6-3	Amended	Vol. 9, p. 1887
47-6-4	Amended	Vol. 9, p. 1887
47-6-6	Amended	Vol. 9, p. 1888
47-6-7	New	Vol. 9, p. 1888
47-6-8	New	Vol. 9, p. 1889
47-6-9	New	Vol. 9, p. 1889
47-6-10	New	Vol. 9, p. 1889
47-7-2	Amended	Vol. 9, p. 1889
47-8-9	Amended	Vol. 9, p. 1890
47-8-11	Amended	Vol. 9, p. 1890
47-9-1	Amended	Vol. 9, p. 1890
47-9-2	Amended	Vol. 9, p. 1893
47-9-4	Amended	Vol. 9, p. 1893
47-10-1	Amended	Vol. 9, p. 1893
47-11-8	Amended	Vol. 9, p. 1893
47-12-4	Amended	Vol. 9, p. 1894
47-13-4	Amended	Vol. 9, p. 1894
47-13-5	Amended	Vol. 9, p. 1894
47-13-6	Amended	Vol. 9, p. 1895
47-14-7	Amended	Vol. 9, p. 1895
47-15-1a	Amended	Vol. 9, p. 1895
47-15-3	Amended	Vol. 9, p. 1896
47-15-4	Amended	Vol. 9, p. 1896
47-15-7	Amended	Vol. 9, p. 1896
47-15-8	Amended	Vol. 9, p. 1896

47-15-15	Amended	Vol. 9, p. 1897
47-15-17	Amended	Vol. 9, p. 1897
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

(continued)

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. 9, 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
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
111-4-257 through 111-4-280	New	V. 10, p. 755-759
111-4-282 through 111-4-286	New	V. 10, p. 759
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. 211
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. 986
111-8-4	New	V. 7, p. 1633
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

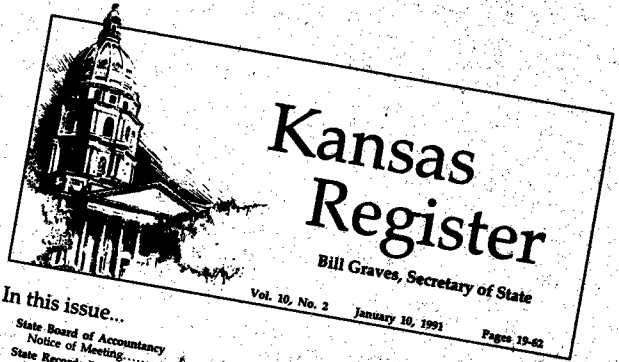
Reg. No.	Action	Register
117-1-1	New	V. 9, p. 1786
117-2-1	New	V. 9, p. 1786
117-2-2	New	V. 9, p. 1787
117-3-1	New	V. 9, p. 1787
117-3-2	New	V. 9, p. 1787
117-6-1	New	V. 9, p. 1788
117-6-2	New	V. 9, p. 1788
117-6-3	New	V. 9, p. 1788
117-7-1	New	V. 9, p. 1789

AGENCY 119: KANSAS DEVELOPMENT FINANCE AUTHORITY

Reg. No.	Action	Register
119-1-1	New	V. 10, p. 263
119-1-2	New	V. 10, p. 264
119-1-3	New	V. 10, p. 264

NOW AVAILABLE . . .

**CUSTOM-MADE
LOOSELEAF BINDERS
for the
KANSAS REGISTER**



In this issue...

	Page
State Board of Accountancy	20
Notice of Meeting	20
State Records Board	20
Notice of Meeting	20
Kansas Agricultural Value-Added Processing Center	20
Notice of Leadership Council Meeting	20
Kansas Water Authority	21
Notice of Meeting	21
Kansas Sentencing Commission	21
Notice of Meeting	21
Executive Appointments	21
Kansas Apprenticeship Committee	21
Notice of Meeting	21
Notice to Bidders for State Purchases	22
Notice of Bond Sale	22
City of Hillsboro	23

We are pleased to announce that custom-made *Kansas Register* binders are now available!

These binders will hold your copies of the *Kansas Register* attractively for permanent use. They are highest quality, durable, casebound Swing Hinge® binders made by McBee Loose Leaf Binder Products. (A Swing Hinge® binder has more capacity and allows for easier interfiling than standard ring binders.) They feature dark blue cloth covering and gold imprinting. Each three-inch binder will hold up to a year's worth of *Register* issues.

Order your binders today!

***Kansas Register* binders . . . \$18.00 each includes shipping and handling.**

CLIP AND MAIL

Dear Secretary Graves: Please send _____ *Kansas Register* binders.
(Quantity)

Price: \$18.00 each, includes shipping and handling.

AMOUNT ENCLOSED \$ _____

SHIP TO:

**Shipping is by
U.P.S. Delivery Service;
STREET ADDRESS
IS NECESSARY.**

Mail order, with payment, to: *Kansas Register*, Secretary of State, State Capitol, Topeka, KS 66612-1594.

**Kansas Register
Secretary of State
2nd Floor, State Capitol
Topeka, KS 66612-1594**

Use this form or a copy of it to enter a subscription:

_____ **One-year subscriptions @ \$60 ea.
(Kansas residents must include
\$3.15 state and local sales tax.)**

Total Enclosed _____
(Make checks payable to the Kansas Register)

Send to:

(Please, no
more than
4 address
lines.)

Zip code must be included

This space for Register office use only.
Rec. No. _____
Exp. _____
Code _____

Use this form or a copy of it to enter a name or address change:

Remove your mailing label (above) and affix it here:

**Indicate change of name or address
here:**

**Mail either form to: Kansas Register, Secretary of State, 2nd Floor,
State Capitol, Topeka, KS 66612-1594**