

Kansas Register

Bill Graves, Secretary of State

Vol. 13, No. 15

April 14, 1994

Pages 475-520

In this issue . . .	Page
Kansas Advocacy and Protective Services, Inc.	
Request for comments	477
Legislative bills introduced March 31-April 6	477
State Banking Board	
Notice of meeting	477
Historic Sites Board of Review	
Notice of meeting	477
Information Network of Kansas	
Notice of meeting	478
Kansas Continuing Legal Education Commission	
Notice of meeting	478
State Board of Nursing	
Notice of hearing on proposed administrative regulations	478
State Grain Inspection Department	
Notice of Grain Advisory Commission meeting	479
Department of Administration	
Public notice	479
Kansas State Treasurer	
Notice of investment rates	479
Department of Health and Environment	
Notice of hearing	479
Notice of meeting	479
Notice concerning Kansas water pollution control permits	480
Executive appointments	481
Private Industry Council	
Public notice	482
Department of Transportation	
Notice to consulting engineers	482
Kansas Commission on Governmental Standards and Conduct	
Advisory Opinions No. 94-3 through 94-9	483
Notice of Note Sale	
City of Olathe	489
Notice to bidders for state purchases	489

(continued)

Notice of Bond Sale
 City of Ness City 490

Permanent Administrative Regulations
 State Board of Agriculture—Division of Water Resources 491

Index to administrative regulations 496

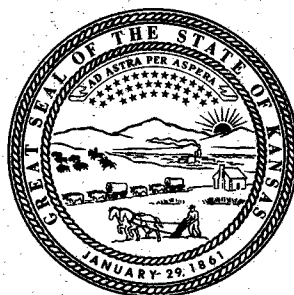
New State Laws
 House Bill 2709, enacting the health care provider cooperation act 501
 House Bill 2570, concerning certain cities 502
 Senate Bill 634, relating to municipalities 502
 House Bill 2762, concerning the imprest fund of the Department of
 Commerce and Housing 503
 House Substitute for House Bill 2103, concerning health care providers 503
 House Bill 2998, relating to elections 504
 Senate Bill 640, relating to insurance 504
 House Bill 2591, relating to elections 504
 Senate Bill 635, relating to public moneys 505
 Senate Bill 566, relating to insurance 506
 House Bill 2661, concerning crimes, punishment and criminal procedure 506
 Senate Bill 636, concerning public moneys 509
 Substitute for House Bill 2625, concerning recreation commissions 513
 Senate Bill 554, concerning agricultural corporations and limited
 liability companies 515

The Kansas Register (ISSN No. 0662-190) 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 \$3.54 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 1994. 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
 300 S.W. 10th Ave.
 Topeka, KS 66612-1594
 (913) 296-2236



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

State of Kansas

Kansas Advocacy and Protective Services, Inc.

Request for Comments

The public is provided with the opportunity to comment on the priorities and objectives of Kansas Advocacy and Protective Services, Inc. relating to protection and advocacy provided for by the Protection and Advocacy of Individual Rights Program authorized by Section 509 of the Rehabilitation Act of 1973, as amended. A 30-day period for public comment extends through May 10. Copies of materials describing initial priorities and objectives for the program may be obtained by contacting Kansas Advocacy and Protective Services, Inc., 2601 Anderson Ave., Suite 200, Manhattan 66502-2876, 1-800-432-8276 (Voice/TDD).

Joan Strickler
Executive Director

Doc. No. 014677

State of Kansas

Legislature

Legislative Bills Introduced

The following numbers and titles of bills and resolutions have been recently introduced by the 1994 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, Topeka 66612, (913) 296-4096.

Bills Introduced March 31-April 6:

House Resolutions

HR 6011, A resolution in memory of Kathryn Murphy.

Senate Bills

SB 846, by Committee on Ways and Means: An act concerning the department of social and rehabilitation services; relating to child support; establishing procedures for a due process hearing to determine financial responsibility for child support and collateral expenses.

Senate Resolutions

SR 1849, A resolution congratulating and commending Linda K. Roser on being recognized as the 1994 Kansas Outstanding Postsecondary Vocational Student and as current finalist for National Student of the Year.

SR 1850, A resolution congratulating and commending the Topeka West High School girls' basketball team and Coach Mike Goehring for winning the 1994 Class 6A State Basketball Championship in Kansas.

SR 1851, A resolution congratulating and commending the Cunningham High School Scholar's Bowl Team for winning the Class 1A Scholar's Bowl state championship in Kansas.

SR 1852, A resolution congratulating and commending the Immaculata High School of Leavenworth girls' basketball team and Coach Greg Hohensinner for winning the 1994 Class 3A State Basketball Championship in Kansas.

SR 1853, A resolution congratulating and commending Johnson County Community College and their Automotive Technology Program Advisory Committee on being recognized as the 1994 Outstanding Vocational Instructional Program (VIP) in Kansas.

SR 1854, A resolution congratulating and commending Newton's Santa Fe Middle School on winning The Odyssey of the Mind State Competition.

SR 1855, A resolution in memory of Donna Lou Kennedy.

Doc. No. 014679

State of Kansas

State Banking Board

Notice of Meeting

The State Banking Board will meet at 9 a.m. Monday, May 23, in the conference room of the Office of the State Bank Commissioner, Suite 300, Jayhawk Tower, 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. 014689

State of Kansas

Historic Sites Board of Review

Notice of Meeting

The Kansas Historic Sites Board of Review will meet at 9:30 a.m. Saturday, May 7, at the Santa Fe Trail Center, two miles west of Larned on US-56. The agenda includes evaluation of the following properties for the National Register of Historic Places and/or the Register of Historic Kansas Places:

- ◆ Santa Fe Trail Multiple Property Nominations
 - 1) Douglas County Trail Segments, Douglas County Prairie Park, 3 miles east of Baldwin on US-56, Douglas County
 - 2) Samuel Hunt Grave, 4 ³/₄ miles west of Burlingame on K-31, Osage County
 - 3) Havana Stage Station, 4 ¹/₂ west of Burlingame on K-31, Osage County
 - 4) Six Mile Stage Station, 2 ¹/₂ miles north of Burdick, Morris County
 - 5) Marion County Trail Segments, 4 miles west and 3 miles south of Durham, Marion County
 - 6) Station Little Arkansas, 5 miles east and 5 miles south of Little River, Rice County
 - 7) Rice County Trail Segments, 4 miles west and ³/₄ mile north of Chase, Rice County
- ◆ J. A. Koller House, 612 Houston, Manhattan, Riley County (State Register only)

The Kansas State Historical Society welcomes individuals with disabilities to participate in its activities. If you have a visual, aural, or other physical or mental impairment that is a "disability" under the Americans with Disabilities Act, or otherwise have a "disability" under the Act, contact Sandy McDaniel at the Historic Preservation Office, Kansas State Historical Society, 120 W. 10th, Topeka 66612, (913) 296-7080, by April 29 to discuss the nature of your disability and what the Kansas State Historical Society needs to do to ensure your participation.

Ramon Powers
Executive Director

Doc. No. 014693

State of Kansas

Information Network of Kansas

Notice of Meeting

The Information Network of Kansas Board will meet at 2 p.m. Thursday, April 21, at Kansas Inc., 632 S.W. Van Buren, Suite 100, Topeka. The meeting is open to the public.

Charles R. Warren
President, Kansas Inc.

Doc. No. 014690

State of Kansas

Kansas Continuing Legal Education
Commission

Notice of Meeting

The Kansas Continuing Legal Education Commission will meet at 1 p.m. Friday, April 15, in the Court of Appeals Courtroom, second floor, Kansas Judicial Center, 301 S.W. 10th, Topeka.

Ronald M. Keefover
Education-Information Officer

Doc. No. 014692

State of Kansas

Board of Nursing

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 11 a.m. Monday, May 16, in Room 108 of the Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of proposed changes in existing rules and regulations.

The 30-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the executive administrator of the Board of Nursing, Room 551-S, Landon State Office Building, 900 S.W. Jackson, Topeka. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing.

A summary of proposed regulations and their economic impact follows.

K.A.R. 60-1-102. Definitions. Key words used in the education regulations are defined.

K.A.R. 60-2-101. Requirements for accreditation. The regulation for accreditation of schools of nursing is revised to include previous guidelines. If a new school is applying for accreditation, there are specific steps to be taken and certain materials to be provided by the school to the board.

K.A.R. 60-2-102. Resurvey requirements. The resurvey process is outlined so that directors of schools of nursing know the exact procedure.

K.A.R. 60-2-103. Faculty qualifications. The required qualifications of nursing faculty, adjunct faculty, and preceptors are contained in this regulation.

K.A.R. 60-2-104. Curriculum requirements. Schools of nursing are required to submit to the board the curriculum for each course. Revisions may be reviewed by the board or staff. The board has identified the minimum number of course hours which must be completed before a student is eligible for graduation.

K.A.R. 60-2-105. Clinical resources. Each school will be affiliating with various facilities to provide clinical experiences for students. Requirements for clinical resources are in the regulation.

K.A.R. 60-2-106. Educational facilities. Each school of nursing has to have adequate space, library holdings, and instructional media.

K.A.R. 60-2-107. Students. Admission, readmission, progression, graduation, and articulation of students is addressed in this regulation.

K.A.R. 60-2-108. Reports. Various reports from the schools of nursing are required throughout the year.

K.A.R. 60-1-102 and 60-2-101 through 60-2-108 are proposed regulations which have been guidelines. The schools of nursing are currently following these guidelines, so there should be no economic impact on them or the board.

K.A.R. 60-3-110. Standards of revocation, suspension, limitation, or denial of nursing license. **K.A.R. 60-7-106. Standards of revocation, suspension, limitation, denial of mental health technician licensure.** These two regulations have a minor change which clarifies that one act of unprofessional conduct is committing an act of sexual misconduct or sexual exploitation related to the licensee's practice. There would be no economic impact associated with this change.

K.A.R. 60-11-103. Qualifications of advanced registered nurse practitioners. A new section has been added to allow registered nurse anesthetists who are graduates of unaccredited schools of nurse anesthesia in Kansas to apply on an individual basis for certification as advanced registered nurse practitioners. If registered nurse anesthetists are unable to become certified, then they will be in violation of the nurse practice act.

K.A.R. 60-11-108. Requirements for advanced registered nurse practitioner programs of study. A previous change in this regulation made the time line for faculty qualifications incorrect. This update of the regulation corrects the previous mistake.

Copies of the regulations and their economic impact statements may be obtained from the Board of Nursing at the address given above, (913) 296-5752.

Patsy Johnson, R.N., M.N.
Executive Administrator

Doc. No. 014682

State of Kansas

Grain Inspection Department

Notice of Meeting

The Kansas State Grain Inspection Department will conduct its quarterly Grain Advisory Commission meeting at 9 a.m. Friday, April 22, in the conference room at Collingwood Grain, located in the Trade Center, 1600 N. Lorraine, Hutchinson. The meeting is open to the public.

Lee Hamm
Director

Doc. No. 014691

State of Kansas

Department of Administration

Public Notice

Under requirements of K.S.A. 65-34,117(b), records of the Division of Accounts and Reports show the unobligated balances are \$4,684,707.77 in the underground petroleum storage tank release trust fund and \$7,559,098.08 in the aboveground petroleum storage tank release trust fund at March 31, 1994.

Susan M. Seltsam
Secretary of Administration

Doc. No. 014694

State of Kansas

Department of Health and Environment

Notice of Meeting

The Department of Health and Environment will meet at 9 a.m. Tuesday, April 26, at the Kansas Historical Society auditorium, 120 W. 10th, Topeka. The meeting is open to the public. Telephone hookups are provided at the KDHE district offices located in Chanute, Wichita, Dodge City, Hays, Salina, and Lawrence; and the Pittsburg Office of Surface Mining. Any individual with a disability may request accommodation in order to participate in the meeting. Requests for accommodation should be made at least five working days in advance of the meeting by contacting Mary Ann Cummings at (913) 296-0461.

The meeting agenda includes:

- Secretary's remarks
- Report from Division of Health
- Report from Division of Environment
- Other items

Robert C. Harder
Secretary of Health and Environment

Doc. No. 014681

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1992 Supp. 75-4210. These rates and their uses are defined in K.S.A. 75-4201(1), 12-1675(b)(c)(d) and 75-4209(a)(1)(B), as amended by the 1993 Session Laws of Kansas, Chapter 207.

Effective 4-18-94 through 4-24-94

Term	Rate
0-90 days	3.46%
3 months	3.80%
6 months	4.19%
9 months	4.57%
12 months	4.83%
18 months	5.19%
24 months	5.47%
36 months	5.95%
48 months	6.28%

Sally Thompson
State Treasurer

Doc. No. 014680

State of Kansas

Department of Health and Environment

Notice of Hearing

The Kansas Department of Health and Environment has prepared a proposed Kansas water pollution control permit for the Hinchman Ranch Feedlot located near Dunlap. The proposed permit for the Hinchman Ranch Feedlot was placed on Public Notice No. KS-AG-94-1/2, dated January 13 through February 11, 1994. Public response to that notice was expressed; therefore, a public hearing has been scheduled in conformance with state regulation 28-16-61.

A public hearing on KDHE's intention to issue the proposed permit has been scheduled for 7 p.m. Tuesday, May 17, at the Council Grove High School Auditorium, South Wood St., Council Grove.

The Secretary of Health and Environment will make a final permit decision after consideration of all comments received and of all requirements of state statutes and regulations.

Robert C. Harder
Secretary of Health and Environment

Doc. No. 014700

State of Kansas

Department of Health and Environment

Notice Concerning Kansas Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for discharges to the waters of the United States and the state of Kansas for the applicants described below. The tentative determinations for permit content are based on preliminary staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the EPA, and when issued will result in a state water pollution control permit and national pollutant discharge elimination system authorization to discharge subject to certain effluent limitations and special conditions.

Public Notice No. KS-AG-94-22/24

Name and Address of Applicant	Legal Description	Receiving Water
Syracuse Dairy Jay Houtsma P.O. Box G.G. Syracuse, KS 67878	NE/4, Sec. 36, T26S, R41W, Hamilton County	Cimarron River Basin

Kansas Permit No. A-CIHM-M001 Federal Permit No. KS-0090638

The dairy facility has capacity for approximately 3300 dairy cattle and a contributing drainage area of approximately 89 acres. This is a new facility.

Runoff Control Facilities: Dairy parlor wastewater and runoff is impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of 43 acre-foot.

Compliance Schedule: A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas for application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Additional pumping equipment capable of providing total pumping capacity of 1,000 gpm shall be obtained within six months after issuance of this permit through purchase, rental or custom application agreement. Written verification of the acquisition of the equipment shall be submitted to the department.

Name and Address of Applicant	Legal Description	Receiving Water
Wilson Livestock Company Bob Wilson Route 4, Box 77 Abilene, KS 67410	NW/4, Sec. 23, T13S, R1E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B005

The feedlot has capacity for approximately 975 cattle and a contributing drainage area of approximately 14.6 acres. This is a new facility.

Runoff Control Facilities: Feedlot runoff is impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of 9.9 acre-foot.

Compliance Schedule: A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both

solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas for application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Name and Address of Applicant	Legal Description	Receiving Water
Visser Farms, Inc. 11363 Kansas Spur Riley, KS 66531	NW/4, Sec. 4, T4S, R6E, Riley County	Big Blue River Basin

Kansas Permit No. A-BBRL-S009

The proposed expanded facility will have the capacity for approximately 744 swine.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided in excess of minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed. The plan shall cover, but not be limited to, the following items: handling and disposal equipment for both solid and liquid wastes, land application practices used to protect against runoff and leaching, waste application rates based on crop nutrient utilization, and identification of adequate land areas for application of all wastes. Detailed guidance and requirements will be provided by the department. A plan shall be submitted to the department within six months following receipt of detailed requirements. The approved plan will become part of this permit.

Public Notice No. KS-ND-94-1/3

Name and Address of Applicant	Waterway	Type of Discharge
Country Corvettes Route 1, Box 159 Nortonville, KS 66060	Non-overflowing	Non-overflowing

Jefferson County, Kansas
Kansas Permit No. I-KS50-N002

Description of Facility: Domestic wastewater and shop floor wash-down water is directed to a synthetic, double-lined lagoon. This is a new facility.

Name and Address of Applicant	Waterway	Type of Discharge
Hamm Landfill Leachate Lagoon Williamstown, Kansas % Hamm Quarries P.O. Box 17 Perry, KS 66073	Non-overflowing	Non-overflowing

Jefferson County, Kansas
Kansas Permit No. K-KS89-N001

Description of Facility: Landfill leachate is directed to an aboveground leachate tank, flow recording station and a synthetic, double-lined lagoon. This is a new facility.

Name and Address of Applicant	Waterway	Type of Discharge
Veterans of Foreign Wars Post 5901 P.O. Box 683 Ottawa, KS 66067	Non-overflowing	Non-overflowing

Franklin County, Kansas
Kansas Permit No. C-MC31-N003

Description of Facility: This is a two-cell non-discharging lagoon system for domestic waste only. This is a new facility.

Public Notice No. KS-94-22/23

<p>Name and Address of Applicant City of Fort Scott 1 E. 3rd Fort Scott, KS 66701 Bourbon County, Kansas Kansas Permit No. M-MC11-I001</p>	<p>Waterway Marmaton River</p>	<p>Type of Discharge Secondary wastewater treatment facility</p>
--	--	--

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 federal surface water criteria, and are water quality based.

<p>Name and Address of Applicant Wolf Creek Generating Station Wolf Creek Nuclear Operating Corporation P.O. Box 411 Burlington, KS 66839 Coffey County, Kansas Kansas Permit No. I-NE07-P002</p>	<p>Waterway Neosho River via Wolf Creek via Wolf Creek cooling impoundment</p>	<p>Type of Discharge Cooling water, domestic sewage, oil water separator, radwaste system discharge</p>
--	--	---

Description of Facility: The station consists of a pressurized nuclear reactor steam supply system and a turbine generator used for generation, transmission and distribution of electrical power. 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 federal surface water criteria.

Written comments on the proposed determinations may be submitted to Bethel Spotts, Permit Clerk, or Dorothy Geisler (agricultural permits), Kansas Department of Health and Environment, Division of Environment, Bureau of Water, Forbes Field, Topeka 66620. All comments postmarked or received on or before May 13 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-94-22/24, KS-ND-94-1/3, KS-94-22/23) and the name of applicant as listed when preparing comments.

If no objections are received during the public notice period, 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 Kansas Department of Health and Environment offices, Building 283, 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 Division of Environment.

Robert C. Harder
 Secretary of Health and Environment

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. The following appointments were filed April 4-8:

Marion County Treasurer

Jeannine Bateman, Route 3, Box 99, Marion 66861. Term expires when a successor is elected and qualifies according to law. Succeeds Verden Harms, resigned.

State Building Advisory Committee

Mark F. Arbuthnot, Office of the City Manager, P.O. Box 86, Wamego 66547. Term expires December 31, 1997. Succeeds H.D. Woods.

Advisory Commission for Children With Special Health Care Needs

Peggy Dill, 401 Saline, Topeka 66604. Term expires February 27, 1998. Succeeds Virginia Kelly.

State Planning Council on Developmental Disabilities Services

(Members serve at the pleasure of the Governor.)

Tammy Schwindt, 116 E. Chestnut, Suite 103, Garden City 67846. Succeeds Terese Shumaker, resigned.

Joan Strickler, 1523 University Drive, Manhattan 66502. Reappointment.

Patrick Terick, 2021 Old Manor Court, Wichita 67208. Reappointment.

Josie Torrez, Families Together, Inc., 1023 S.W. Gage Blvd., Topeka 66604. Succeeds Sue Steele.

Glen Yancey, 3311 S.W. Jardine Court, Topeka 66611. Reappointment.

Kansas Lottery Commission

Larry Von Feldt, 15226 Oakmont St., Overland Park 66221. Subject to Senate confirmation. Term expires June 15, 1997. Succeeds Ray Morgan.

State Board of Mortuary Arts

Berry W. Bedene, Bedene Funeral Home, P.O. Box 621, Arma 66712. Term expires July 31, 1997. Reappointment.

Kansas Commission on National and Community Service

Kathleen White, 7137 Booth, Shawnee Mission 66208. Term expires March 24, 1997. New position.

State Board of Pharmacy

Margaret Young, P.O. Box 12004, Wichita 67277. Term expires April 30, 1997. Reappointment.

Bill Graves
 Secretary of State

State of Kansas

Private Industry Council

Public Notice

The Kansas Private Industry Council of Service Delivery Area (SDA) III is submitting a two-year Job Training Plan to the Governor of Kansas through the Department of Human Resources. Funding for this plan is through Title IIA (Adults) and Title IIC (Youth) of the Job Training Partnership Act (JTPA) as amended in 1992. The purpose of the Act is to establish programs to prepare economically disadvantaged adults and youth facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the nation. The respective program years are July 1, 1994 to June 30, 1995 (PY 94), and July 1, 1995 to June 30, 1996 (PY 95). The PY 94 Title IIA funding level is estimated to be \$822,085 and the PY 95 Title IIC funding level is estimated to be \$543,008. The SDA plans to serve approximately 410 eligible adults and 320 eligible youth (50 percent out-of-school and 50 percent in-school) during this program year. The plan will become effective July 1, 1994.

The Kansas Private Industry Council of SDA III is also submitting to the Governor through the Department of Human Resources a Summer Youth Employment and Training Plan (SYETP). The respective program years are October 1, 1993 to September 30, 1994 (CY 94) and October 1, 1994 to September 30, 1995 (CY 95). The funding level for the program year beginning October 1, 1993 and ending September 30, 1994 (summer of 1994) is estimated to be \$932,232. The SDA plans to serve an estimated 515 eligible youth during the summer of 1994. Funding for the SYETP is through Title IIB of the Job Training Partnership Act as amended. The purpose of the SYETP is to provide job training for economically disadvantaged youth, ages 14-21, facing serious barriers to employment, with exposure to the world of work, the enhancement of basic educational skills, and to encourage school completion or enrollment in supplementary or alternative school programs.

In addition, the Kansas Private Industry Council of SDA III is submitting to the Governor through the Department of Human Resources a Title III Economic Dislocation and Worker Adjustment Act (EDWAA) Plan. The respective program years are July 1, 1994 to June 30, 1995 (PY 94), and July 1, 1995 to June 30, 1996 (PY 95). The funding level for PY 94 is estimated to be \$810,635. The SDA plans to serve approximately 405 eligible participants during PY 94. The purpose of the program is to assist workers who have been terminated, laid off or have received a notice of termination or layoff due to a permanent closure or substantial layoff at a plant or facility find employment by providing readjustment, retraining and other services for dislocated workers. The plan will become effective July 1, 1994.

There is a 30-day review and comment period for the proposed plan modification. The full Title IIA, Title IIB,

Title IIC and Title III plans are available at the following location and may be reviewed upon request. Questions and comments may be directed to the Kansas Private Industry Council, Service Delivery Area III, 1020 Gateway Center Tower II, 4th and State Ave., Kansas City, KS 66101, (913) 371-1607.

Shirley Robinson
Executive Secretary

Doc. No. 014687

State of Kansas

Department of Transportation

Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consultant engineering firms for its "Traffic Engineering Assistance Program." Prequalified consultant engineering firms will provide services as described in this notice.

The program has been developed to enable KDOT—utilizing Federal 402 safety funds—to help local units of government requesting assistance in solving traffic engineering operational and safety improvement problems when they do not have the traffic engineering expertise available. The direction of this program will be under the jurisdiction of KDOT's Bureau of Local Projects.

Consultants selected will provide services for federal fiscal years 1995, 1996 and 1997 for two areas at a maximum of about \$50,000 per area per year. Area one will be bounded by the first, second and third KDOT districts. Area two will be bounded by the fourth, fifth and sixth KDOT districts.

From those firms expressing interest, KDOT will select a list of the most highly qualified and invite them to attend a preproposal conference. Those firms not selected to attend the preproposal conference will be notified by letter. A negotiating committee, appointed by the Secretary of Transportation, will conduct discussions with the firms on the most qualified list and select one or more firms with which to negotiate a contract. After final contracts have been awarded, the remaining firms will be notified by letter.

To be considered for this program, seven signed copies of your response must be submitted by April 21 to Al Cathcart, P.E., Project Control Engineer, Office of Engineering Support, Kansas Department of Transportation, 7th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka 66612.

It is the policy of KDOT to use the following criteria as the basis for selection of consultant engineering firms:

1. Size and professional qualifications.
2. Experience of staff.
3. Location of firm with respect to proposed program.
4. Work load of firm.
5. Firm's performance record.

Michael L. Johnston
Secretary of Transportation

Doc. No. 014638

State of Kansas

Kansas Commission on Governmental Standards and Conduct

Advisory Opinion No. 94-3

Written March 31, 1994, to the Honorable Tom Bradley, State Representative, Topeka.

This opinion is in response to your letter of March 15, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state level conflict of interests laws (K.S.A. 46-215 *et seq.*).

Factual Statement

You advise us you request this opinion on your own behalf. You state you are a former employee of Southwestern Bell and currently serve as a state legislator.

Question

You ask, as a former employee of Southwestern Bell, if you are prohibited from voting on legislation impacting Southwestern Bell?

Opinion

The only section of the act which might relate to the situation you have described is K.S.A. 46-233(b). That subsection states:

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

Please note that this subsection does not prohibit a legislator from voting on any issue, even one regarding a current employer. Rather, the section prohibits direct or indirect pecuniary interests in certain contracts funded by legislative enactment and even then disclosure is all that is required to cure the situation. Thus, you may vote on issues relating to Southwestern Bell even though you are a former employee of Southwestern Bell.

Advisory Opinion No. 94-4

Written March 31, 1994, to Richard S. Wetzler, Attorney at Law, Prairie Village.

This opinion is in response to your letter of February 22, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the local conflict of interests law (K.S.A. 75-4301 *et seq.*).

Factual Statement

We understand you request this opinion in your capacity as counsel for the city of Leawood and on behalf of Graham Giblin, a current member of the city council.

You advise us that in 1980, Graham Giblin entered into a "Kansas Real Estate Sale Contract" for the sale of approximately 78 acres of undeveloped ground. The

contract provided for sale of ground by Councilman Giblin and three other owners by contract for deed. The ground which was the subject of the contract for deed is located in the city of Leawood and adjoins K-150 highway as it passes through the city of Leawood. This roadway is also known in Leawood and adjoining cities as 135th Street. The agreement provided for conveyance of the deed to the purchaser over a period of time. You are advised that final payment totalling \$21,825 plus interest was paid in full October 29, 1993.

The city of Leawood was recently sued by the purchaser of the ground. This litigation, in a very general way, relates to the manner of financing improvements to K-150 Highway in the area of the property conveyed by the contract for deed. This litigation also relates to a determination by the city that a portion of the cost of improving K-150 should be paid by or assessed to the adjoining property or its owners, including the owner of the subject property, through the payment of impact fees or creation of an improvement district. Within the past six months, the city has also authorized the initiation of condemnation proceedings to acquire additional right-of-way from the property conveyed by the agreement from the purchaser of the property.

Questions

1. Is it permissible for Councilman Giblin to participate in his capacity as a city councilman on issues involving litigation pending against the city by a property owner who owns land conveyed to the property owner by the councilman?

2. Is it permissible for Councilman Giblin to participate in his capacity as a city councilman on issues involving condemnation proceedings on property formerly owned by him?

Opinion

The local conflict of interest law has two primary prohibitions.

K.S.A. 1993 Supp. 75-4304 states:

(a) No local governmental officer or employee shall, in the capacity of such an officer or employee, make or participate in the making of a contract with any person or business by which the officer or employee is employed or in whose business the officer or employee has a substantial interest.

(b) No person or business shall enter into any contract where any local governmental officer or employee, acting in that capacity, is a signatory to or a participant in the making of the contract and is employed by or has a substantial interest in that person or business.

(c) A local governmental officer or employee does not make or participate in the making of a contract if the officer or employee abstains from any action in regard to the contract.

(d) This section shall not apply to the following: (1) Contracts let after competitive bidding has been advertised for by published notice; and (2) contracts for property or services for which the price or rate is fixed by law.

(e) Any local governmental officer or employee who is convicted of violating this section shall forfeit the office or employment.

(continued)

K.S.A. 1993 Supp. 75-4305 states:

- (a) Any local governmental officer or employee who has not filed a disclosure of substantial interests shall, before acting upon any matter which will affect any business in which the officer or employee has a substantial interest, file a written report of the nature of the interest with the county election officer of the county in which is located all or the largest geographical part of the officer's or employee's governmental subdivision.
- (b) A local governmental officer or employee does not pass or act upon any matter if the officer or employee abstains from any action in regard to the matter.

As applied to this factual situation, neither of these sections is triggered unless the city councilman holds a "substantial interest" in a "business." "Business" is defined in K.S.A. 1993 Supp. 75-4301a(b) to include ownership of land for production of income. "Substantial interest" is defined in K.S.A. 1993 Supp. 75-4301a(a) to include owning a legal or equitable interest exceeding \$5000 or 5 percent of any business. Since the land here was undeveloped and not the principal place of residence of the city councilman, we believe it was held for the production of income and was a "business" as defined by the act. In addition, until the deed was finally conveyed on or about October 29, 1993, he held the legal interest in the property, assumably 25 percent and, therefore, holds a "substantial interest."

In addition, K.S.A. 1993 Supp. 75-4301a(a) defines "substantial interest" to include ownerships "within the preceding 12 months." Thus, it is our opinion that the city councilman holds a "substantial interest" in the land you have described for the 12-month period after the deed was conveyed.

With these initials determined, we turn to the application of K.S.A. 1993 Supp. 75-4304 and 75-4305 to the situation. K.S.A. 1993 Supp. 75-4304 prohibits a local governmental officer from participating in the making of contracts between the city and a business in which the official holds a "substantial interest." This section does not, as a general rule, prohibit a local officer from participating in legislative decisions that may affect their "substantial interest." Thus, under this section a local officer may participate in legislative decisions to condemn property, zone property, create improvement districts and select the type of financing concerning their own holdings. However, it is not generally appropriate, under this section, to participate in negotiations on agreements of settlements in cases against the city, since those transactions involve contracts.

Applying these general rules to your first question, it is our opinion that the councilman could legally participate in official government decisions to determine the method of financing the improvements along K-150, but should not participate in settlement negotiations or discussions which could lead to a contract between the city and the current owner of the real estate to resolve pending litigation. The restriction would be removed once 12 months have passed from conveyance of the deed.

On the second question, the answer is that the city councilman may participate in the legislative decision to initiate condemnation proceedings, but should not participate in settlement negotiations or discussions which

could lead to a contract between the city and the current owner of the property. Again, the restriction would be removed 12 months after the conveyance of the deed.

In closing, we note that K.S.A. 1993 Supp. 75-4305 relates to situations where an action by a local officer "affect(s)" a business in which the officer holds a "substantial interest." All of the actions described above, including legislative action, "affect" the land and the city councilman must either abstain from action under this section or disclose the holding.

Advisory Opinion No. 94-5

Written March 31, 1994, to Brandon L. Myers, Chief Legal Counsel, Kansas Human Rights Commission, Topeka.

This opinion is in response to your letter of March 4, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state level conflict of interests laws (K.S.A. 46-215 *et seq.*).

Factual Statement

We understand you request this opinion in your capacity as the chief legal counsel for the Kansas Human Rights Commission.

You advise us that the Kansas Human Rights Commission administers and enforces the Kansas Act Against Discrimination (KAAD) and the Kansas Age Discrimination in Employment Act (KADEA). Duties under those laws include accepting and investigating complaints of discrimination in employment, public accommodations and housing, and effectuating remedies by conciliation or litigation. An additional realm of responsibility for the commission is to educate the public about these laws and issues related thereto. A staff member primarily responsible for these latter duties is your education and training specialist.

Your current education and training specialist, Monica Hill, has been considering the possibility of conducting poster design contests involving school children. She would like to be able to have prizes to award to winners of the competitions. To do so, it might be necessary to contact businesses or individuals and seek to have them contribute prizes to the competition, or arrange some form of agreement whereby prizes would be transmitted from those sponsors to the winning participants in the contests.

You also note that almost any person or organization solicited for a contribution might be a complainant or have a complaint filed against them at some time which could be investigated or heard by your agency.

Question

You ask whether a solicitation of donations under the circumstances you have described is permissible under K.S.A. 46-236?

Opinion

K.S.A. 46-236 states:

No state officer or employee or candidate for state office shall solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest, under cir-

cumstances where such officer, employee or candidate knows or should know that a major purpose of the donor in granting the same could be to influence the performance of the official duties or prospective official duties of such officer, employee or candidate.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act; (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business; or (3) any solicitation for the benefit of any charitable organization which is required to file a registration statement with the secretary of state pursuant to K.S.A. 17-1740 or which is exempted from filing such statement pursuant to K.S.A. 17-1741 or for the benefit of any educational institution or such institution's endowment association, if such association has qualified as a nonprofit organization under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended.

In addition, K.S.A. 44-1004 states in pertinent part:

The commission shall have the following functions, powers and duties: . . . (11) To accept contributions from any person to assist in the effectuation of this section and to seek and enlist the cooperation of private, charitable, religious, labor, civic and benevolent organizations for the purposes of this section.

Finally, K.S.A. 44-1004(9) states:

To endeavor to eliminate prejudice among the various ethnic groups and people with disabilities in this state and to further good will among such groups. The commission in cooperation with the state department of education shall prepare a comprehensive educational program designed for the students of the public schools of this state and for all other residents thereof, calculated to emphasize the origin of prejudice against such groups, its harmful effects and its incompatibility with American principles of equality and fair play.

As a general rule, a specific statute which permits an action overrules a statute of general application which prohibits the same act.

Applying this rule we must first determine in applying K.S.A. 44-1004(11) whether the purpose of seeking contributions "assist(s) in the effectuation of this section." Clearly, that test is met since K.S.A. 44-1004(9) specifically requires the commission to prepare a comprehensive educational plan for students and endeavors to eliminate prejudice. Thus, in our view the solicitations you propose do fall within K.S.A. 44-1004(11). The question then turns to whether K.S.A. 44-1004(11) allows the agency only to accept whatever contributions may be given to it, or also permits the agency to actively solicit contributions. It is our opinion that the phrase "and to seek and enlist the cooperation of. . ." clearly contemplates a legislative intent to allow this agency to solicit donations for the purposes described.

Finally, since the specific language in K.S.A. 44-1004 allows solicitations when done for a purpose recognized by K.S.A. 44-1004, it overrules the general prohibitions contained in K.S.A. 46-236.

Advisory Opinion No. 94-6

Written March 31, 1994, to Patrick M. Poor, Advantage Communications, Inc., Riverside, CA.

This opinion is in response to your letter of January 24, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the Kansas Campaign Finance Act (K.S.A. 25-4142 *et seq.*).

Factual Situation

We understand you request this opinion on behalf of Advantage Communications, Inc. You advise us that Advantage Communications, Inc. markets discounted long-distance telephone services. One way is through your Advantage Fund Raiser. An organization can market these services to their supporters, and receive a commission each month based on the total paid monthly billings of those services. The amount of the commission is based solely on the performance of the organization in marketing these services. The consumer pays your regular rates, and receives the same service as anyone signing up for this service. The political party receives the same commission as any group which conducts this type of fund raiser. They receive no special consideration. The party would essentially be working as an outside salesperson and would be paid a residual commission based on what they sell.

Question

Would the commission paid to a political party by this transaction constitute a contribution to the political party or otherwise be subject to limitations in amount?

Opinion

K.S.A. 25-4143(d)(1)(A) defines "contribution" in pertinent part as follows:

Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state or local office.

Applying this language to your situation, we will presume that the commission is not being made for "the purpose of influencing the nomination or election of any individual to state or local office" so long as the commission is reasonable in amount and the same is offered to non-political entities. When this presumption is applicable, the commission earned does not constitute a contribution. We find no other restrictions under our law which applies to the situation you have described.

In closing, we note that we express no opinion on whether the Kansas Corporation Commission may have some regulation which relates to the situation you have described.

Advisory Opinion No. 94-7

Written March 31, 1994, to Bernard T. Giefer, Jr., Trego County Counselor, WaKeeney.

This opinion is in response to your letter of February 7, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the local conflict of interests law (K.S.A. 75-4301 *et seq.*).

(continued)

Factual Statement

We understand you request this opinion in your capacity as the Trego county counselor on behalf of the county and Arthur Deutscher a member of the Trego County Board of Commissioners.

You advise us the board is comprised of three members, each of whom are elected to four year terms. Mr. Deutscher purchased rights to a meter for \$560 from the proposed Trego County Rural Water District No. 2. Groundbreaking for the rural water district is set for sometime in 1994. The board has been involved in several votes impacting the rural water district. For instance, statutorily, the board was required to vote on a rural water district petition to enlarge the boundaries of the rural water district.

The rural water district has been the recipient of a \$440,000 grant from the U.S. Department of Commerce given through the Kansas Department of Commerce. The rural water district has also been awarded a FmHA loan of approximately \$2.2 million. To date, there have been about 169 rights to meters sold within Trego County by the rural water district.

Question

Does Mr. Deutscher hold a "substantial interest" in the water district due to his purchase of a meter from that entity and, if so, is he prohibited from participating in decisions in his capacity as a member of the board concerning the water district?

Opinion

K.S.A. 75-4304 relates to "substantial interests" in a "person" or "business." This commission has consistently held that a division of government such as a rural water district is not a "person" or "business" under this Act. Thus, Mr. Deutscher, does not hold a "substantial interest" in a "person" or "business" as defined by K.S.A. 75-4304 and may participate in his capacity as a member of the board in decisions concerning the rural water district.

Please note that if the situation you described related to a state officer or employee, a different outcome might be reached since the law applicable to those individuals defines "persons" to specifically include governmental units.

Advisory Opinion No. 94-8

Written March 3, 1994, to Dean W. Graves, FAIA, Architect, Kansas City, MO.

This opinion is in response to your letter of January 4, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state conflict of interests law (K.S.A. 46-215 *et seq.*).

Factual Statement

We understand you request this opinion in your capacity as a member of the Governor's Residence Advisory Commission created by K.S.A. 75-129. Members of that commission do not receive reimbursement from the state for service with the commission. You also indicated that you are a member and president of the Friends of Cedar Crest Association (FOCCA), which is a private organization not established by state law.

You advise us that you are an architect and have had some dealings with the state on contracts recommended by the Friends of Cedar Crest Association and the Governor's Residence Advisory Commission to the Kansas Department of Administration.

Questions

You ask two questions.

1. Is it permissible under K.S.A. 46-215 *et seq.* for you in your capacity as president of Friends of Cedar Crest Association and member of the Governor's Residence Advisory Commission to participate in recommendations to the Kansas Department of Administration and then accept a contract on the issue recommended from the Department of Administration in your capacity as an architect?

2. May members of Friends of Cedar Crest Association solicit funds from any person for the purposes of planning and construction to the Governor's residence?

Opinion

The prohibitions contained in K.S.A. 46-215 *et seq.* which might apply to the situation you have described are triggered only for individuals who meet the definition of "state officer or employee."

K.S.A. 46-221(a) defines "state officer or employee" as follows:

- (a) "State officer or employee" means (1) any individual who is an elected or appointed state officer, (2) any individual who is in the classified service or unclassified service of the Kansas civil service act, (3) all officers and employees of the legislative branch and of the governor's office, irrespective of how compensated or period of employment, and (4) any individual who receives monthly or semimonthly compensation for services from the state or any state agency. State officer or employee does not include any justice or commissioner of the supreme court or judge of the judicial branch or employee or officer of the judicial branch or any member of a board, council or commission who is appointed by the supreme court or who is elected or appointed to exercise duties pertaining to functions of the judicial branch, when such person is engaged in performing a function or duty for the judicial branch. Also, state officer or employee does not include any appointed member of an advisory council, commission or board, who serves without compensation other than amounts for expense allowances or reimbursement of expenses as provided for in subsection (e) of K.S.A. 75-3223 and amendments thereto, when such member is engaged in performing a function or duty for such council, commission or board.

Since you serve on the Governor's Residence Advisory Commission without compensation, the exception language for appointed members of commissions applies to you and you do not, in that capacity, meet the definition of "state officer or employee." In addition, since the Friends of Cedar Crest Association is not a state agency, the definition of "state officer or employee" does not apply to that position either. Thus, this Act does not prohibit you from participating in the contract you have described.

Turning to your second question, again the prohibitions relating to solicitation contained in K.S.A. 46-236

are directed toward "state officers and employees." Thus, those prohibitions do not apply to members of Friends of Cedar Crest Association.

In closing, we note that the situation you describe certainly raises an appearance of impropriety when one serves on a state board, makes a recommendation to that board, then receives a contract from the state concerning those official actions. As you mentioned in your opinion request, a provision of K.S.A. 75-129 permits you to designate an officer of the FOCCA to serve in your place, as a member of the Governor's Residence Advisory Commission. We would suggest you consider appointing someone to serve in your place on the Governor's Residence Advisory Commission.

Advisory Opinion No. 94-9

Written March 31, 1994, to Roger T. Aeschliman, Chief of Staff, Speaker of the House of Representatives, Topeka.

This opinion is in response to your letter of October 25, 1993, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state conflict of interests law (K.S.A. 46-215 *et seq.*).

Factual Statement

You advise us that you request this opinion in your capacity as chief of staff for the Speaker of the House.

Questions

Can legislators, legislative staff, other elected officials and other state employees:

1. Have their expenses paid by the NCSL, CSG, ALEC, or another national body of this type when they attend a meeting, a conference, or a fact-finding or informational tour (hereafter called a meeting) sponsored by the national body?

2. Have their expenses paid for by the Republican or Democratic National Committees, or the various state and local Republican or Democratic Party Committees, or the National House or Senate Campaign Committees of both parties when they attend a meeting sponsored by one of these committees?

3. Have their expenses paid for by a host organization of any type, when especially invited to attend in order to participate in the program as a speaker, a panelist, a moderator, a discussion leader, or other active contributor to the program content, of a meeting sponsored by the host organization?

4. Have their expenses paid for by a host organization of any type, when specially invited to attend a meeting sponsored by the host organization?

5. Have their expenses paid for by a host organization of any type when they simply choose to attend a meeting sponsored by the host organization?

Opinion

K.S.A. 46-237 and 46-236 apply to your questions. K.S.A. 46-237 states:

(a) No state officer or employee or candidate for state office shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor,

hospitality, or service having an aggregate value of \$40 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) No person with a special interest shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such state officer or employee in the performance of official duties or prospective official duties.

(c) No person licensed, inspected or regulated by a state agency shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to such agency or any state officer or employee of that agency.

(d) Hospitality in the form of recreation, food and beverages are presumed not to be given to influence a state officer or employee in the performance of such officer's or employee's official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon. For the purposes of this subsection, the term recreation shall not include the providing or the payment of the cost of transportation or lodging.

(e) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

(f) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for the making of a presentation at a speaking engagement in an amount fixed by the Kansas commission on governmental standards and conduct prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

(g) The provisions of this section shall not be applicable to or prohibit the acceptance of gifts from governmental agencies of foreign nations except that any gift accepted from such foreign governmental agency, having an aggregate value of \$100 or more, shall be accepted on behalf of the state of Kansas.

(h) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel, subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or spon-

(continued)

sored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.

K.S.A. 46-236 states:

No state officer or employee or candidate for state office shall solicit any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service from any person known to have a special interest, under circumstances where such officer, employee or candidate knows or should know that a major purpose of the donor in granting the same could be to influence the performance of the official duties or prospective official duties of such officer, employee or candidate.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution report in compliance with the campaign finance act; (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business; or (3) any solicitation for the benefit of any charitable organization which is required to file a registration statement with the secretary of state pursuant to K.S.A. 17-1740 or which is exempted from filing such statement pursuant to K.S.A. 17-1741 or for the benefit of any educational institution or such institution's endowment association, if such association has qualified as a nonprofit organization under paragraph (3) of subsection (c) of section 501 of the internal revenue code of 1954, as amended.

We believe the easiest way to discuss these issues is to begin with the situation where the state officer or employee will provide a bona fide service at a conference, seminar or other speaking engagement. In this situation, reasonable expenses for attending may be provided to the state officer or employee regardless of the entity holding the event (K.S.A. 46-237(f)).

Under K.S.A. 46-237(h), when the state officer or employee does not provide a bona fide service, he or she may still receive reasonable expenses for attending meetings, activities, conferences and seminars if the events are ". . . sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes."

Whether a state officer or employee may receive reasonable expenses to attend conferences, meetings, etc., when the event is not sponsored by the organizations described above, depends on further factual circumstances. For example, if the state would pay for the expenses as a reasonable need for state government, then the state officer does not accept anything of value under K.S.A. 46-237(a) when someone else pays the expenses since the state is really accepting the benefit. This rule, however, does not apply under K.S.A. 46-237(c) if the donor is licensed, regulated or inspected by the state officer or employee's state agency. Under those circumstances, the payment of expenses when a bona fide service is not given are forbidden if the expenses are \$40 or more.

Similarly, when political parties pay expenses, it may be argued under K.S.A. 46-237(a) that the purpose of the expenses has nothing to do with influencing the state officer's official duties as a state officer. When that is the case, i.e., when purely party political issues are involved, then the expenses could be accepted even when no service is given.

Except as noted above, if the expenses are \$40 or more in a calendar year and are given by a person with a "special interest," they are generally illegal.

In applying this analysis to your specific questions, it is our opinion regarding the first question, the National Council of State Legislators, the Council on State Governments and the American Legislative Executive Council all meet the definitions contained in K.S.A. 46-237(h) such that actual expenses for travel, subsistence, hospitality and entertainment may be received from those organizations in attending the organization's activities.

In reply to your second question, it is our opinion that expenses may be paid by party political committees when the purpose of the event is purely for the party's political matters.

Your third question is answered affirmatively but we caution that the participation must be bona fide and expenses are limited to those that are reasonable and necessary for the participation.

In questions four and five you ask about situations not previously discussed. In response, it is our opinion that unless the organization or purpose is a type already discussed, the acceptance of expenses to attend a meeting of an organization is generally prohibited if the expenses are \$40.00 or more.

In closing, we note that question five raises the issue of solicitation of expenses to attend a meeting. K.S.A. 46-236 and K.S.A. 46-237(h) make it clear that while a state officer or employee may accept offers of expenses as limited by this opinion, the state officer or employee may not solicit the expenses in any of the situations we have described except as provided by K.S.A. 46-236(1)(2) and (3).

Richard C. Loux
Chairman

Doc. No. 014678

(Published in the Kansas Register, April 14, 1994.)

**Summary Notice of Note Sale
City of Olathe, Kansas
\$4,500,000**

**General Obligation Temporary Notes
Series 1994-A**

**(General obligation notes payable from
unlimited ad valorem taxes)**

Sealed Bids

Subject to the notice of note sale dated April 5, 1994, sealed bids will be received by the clerk of the city of Olathe, Kansas (the issuer), on behalf of the governing body at City Hall, 100 W. Santa Fe, Olathe, KS 66061, until noon C.D.T. on April 19, 1994, for the purchase of \$4,500,000 principal amount of General Obligation Temporary Notes, Series 1994-A. No bid of less than 99.50 percent of the principal amount of the notes and accrued interest thereon to the date of delivery will be considered.

Note Details

The notes will consist of fully registered notes in the denomination of \$5,000 or any integral multiple thereof. The notes will be dated May 1, 1994, and will become due May 1, 1995. The notes will be subject to redemption as set forth in the notice of note sale.

The notes will bear interest from the date thereof at the rate to be determined when the notes are sold as hereinafter provided, which interest will be payable on November 1, 1994, and at maturity or earlier redemption.

Paying Agent and Note Registrar

Olathe City Treasurer, Olathe, Kansas.

Good Faith Deposit

Each bid shall be accompanied by a good faith deposit in the form of cashier's or certified check or a financial surety bond in the amount of \$45,000.

Delivery

The issuer will pay for printing the notes and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about May 19, 1994, at such bank or trust company in the contiguous United States of America as may be specified by the successful bidder.

Approval of Notes

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

Additional Information

Additional information regarding the notes may be obtained from Donald Seifert, the city's acting administrative services director (913/791-6211), or from the financial advisor, Piper Jaffray Inc., Kansas City, Missouri, Attention: Dennis Mitchell (816/360-3072).

Dated April 5, 1994.

City of Olathe, Kansas
By Howard W. Pevehouse, Clerk
City Hall
100 W. Santa Fe
Olathe, KS 66061
(913) 782-2600

Doc. No. 014688

State of Kansas

**Department of Administration
Division of Purchases**

Notice to Bidders

Sealed bids for items hereinafter listed 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:

Monday, April 25, 1994

29913 Supp.

Statewide—Institutional clothing

30385

University of Kansas—Media and reagents

30392

University of Kansas Medical Center—Photographic film processing and printing services

98642

University of Kansas Medical Center—Asphalt paving

Tuesday, April 26, 1994

A-7208

Youth Center at Beloit—Replace cold water supply/relocate and replace condensate pump

30342

Statewide—June (1994) meat products

30378

Statewide—Influenza vaccine

30379

University of Kansas Medical Center—Medical gas system monitoring services

30380

University of Kansas Medical Center—Human serum albumin

30387

University of Kansas Medical Center—June (1994) meat products

30388

University of Kansas—June (1994) meat products

98611

Kansas State University—Incubator, laminar flow work station and lab refrigerator

98612

Department of Wildlife and Parks—Furnish all labor and materials to install siding and guttering, Farlington Fish Hatchery

(continued)

98613

Kansas Correctional Industries—Microprocessor base metal detector

Wednesday, April 27, 1994

98623

Kansas State University—Heating equipment

98624

Adjutant General's Department—Furnish all labor and materials to replace ramps and doors, Hiawatha

98625

El Dorado Correctional Facility—Fabricate security doors

Thursday, April 28, 1994

A-7298

University of Kansas—Haworth Hall reroof/roof repairs, various buildings

A-7375

University of Kansas—Haworth Hall Rooms 3034/3038

98633

University of Kansas Medical Center—Liquid scintillation analyzer

98637

Ellsworth Correctional Facility—CCTV equipment

Friday, April 29, 1994

98643

Department of Social and Rehabilitation Services—Wetmop yarn, rayon

Monday, May 9, 1994

30396

Fort Hays State University—Natural gas services

Tuesday, May 10, 1994

Kansas State University-Salina—Food service

Request for Proposals

Tuesday, April 26, 1994

Technical consultation services for the Citizen's Utility Ratepayer Board

Monday, May 9, 1994

30390

Comprehensive study and evaluation of the security of Kansas Lottery operations for the Kansas Lottery

Tuesday, May 17, 1994

30391

Statistically valid scientific survey of state health plan participants for the Kansas State Employees Health Care Commission

Jack R. Shipman
Director of Purchases

Doc. No. 014701

(Published in the Kansas Register, April 14, 1994.)

Summary Notice of Bond Sale

City of Ness City, Kansas

\$120,000

General Obligation Bonds, Series 1994

(General obligation bonds payable from unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated April 5, 1994, sealed bids will be received by the clerk of the city of Ness City, Kansas (the issuer), on behalf of the governing body at City Hall, 109 S. Iowa, P.O. Box 419, Ness City, KS 67560, until noon C.D.T. on May 3, 1994, for the purchase of \$120,000 principal amount of General Obligation Bonds, Series 1994. 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 May 1, 1994, and will become due on June 1 in the years as follows:

Year	Principal Amount
1995	\$10,000
1996	10,000
1997	10,000
1998	10,000
1999	10,000
2000	10,000
2001	15,000
2002	15,000
2003	15,000
2004	15,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semi-annually on June 1 and December 1 in each year, beginning on June 1, 1995.

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 \$2,400 (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 May 24, 1994, 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 1993 is \$6,196,865. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$790,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., 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) 798-2229, or from the financial advisor, First Securities Company of Kansas, Inc., 200 Hardage Center, 100 S. Main, Wichita, KS 67202, Attention: Theron L. Froggatte.

Dated April 5, 1994.

City of Ness City, Kansas

Doc. No. 014698

State of Kansas

**Board of Agriculture
Division of Water Resources**

**Permanent Administrative
Regulations**

Article 1.—DEFINITIONS

5-1-1. Definitions. As used in these rules and regulations, the Kansas water appropriation act, and by the division of water resources in the administration of the Kansas water appropriation act, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section.

(a) "Application" means the formal document submitted on the prescribed form furnished by the division for a permit to appropriate water for beneficial use and filed in the office of the chief engineer as provided by K.S.A. 82a-708a and 709.

(b) "Approval of application" means a permit to proceed with construction of diversion works and the diversion and use of water in accordance with the terms and conditions set forth in the permit. Approval of application does not constitute any permit which may be required by other state laws.

(c) "Artificial recharge" means the use of water to artificially replenish the water supply in an aquifer.

(d) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.

(e) "Battery of wells" means two or more wells connected to a common pump by a manifold, or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum rate of diversion of 800 gallons per minute and which supply water to a common distribution system.

(f) "Beneficial uses of water" are domestic, stockwatering, municipal, irrigation, industrial, recreational, water power, artificial recharge, hydraulic dredging and contamination remediation.

(g) "Diversion" means the act of bringing water under control by means of a well, pump, dam or other

device for delivery and distribution for the proposed use.

(h) "Diversion works" means any well, pump, power unit, power source, dam and any other devices necessary to bring water under control for delivery to a distribution system by which the water will be distributed to the proposed use and any other equipment required as a condition of the permit, such as a check valve, water level measurement tube, meter or other measuring device.

(i) "Division" means the division of water resources of the Kansas state board of agriculture.

(j) "Full irrigation" means the application of water to crops during the growing season. Full irrigation includes water for preirrigation.

(k) "Groundwater" means water below the surface of the earth.

(l) "Growing season" means the average frost-free period of the year.

(m) "Household purposes" means the use of water by a person for cooking, cleaning, washing, bathing, human consumption, restroom facilities or other uses normally associated with the operation of a household. Household purposes includes the use of one and one-half acre-feet of water or less per calendar year by an industrial user, restaurant, hotel, motel, church, camp, correctional facility, educational institution or similar entity for household purposes.

(n) "Industrial use" means the use of water in connection with the manufacture, production, transport or storage of products, or the use of water in connection with providing commercial services, including water used in connection with steam electric power plants, greenhouses, fish farms, poultry operations that are not incidental to the operation of a traditional farmstead pursuant to K.S.A. 82a-701(c), secondary and tertiary oil recovery, air conditioning, heat pumps, and, except for hydraulic dredging, all other uses of water associated with the removal of aggregate for commercial purposes including the evaporation caused by exposing the groundwater table or increasing the surface area of a stream, lake, pit or quarry by excavation or dredging.

(o) "Irrigation use" means the use of water for the growing of crops, the watering of gardens, orchards and lawns exceeding two acres in area, and the watering of golf courses, parks, cemeteries, athletic fields, race track grounds and similar facilities.

(p) "Municipal use" means the various uses made of water delivered through a common distribution system operated by:

- (1) a municipality;
- (2) a rural water district;
- (3) a water district;
- (4) a public wholesale water supply district;
- (5) any person or entity serving 10 or more hookups for residences or mobile homes; and
- (6) any other similar entity distributing water to other water users for various purposes.

Municipal use shall also include use of water by restaurants, hotels, motels, churches, camps, correctional facilities, educational institutions and similar entities using water which does not qualify as a domestic use.

(continued)

(q) "Off-season irrigation" means the application of water to land for the purpose of storing moisture in the soil for future use by a crop which will not be irrigated during the growing season.

(r) "Perfect" means the actions of a water user to bring an appropriation right into final form by the completion of diversion works and application of water to the proposed use in accordance with the approved application.

(s) "Point of diversion" means the point at which water is diverted or withdrawn from a source of water supply.

(t) "Preirrigation" means the application of water to the land for a crop prior to planting to assure adequate moisture for early plant growth.

(u) "Primary well" means a well for which a standby well is available.

(v) "Prior right" means a vested right, an appropriation right with earlier priority or a permit with earlier priority to that of a subsequent appropriation right or permit.

(w) "Recreational use" means a use of water in accordance with a water right which provides entertainment, enjoyment, relaxation, and fish and wildlife benefits.

(x) "Safe yield" means the long term sustainable yield of the source of supply including hydraulically connected surface water or groundwater.

(y) "Standby well" means a well which can withdraw water from the same source of supply as the primary well to be used only when water is temporarily unavailable from the primary well or wells authorized to be used on the same place of use because of mechanical failure, maintenance or power failure. A standby well may also be used for fire protection or a similar type of emergency.

(z) "Static water level" means the depth of the top of the groundwater level below land surface which is not affected by recent pumpage.

(aa)(1) "Stockwatering" means the watering of livestock and other uses of water directly related to:

(A) the operation of a feedlot with the capacity to confine 1,000 head or more of cattle; or

(B) any other confined livestock operation or dairy that would divert 15 acre feet or more of water per calendar year.

(2) Stockwatering shall not include the irrigation of feed grains or other crops.

(3) For the purposes of this subsection, a group of feedlots or other confined feeding operations shall be considered to be one feedlot or confined feeding operation if:

(A) there are common feeding or other physical facilities; and

(B) the group of facilities is under common management.

(bb) "Surface water" means water in creeks, rivers or other watercourses, and in reservoirs, lakes and ponds.

(cc) "Waste of water" means any act or omission which causes:

(1) Water to be diverted or withdrawn from a source of supply and not used or reapplied to a beneficial use

on or in connection with the place of use authorized by a vested right, an appropriation right or an approved application for permit to appropriate water for beneficial use;

(2) The unreasonable deterioration of the quality of water in any source of supply thereby causing impairment of a person's right to the use of water;

(3) Water intended for irrigation use to escape and drain from the authorized place of use; or

(4) Water to be applied to an authorized beneficial use in excess of the needs for such use.

(dd) "Water power use" means the use of falling water for hydro-electric or hydro-mechanical power.

(ee) "Immediate vicinity" as used in specifying the place of use for a water right in which the water is authorized to be used for municipal purposes, means within 2,640 feet of the corporate limits of the municipality, rural water district or other entity.

(ff) "Completed substantially as shown on aerial photograph, topographic map or plat," as used to define the authorized point of diversion, means within 300 feet of the location as shown on the aerial photograph, topographic map or plat accompanying the application.

(gg) "Hydraulic dredging" means the removal of saturated aggregate from a stream channel, pit or quarry by means of hydraulic suction and the pumping of the aggregate and water mixture as a slurry to a location where at least 95% of the water returns directly to the source of supply.

(hh) "Contamination remediation" means the diversion of water by a state agency, or under a written agreement or order of an appropriate state agency, for the purpose of improving the water quality.

(ii) "Dewatering" means the removal of surface water or groundwater which would otherwise enter an excavation and interfere with construction or mining activities.

(jj) "Term permit" means a permit to appropriate water issued for a specified period of time. At the end of the specified time, or any authorized extension thereof, the permit shall be automatically dismissed and any priority it may have had shall be forfeited.

(kk) "Water use correspondent" means a person designated in writing on a form prescribed by the chief engineer by one of the owners of a water right to file the water use reports required by K.S.A. 82a-732, as amended, on behalf of the owner or owners of that water right.

(ll) "Confined Dakota aquifer system" means that portion of the Dakota aquifer system which is overlain by Graneros shale.

(mm) "Dakota aquifer system" shall include the Dakota formation, the Kiowa formation, the Cheyenne sandstone and where hydraulically connected, the Morrison formation.

(nn) "Dakota aquifer system well" means a well or proposed well screened in whole or in part in the Dakota aquifer system.

(oo) "Unconfined Dakota aquifer system" means that portion of the Dakota aquifer system where it is not overlain by Graneros shale. (Authorized by and implementing K.S.A. 82a-706a; modified, L. 1978, Ch. 460,

May 1, 1978; amended May 1, 1980; amended May 1, 1981; amended May 1, 1983; amended May 1, 1986; amended Dec. 3, 1990; amended May 31, 1994.)

5-1-2. Standby well. In order for a well to qualify as a standby well:

(a) The well shall be maintained in operable condition and be capable of being hooked to a power source within a reasonable amount of time to allow the well to function effectively as a standby well.

(b) Both the primary well or wells and the standby well or wells shall be required to be metered by order of the chief engineer or as a condition of the water right or permit.

(c) The standby well shall be located close enough to the primary well so that both wells withdraw water from the same local source of supply.

(d) The standby well shall be authorized to divert the same rate and quantity as the primary well or wells. A limitation clause shall be placed on any water right or permit authorizing a standby well or wells limiting the standby well to no more than the rate and quantity authorized for the primary well or wells. With the limitation clause or clauses in effect, the standby well or wells shall not be counted in any safe yield, allowable appropriation, depletion or similar type of analysis. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706; effective May 31, 1994.)

Article 3.—APPROPRIATION RIGHTS

5-3-4a. Hearing prior to approval of application. A hearing may be held before the chief engineer, or a person designated by the chief engineer, on an application to appropriate water for beneficial use prior to approval, when the chief engineer finds it to be in the public interest to hold a hearing, or a hearing has been requested by a person who shows to the satisfaction of the chief engineer that approval of the application may cause impairment of senior water rights or permits. (Authorized by K.S.A. 82a-706a, implementing K.S.A. 1993 Supp. 82a-711; effective May 1, 1980; amended May 31, 1994.)

5-3-5e. Meters and other water measuring devices; reporting readings; maintenance, testing, and replacement. (a) For the purpose of this regulation, "meter" shall mean a water flow meter or other water measuring device.

(b) Whenever the installation of a meter is required by the chief engineer as a condition of a water right or permit, by written order of the chief engineer or by requirement of a groundwater management district, the water right owner shall report all information required on the form prescribed by the chief engineer pursuant to K.S.A. 82a-732, as amended, including:

- (1) the quantity of water diverted during the calendar year;
- (2) the beginning and ending reading of the meter each calendar year; and
- (3) the units in which the quantity of water is reported.

(c) The owner shall properly maintain any meter required by the chief engineer in a condition satisfactory to the chief engineer. If at any time the required meter

fails to function properly for any reason, the owner shall promptly initiate action to complete repair or replacement of the meter or to correct any problems with the installation.

(d) Whenever a required meter is replaced, the owner shall notify the chief engineer on a form prescribed by the chief engineer. The form shall be filed with the chief engineer within 30 days after the replacement of the meter is complete. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1993 Supp. 82a-732; effective May 31, 1994.)

Article 4.—DISTRIBUTION OF WATER BETWEEN USERS

5-4-4. Well spacing. (a) The spacing between wells shall be sufficient to prevent direct impairment between wells located in a common source of supply or hydraulically connected sources of supply and to protect the public interest. Except as set forth in subsection (b), the following guidelines shall be used to determine the spacing required between wells permitted by the chief engineer in a common source of supply, unless it is determined by the chief engineer in any specific instance that the spacing guidelines set forth in this regulation are insufficient to prevent direct impairment or are not necessary to prevent direct impairment.

(b) Whenever an applicant proposes to divert water from a source of supply in a location where there is a significant hydraulic connection between the proposed source of supply and another source or sources of supply, the chief engineer shall determine the spacing necessary to prevent impairment and to protect the public interest on a case by case basis.

(c) Except as set forth in subsection (e) below, each well that is described in an application for a permit to appropriate water for beneficial use or for a term permit, excluding any domestic or temporary well, shall meet the minimum spacing requirements set out in paragraphs (1) and (2) below.

(1) The minimum distance from the well which is the subject of the application to all other senior authorized non-domestic and non-temporary wells in the same aquifer or a hydraulically connected aquifer shall be:

- (A) four miles between wells whose common source of supply is the confined Dakota aquifer system;
- (B) one-half mile between wells whose common source of supply is the unconfined Dakota aquifer system; and

(C) 1320 feet for wells whose common source of supply is any other aquifer.

(2) In addition to meeting the minimum spacing requirements of paragraph (1) above, the minimum distance from the well which is the subject of the application to all domestic wells, except where the domestic well owner has given the applicant written permission to reduce the spacing interval, shall be:

- (A) one-half mile for wells whose common source of supply is the confined Dakota aquifer system;
- (B) 1320 feet for wells whose common source of supply is the unconfined Dakota aquifer system; and
- (C) 660 feet for wells whose common source of supply is any other aquifer.

(continued)

(d) Except as provided in subsection (e), the location of a well or wells on an application to change the point of diversion under an existing water right shall either:

(1) meet the spacing requirements in paragraphs (c)(1) and (c)(2) above; or

(2) not decrease the distance to other wells or authorized well locations by more than 300 feet.

(e) This regulation shall not apply if the chief engineer has adopted another regulation, or issued an order pursuant to K.S.A. 82a-1036 *et seq.*, specifying a different well spacing for the source of supply in which the proposed point of diversion is located.

(f) In the case of a battery of wells, the distance shall be measured from the geographic center of the points of diversion comprising the battery.

(g) If the proposed point of diversion does not meet the well spacing requirements in this regulation, the applicant shall be notified by the chief engineer in writing prior to dismissal that the requirements have not been met. The applicant shall then have 15 days to request time in which to submit additional information. Upon written request, the applicant shall be given a specified reasonable amount of time by the chief engineer to submit an engineering or similar type of hydrologic analysis to show that the spacing can be decreased without impairing existing rights or prejudicially and unreasonably affecting the public interest. The burden shall be on the applicant to make such a showing to the satisfaction of the chief engineer. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 1993 Supp. 82a-711; effective May 31, 1994.)

Article 7.—ABANDONMENT AND TERMINATION

5-7-1. Due and sufficient cause for non-use. (a) The following circumstances shall be considered "due and sufficient cause," as used in K.S.A. 82a-718:

(1) Adequate moisture is provided by natural precipitation for production of crops normally requiring full or partial irrigation within the region of the state in which the place of use is located;

(2) a right has been established or is in the process of being perfected for use of water from one or more preferred sources in which a supply is available currently but is likely to be depleted during periods of drought;

(3) water is not available from the source of water supply for the authorized use at times needed;

(4) water use is temporarily discontinued by the owner for a definite period of time to permit soil, moisture and water conservation, as documented by:

(A) furnishing to the chief engineer a copy of a contract showing that land which has been lawfully irrigated with a water right which has not been abandoned is enrolled in a multi-year federal or state conservation program which has been approved by the chief engineer;

(B) enrolling the water right in the water right conservation program pursuant to K.A.R. 5-7-4; or

(C) any other method acceptable to the chief engineer which can be adequately documented by the owner in advance.

(5) management and conservation practices are being applied which require the use of less water than au-

thorized. If a conservation plan has been required by the chief engineer, the management and conservation practices used shall be consistent with the conservation plan approved by the chief engineer to qualify under this subsection;

(6) the chief engineer has previously approved the placement of the point of diversion in a standby status pursuant to K.A.R. 5-1-2;

(7) physical problems exist with the point of diversion, distribution system, place of use, or the operator. This circumstance shall constitute due and sufficient cause only for a period of time reasonable to correct the problem;

(8) conditions exist beyond the control of the owner which prevent access to the authorized place of use or point of diversion, as long as the owner is taking reasonable affirmative action to gain access;

(9) an alternate source of water supply was not needed and was not used because the primary source of supply was adequate to supply the needs of the water right owner. The owner shall maintain the diversion works on the alternate source of supply in a condition that will allow the owner to effectively use the alternate source of supply in a timely manner; and

(10) any other reason constituting due and sufficient cause as determined by the chief engineer.

(b) In order to constitute due and sufficient cause for non-use of water, the reason purporting to constitute due and sufficient cause must have in fact prevented, or made unnecessary, the authorized beneficial use of water.

(c) Any year of non-use for which the chief engineer finds that due and sufficient cause exists, shall be considered to interrupt the successive years of non-use for which due and sufficient cause does not exist.

(d) Once a verified report of the chief engineer, or the chief engineer's authorized representative, is made a matter of record at a hearing held pursuant to K.S.A. 82a-718, which establishes non-use of a water right for three or more successive years, the water right owner shall have the burden of showing that there have not been three or more successive years of non-use without due and sufficient cause. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-718; modified, L. 1978, ch. 460, May 1, 1978; amended May 1, 1986; amended May 31, 1994.)

5-7-3. (Authorized by K.S.A. 82a-706a; modified, L. 1978, ch. 460, May 1, 1978; revoked May 31, 1994.)

5-7-4. Water rights conservation program. (a) Enrollment in the water rights conservation program (WRCP) approved by the chief engineer, and continued compliance with the WRCP shall constitute due and sufficient cause for non-use pursuant to K.S.A. 82a-718 and K.A.R. 5-7-1.

(b) In order to qualify for enrollment in the WRCP, the following conditions shall be met.

(1) The point of diversion shall be located:

(A) in an area that is closed to new appropriations of water, except for temporary permits, term permits and domestic use; or

(B) in some other area designated by the chief engineer as an area where it would be in the public interest

to allow water rights to be placed in the WRCP. In areas within the boundaries of a groundwater management district, the chief engineer shall take into consideration the recommendations of the board of the district.

(2) Each of the owners of the water right must agree to totally suspend all water use authorized by that water right for the duration of the contract.

(3) The owner or owners of the water right shall sign a contract with the chief engineer, or the chief engineer's authorized representative, prior to placing the water right into the WRCP. The contract shall be binding on all successors in interest to the water right owner.

(4) Only a water right, or a portion of a water right which has not previously been abandoned, may be placed into the WRCP.

(A) If at least three successive years of non-use have occurred prior to application for enrollment in the WRCP, the division of water resources (DWR) staff shall first determine whether that water right is subject to abandonment prior to entry into the program, including an analysis of any reasons given that might constitute due and sufficient cause for non-use.

(B) If, after review of the information, it appears that the right has been abandoned, the statutory procedures, including the right to a hearing, shall be followed to determine whether or not it has been abandoned.

(5) Only the portion of a water right which is in good standing at the time of application for enrollment can be entered into the WRCP.

(c)(1) Before enrollment in the WRCP is approved by the chief engineer, a DWR field office representative shall make a partial field inspection if:

(A) the time to perfect the water right has expired;

(B) the right has not been field inspected by a DWR representative prior to enrollment; and

(C) the system can no longer be operated due to components such as the power unit, gear head, or delivery system being dismantled or removed.

(2) The DWR representative shall determine the acres irrigated, the type of system used, the hours pumped historically and other relevant history of the project. This information shall be made a matter of record in that water right file.

(d)(1) At the end of the time the water right is enrolled in the WRCP, the chief engineer shall give the applicant one year to restore the system to operating condition.

(2) If the owner does not notify the DWR that the system has been restored to the pre-WRCP enrollment operational status within one year, then the chief engineer shall allow the owner the opportunity for a hearing to show good cause why the water right should not be dismissed.

(e) Other obligations, responsibilities, and aspects of enrollment in the WRCP program shall include the following.

(1) Water rights shall originally be placed into the WRCP for a definite period of calendar years of not less than three or more than ten. The owner of the water right may apply for renewal of the contract for a period not to exceed ten years. Applications for renewal shall be subject to the approval of the chief engineer. In de-

termining whether to approve the renewal, the chief engineer shall take into account:

(A) the hydrologic conditions in the vicinity of the point of diversion;

(B) whether renewal would be in the public interest; and

(C) any other relevant information.

(2) The water right owner or operator need not maintain the diversion works or delivery system during the period of the WRCP contract. If the pump is removed from a well, the well shall be properly capped or sealed during the contract.

(3) The chief engineer shall issue a certificate determining the extent to which a water right has been perfected prior to entering the water right into the WRCP if:

(A) an applicant has a permit to appropriate water for beneficial use and has perfected all, or any portion, of the water right authorized by the permit;

(B) the time in which to perfect the water right has expired, including any authorized extensions of time; and

(C) a field inspection has been completed.

(4) If the time to perfect the water right, or any authorized extension thereof, has not expired, enrollment in the WRCP shall be considered as suspending the time to perfect. Upon expiration of the WRCP contract pertaining to this water right, the time to perfect shall again commence and the applicant shall be required to perfect the water right within the remainder of the time allowed to perfect, or any authorized extension of that time.

(5) Each year after authorized enrollment in the WRCP, the water use correspondent shall indicate on the water use report that no water was used because the water right was enrolled in the WRCP.

(6) If the owner breaches, or causes or allows a breach of the WRCP contract with the chief engineer, each year of non-use between the effective date the contract and the date of the breach shall be counted as years of non-use without due and sufficient cause for the purpose of determining whether the water right has been abandoned pursuant to the provisions of K.S.A. 82a-718. Before this penalty is imposed, the owner shall be given an opportunity to show that:

(A) a breach of contract did not occur; or

(B) a breach occurred, but was minor or has been cured and should not constitute grounds for imposing the penalty. This regulation shall take effect on and after July 1, 1994. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706; effective July 1, 1994.)

Article 11.—ASSURANCE DISTRICTS

5-11-1. Definitions. As used in these rules and regulations and the water assurance program act by the division of water resources in the administration of the water assurance program act, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this section.

(a) "Board" means the board of directors of a water assurance district.

(b) "Chief engineer" means the chief engineer of the division of water resources of the Kansas state board of

(continued)

agriculture. (Authorized by K.S.A. 82a-1345(e); implementing K.S.A. 82a-1334; effective May 31, 1994.)

5-11-2. Determination of benefits. (a) A water assurance district member may apply in writing to the board to be removed as a member of the district if that member is no longer receiving benefits from supplementing the stream by assurance reservoir releases because:

- (1) the member no longer has a water right or permit; or
(2) the member's water right or permit has been reduced so that the member is no longer receiving benefits.
(b) The board shall forward the request to be removed as a member from the district to the chief engineer, who shall determine whether the member will be receiving benefits. The chief engineer shall forward the results of

that determination to the board in writing within a reasonable time.

(1) If the chief engineer determines that the member will continue to receive benefits, the chief engineer shall notify the board and the member's application to be removed shall be dismissed by the board.

(2) If the chief engineer determines that the member will no longer be receiving benefits, the chief engineer shall notify the board and it shall be determined by the board whether the member will be removed from the district and the terms of removal. (Authorized by K.S.A. 82a-1345(e); implementing K.S.A. 82a-1334; effective May 31, 1994.)

Phillip A. Fishburn
Secretary of Agriculture

Doc. No. 014697

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 1993 Supplement to the Kansas Administrative Regulations.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 1-2-30 to 1-28-1.

Table with 3 columns: Reg. No., Action, Register. Lists regulations 1-28-2, 1-49-11, 1-50-2.

AGENCY 2: MUNICIPAL ACCOUNTING BOARD

Table with 3 columns: Reg. No., Action, Register. Lists regulation 2-3-3.

AGENCY 4: BOARD OF AGRICULTURE

Table with 3 columns: Reg. No., Action, Register. Lists regulations 4-8-14a, 4-8-28, 4-8-32.

AGENCY 5: BOARD OF AGRICULTURE - DIVISION OF WATER RESOURCES

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 5-21-1 to 5-22-8.

AGENCY 7: SECRETARY OF STATE

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 7-23-2 to 7-36-6.

AGENCY 17: STATE BANKING DEPARTMENT

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 17-11-21 to 17-23-16.

AGENCY 19: KANSAS COMMISSION ON GOVERNMENTAL STANDARDS AND CONDUCT

Table with 3 columns: Reg. No., Action, Register. Lists regulation 19-29-1a.

AGENCY 20: CRIME VICTIMS COMPENSATION BOARD

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 20-1-1 to 20-2-9.

AGENCY 22: STATE FIRE MARSHAL

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 22-1-2 to 22-22-1.

AGENCY 23: DEPARTMENT OF WILDLIFE AND PARKS

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 23-4-1 to 23-19-1.

AGENCY 25: STATE GRAIN INSPECTION DEPARTMENT

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 25-1-8 to 25-1-17.

AGENCY 26: DEPARTMENT ON AGING

Table with 3 columns: Reg. No., Action, Register. Lists regulations from 26-5-5 to 26-8-7.

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-1-2	Amended	V. 12, p. 315
28-1-18	Amended	V. 12, p. 1057
28-4-350	Amended	V. 12, p. 1042
28-4-351	Amended	V. 12, p. 1042
28-4-352	Amended	V. 12, p. 1043
28-4-353	Amended	V. 12, p. 1043
28-4-353a	New	V. 12, p. 1045
28-4-353b	New	V. 12, p. 1046
28-4-354	Amended	V. 12, p. 1047
28-4-355	Amended	V. 12, p. 1048
28-4-355a	New	V. 12, p. 1049
28-4-355b	New	V. 12, p. 1049
28-4-356	Amended	V. 12, p. 1051
28-4-357	Amended	V. 12, p. 1053
28-4-358	Amended	V. 12, p. 1054
28-4-359	Amended	V. 12, p. 1054
28-4-360	Amended	V. 12, p. 1057
28-15-11	Amended	V. 12, p. 725
28-15-13	Amended	V. 12, p. 727
28-15-21	New	V. 12, p. 728
28-15-35	Amended	V. 12, p. 1847
28-15-36	Amended	V. 12, p. 1849
28-15-36a	New	V. 12, p. 1851
28-15-37	Amended	V. 12, p. 1852
28-16-61	Amended	V. 12, p. 1209
28-16-150 through 28-16-154	New	V. 12, p. 1210
28-17-6	Amended	V. 12, p. 1020
28-17-20	Amended	V. 12, p. 1020
28-19-7	Amended	V. 12, p. 1530
28-19-14	Amended	V. 12, p. 1852
28-19-14b	Revoked	V. 12, p. 1853
28-19-17b	Amended	V. 13, p. 151
28-19-17c	Amended	V. 13, p. 151
28-19-17f	Amended	V. 13, p. 151
28-19-17m	Amended	V. 13, p. 151
28-19-31	Amended	V. 12, p. 1458
28-19-32	Amended	V. 12, p. 1458
28-19-63	Amended	V. 12, p. 1458
28-19-78	Revoked	V. 13, p. 151
28-19-202	New	V. 12, p. 1534
28-19-210	New	V. 12, p. 1535
28-23-82	Amended	V. 12, p. 1058
28-25-1 through 28-25-15	New	V. 12, p. 1058, 1059
28-29-6a	New	V. 13, p. 151
28-29-84	New	V. 12, p. 435, 487
28-29-85	New	V. 12, p. 436, 488
28-29-98	Amended	V. 13, p. 398
28-29-99	Revoked	V. 13, p. 399
28-30-2	Amended	V. 12, p. 1539
28-30-3	Amended	V. 12, p. 1540
28-30-6	Amended	V. 12, p. 730
28-31-1 through 28-31-6	Amended	V. 13, p. 312-318
28-31-8	Amended	V. 13, p. 318
28-31-8b	Amended	V. 13, p. 319
28-31-9	Amended	V. 13, p. 319
28-31-10	Amended	V. 13, p. 320
28-31-11	Amended	V. 13, p. 320
28-31-14	Amended	V. 13, p. 320
28-34-1	Revoked	V. 12, p. 780
28-34-1a	New	V. 12, p. 781
28-34-2	Amended	V. 12, p. 781
28-34-3b	New	V. 12, p. 781
28-34-5	Revoked	V. 12, p. 782
28-34-5a	New	V. 12, p. 782
28-34-6	Revoked	V. 12, p. 782
28-34-6a	New	V. 12, p. 782
28-34-8	Revoked	V. 12, p. 783
28-34-8a	New	V. 12, p. 783
28-34-9a	Amended	V. 12, p. 784
28-34-10	Revoked	V. 12, p. 784
28-34-10a	New	V. 12, p. 784
28-34-16	Revoked	V. 12, p. 785
28-34-16a	New	V. 12, p. 785
28-34-17	Revoked	V. 12, p. 785
28-34-17a	New	V. 12, p. 785
28-34-17b	New	V. 12, p. 786
28-34-20	Revoked	V. 12, p. 787
28-34-20a	New	V. 12, p. 787
28-34-32a	Revoked	V. 12, p. 787
28-34-32b	New	V. 12, p. 787
28-34-125	Revoked	V. 12, p. 787
28-35-135	Amended	V. 12, p. 1176

28-35-143	Revoked	V. 12, p. 1176
28-35-180a	Amended	V. 12, p. 1176
28-35-211b	Revoked	V. 12, p. 1176
28-35-212a	Amended	V. 12, p. 1176
28-35-212b	New	V. 12, p. 1176
28-35-213a	Amended	V. 12, p. 1176
28-35-214a	Amended	V. 12, p. 1176
28-35-215a	Amended	V. 12, p. 1176
28-35-217a	Amended	V. 12, p. 1176
28-35-218a	Amended	V. 12, p. 1176
28-35-219a	Amended	V. 12, p. 1176
28-35-220a	Amended	V. 12, p. 1176
28-35-221a	Amended	V. 12, p. 1176
28-35-221b	New	V. 12, p. 1176
28-35-222a	Amended	V. 12, p. 1176
28-35-223a	Amended	V. 12, p. 1176
28-35-224a	Amended	V. 12, p. 1176
28-35-225a	Amended	V. 12, p. 1176
28-35-226a	Amended	V. 12, p. 1177
28-35-228a	Amended	V. 12, p. 1177
28-35-229a	Amended	V. 12, p. 1177
28-35-230a	Amended	V. 12, p. 1177
28-35-230b	New	V. 12, p. 1177
28-35-231b	Amended	V. 12, p. 1177
28-35-233a	Amended	V. 12, p. 1177
28-35-234a	Amended	V. 12, p. 1177
28-35-242	Amended	V. 12, p. 1177
28-35-245	Revoked	V. 12, p. 1177
28-35-246	Revoked	V. 12, p. 1177
28-35-247	Amended	V. 12, p. 1177
28-35-248	Revoked	V. 12, p. 1177
28-35-249	Amended	V. 12, p. 1177
28-35-250	Revoked	V. 12, p. 1177
28-35-250a	New	V. 12, p. 1177
28-35-251	Amended	V. 12, p. 1177
28-35-253	New	V. 12, p. 1177
28-35-254	New	V. 12, p. 1177
28-35-255	New	V. 12, p. 1177
28-35-276	Amended	V. 12, p. 1177
28-35-282	Amended	V. 12, p. 1177
28-35-284	Amended	V. 12, p. 1177
28-35-285	Amended	V. 12, p. 1177
28-35-287	Amended	V. 12, p. 1177
28-35-288	Amended	V. 12, p. 1177
28-35-341 through 28-35-363	New	V. 12, p. 1177, 1178
28-36-21	Amended	V. 12, p. 1059
28-36-30	Amended	V. 12, p. 1211
28-38-18 through 28-38-23	Amended	V. 12, p. 437, 438
28-38-29	New	V. 12, p. 439
28-39-76	Revoked	V. 12, p. 1399
28-39-77	Revoked	V. 12, p. 1399
28-39-77a	Revoked	V. 12, p. 1400
28-39-78	Revoked	V. 12, p. 1400
28-39-79	Revoked	V. 13, p. 37
28-39-80	Revoked	V. 13, p. 37
28-39-81	Revoked	V. 13, p. 37
28-39-81a	Revoked	V. 13, p. 37
28-39-81b	Revoked	V. 13, p. 37
28-39-82 through 28-39-103	Revoked	V. 12, p. 1400
28-39-103a	Revoked	V. 12, p. 1400
28-39-104 through 28-39-113	Revoked	V. 12, p. 1400
28-39-144 through 28-39-162	New	V. 12, p. 1400-1416
28-39-162a	New	V. 12, p. 1417
28-39-162b	New	V. 12, p. 1422
28-39-162c	New	V. 12, p. 1424
28-39-163	New	V. 12, p. 1428
28-39-164 through 28-39-174	New	V. 13, p. 37-42
28-39-227 through 28-39-239	New	V. 13, p. 399-403
28-44-28	New	V. 12, p. 1541
28-44-29	New	V. 12, p. 1541
28-46-1	Amended	V. 13, p. 152
28-46-2	Amended	V. 13, p. 152
28-46-3	Amended	V. 13, p. 152
28-46-5 through 28-46-22	Amended	V. 13, p. 152, 153
28-46-24	Amended	V. 13, p. 154

28-46-26 through 28-46-34	Amended	V. 13, p. 154, 155
28-46-36	Amended	V. 13, p. 155
28-46-37	Revoked	V. 13, p. 354
28-46-38	Amended	V. 13, p. 354
28-46-39	Revoked	V. 13, p. 156
28-46-41	Amended	V. 13, p. 156
28-46-42	Amended	V. 13, p. 156
28-46-43	New	V. 13, p. 156
28-46-44	New	V. 13, p. 156
28-51-100 through 28-51-104	Amended	V. 13, p. 43-45
28-51-108	Amended	V. 13, p. 45
28-51-110	Amended	V. 13, p. 45
28-51-111	Amended	V. 13, p. 46
28-51-112	Amended	V. 13, p. 46
28-65-1	Amended	V. 12, p. 1541
28-65-2	Amended	V. 12, p. 1542
28-65-3	Amended	V. 12, p. 1542
28-65-4	New	V. 12, p. 1542
28-66-1 through 28-66-4	New	V. 13, p. 46-48

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-2-16	Amended	V. 12, p. 1213
30-4-52	Amended	V. 12, p. 1213
30-4-63	Amended	V. 12, p. 1213
30-4-64	Amended	V. 12, p. 1215
30-4-73	Amended	V. 12, p. 386
30-4-85a	Amended	V. 12, p. 1461, 1486
30-4-90	Amended	V. 12, p. 264, 576
30-4-111	Amended	V. 12, p. 1737, 1781
30-4-112	Amended	V. 12, p. 1216
30-4-122a	Amended	V. 12, p. 1461, 1486
30-4-130	Amended	V. 12, p. 1217
30-5-58	Amended	V. 12, p. 1218
30-5-59	Amended	V. 12, p. 392
30-5-60	Amended	V. 12, p. 393
30-5-70	Amended	V. 12, p. 394
30-5-71	Amended	V. 12, p. 1224
30-5-73	Amended	V. 12, p. 1224
30-5-81b	Amended	V. 12, p. 1225
30-5-100	Amended	V. 12, p. 1225
30-5-105	Amended	V. 12, p. 1226
30-5-109a	Amended	V. 12, p. 1226
30-5-116a	Amended	V. 12, p. 1226
30-5-151	Amended	V. 12, p. 266, 579
30-6-56	Amended	V. 12, p. 1738, 1783
30-6-103	Amended	V. 12, p. 1739
30-6-106	Amended	V. 12, p. 1740, 1784
30-6-109	Amended	V. 12, p. 1742, 1786
30-6-112	Amended	V. 12, p. 1230
30-6-113	Amended	V. 12, p. 1744, 1788
30-6-150	Amended	V. 12, p. 1745, 1789
30-7-100	Amended	V. 12, p. 398
30-10-1a	Amended	V. 12, p. 1745
30-10-1b	Amended	V. 12, p. 1748
30-10-1c	Amended	V. 12, p. 1748
30-10-1d	Amended	V. 12, p. 1748
30-10-2	Amended	V. 12, p. 1749
30-10-11	Amended	V. 12, p. 1749
30-10-15a	Amended	V. 12, p. 1751
30-10-17	Amended	V. 12, p. 1753
30-10-18	Amended	V. 12, p. 1754
30-10-19	Amended	V. 12, p. 1756
30-10-23a	Amended	V. 12, p. 1756
30-10-25	Amended	V. 12, p. 1757
30-10-28	Amended	V. 12, p. 1758
30-31-7	Amended	V. 12, p. 901, 975
30-46-10	Amended	V. 12, p. 1231
30-65-1	New	V. 12, p. 1592, 1632
30-65-2	New	V. 12, p. 1593, 1633
30-65-3	New	V. 12, p. 1593, 1633

AGENCY 36: DEPARTMENT OF TRANSPORTATION

Reg. No.	Action	Register
36-27-11	Revoked	V. 13, p. 91
36-37-1 through 36-37-6	New	V. 12, p. 309, 310
36-38-1	New	V. 12, p. 310
36-38-2	New	V. 12, p. 310
36-39-1 through 36-39-6	New	V. 12, p. 1088-1090

(continued)

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-1-22	Amended	V. 13, p. 185
40-1-39	New	V. 12, p. 1563
40-1-41	New	V. 12, p. 1563
40-2-23	New	V. 12, p. 1564
40-3-10	Revoked	V. 12, p. 1564
40-3-32	Amended	V. 12, p. 1564
40-3-33	Amended	V. 12, p. 1565
40-3-47	Amended	V. 13, p. 185
40-3-50	New	V. 12, p. 1568
40-4-2	Amended	V. 12, p. 1568
40-5-12	New	V. 12, p. 1568

AGENCY 44: DEPARTMENT OF CORRECTIONS

Reg. No.	Action	Register
44-2-103	New	V. 12, p. 822
44-6-124	Amended	V. 12, p. 1154
44-6-146	New	V. 12, p. 1154
44-7-116	New	V. 12, p. 1155
44-14-101	Amended	V. 12, p. 1593
44-14-102	Amended	V. 12, p. 1594
44-14-201	Amended	V. 12, p. 1594
44-14-301	Amended	V. 12, p. 1594
44-14-302	Amended	V. 12, p. 1594
44-14-303	Amended	V. 12, p. 1596
44-14-305	Amended	V. 12, p. 1596
44-14-305a	Revoked	V. 12, p. 1596
44-14-306	Amended	V. 12, p. 1596
44-14-307	Amended	V. 12, p. 1597
44-14-309	Amended	V. 12, p. 1597
44-14-310	Amended	V. 12, p. 1597
44-14-311	Amended	V. 12, p. 1597
44-14-314	Amended	V. 12, p. 1597
44-14-316	Amended	V. 12, p. 1597
44-14-318	New	V. 12, p. 1597

AGENCY 51: DEPARTMENT OF HUMAN RESOURCES

DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-9-7	Amended	V. 12, p. 1399

AGENCY 56: OFFICE OF THE ADJUTANT GENERAL

Reg. No.	Action	Register
56-2-1	New	V. 12, p. 1736
56-2-2	New	V. 12, p. 1736
56-3-1 through 56-3-6	New	V. 13, p. 89-91, 111-112

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-1-101	Revoked	V. 12, p. 1205
60-1-102	Amended	V. 12, p. 348
60-1-103	Amended	V. 12, p. 348
60-3-101	Amended	V. 12, p. 348
60-3-104	Revoked	V. 13, p. 365
60-3-105	Amended	V. 13, p. 365
60-3-106	Amended	V. 13, p. 365
60-3-106a	New	V. 13, p. 365
60-3-110	Amended	V. 12, p. 1205
60-3-111	New	V. 12, p. 349
60-4-101	Amended	V. 13, p. 365
60-4-103	Amended	V. 13, p. 365
60-7-104	Amended	V. 13, p. 366
60-7-106	New	V. 12, p. 1206
60-7-108	New	V. 12, p. 349
60-8-101	Amended	V. 13, p. 366
60-9-105	Amended	V. 12, p. 349
60-9-107	Amended	V. 12, p. 1206
60-11-103	Amended	V. 12, p. 350
60-11-108	Amended	V. 12, p. 1208
60-11-113	Amended	V. 13, p. 366
60-11-118	Amended	V. 12, p. 350
60-11-119	Amended	V. 12, p. 489
60-12-104	Amended	V. 12, p. 1208
60-12-105	Amended	V. 12, p. 1208
60-13-101	Amended	V. 12, p. 489
60-13-110	Amended	V. 13, p. 366

AGENCY 63: BOARD OF MORTUARY ARTS

Reg. No.	Action	Register
63-1-3	Amended	V. 12, p. 1598
63-1-4	Amended	V. 12, p. 632
63-3-10	Amended	V. 12, p. 632
63-3-11	Amended	V. 12, p. 632
63-3-19	Amended	V. 12, p. 633

63-4-1 Amended V. 12, p. 1598

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-4-3	Amended	V. 12, p. 630
65-4-4	Amended	V. 12, p. 630

AGENCY 66: BOARD OF TECHNICAL PROFESSIONS

Reg. No.	Action	Register
66-6-6	Amended	V. 12, p. 1926
66-6-8	Amended	V. 12, p. 1926
66-6-9	Amended	V. 12, p. 1926
66-8-2 through 66-8-5	Amended	V. 12, p. 1926, 1927
66-9-1	Amended	V. 12, p. 1927
66-9-2	Amended	V. 12, p. 1927
66-9-4	Amended	V. 12, p. 1927
66-9-5	Amended	V. 12, p. 1928
66-10-1	Amended	V. 12, p. 1928
66-10-3	Amended	V. 12, p. 1928
66-10-4	Amended	V. 12, p. 1928
66-10-9	Amended	V. 12, p. 1928
66-11-1	Amended	V. 12, p. 1929
66-11-2	Amended	V. 12, p. 1929
66-12-1	Amended	V. 12, p. 1929

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-7-12a	New	V. 12, p. 186
68-7-19	New	V. 12, p. 187
68-12-2	Amended	V. 12, p. 187
68-20-18	Amended	V. 12, p. 187
68-20-19	Amended	V. 12, p. 188

AGENCY 69: BOARD OF COSMETOLOGY

Reg. No.	Action	Register
69-1-4	Amended	V. 13, p. 4
69-11-1	Amended	V. 12, p. 1633
69-12-1 through 69-12-17	New	V. 12, p. 1633-1635

AGENCY 70: BOARD OF VETERINARY EXAMINERS

Reg. No.	Action	Register
70-5-1	Amended	V. 13, p. 445

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-1-16	New	V. 12, p. 439
71-1-17	New	V. 12, p. 439
71-1-18	New	V. 12, p. 1700
71-3-3	Amended	V. 12, p. 532

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-4-8	Amended	V. 12, p. 1922
74-5-2	Amended	V. 12, p. 1039
74-5-202	Amended	V. 12, p. 1039
74-5-203	Amended	V. 12, p. 1040
74-5-405	Amended	V. 12, p. 1040
74-5-406	Amended	V. 12, p. 1040
74-6-1	Amended	V. 12, p. 1040
74-6-2	Amended	V. 12, p. 1041
74-8-2	Amended	V. 12, p. 1041
74-8-5	Amended	V. 12, p. 1041
74-11-1 through 74-11-5	Revoked	V. 12, p. 1922
74-11-6 through 74-11-14	New	V. 12, p. 1922-1926
74-14-1	New	V. 12, p. 1041
74-14-2	New	V. 12, p. 1041

AGENCY 75: CONSUMER CREDIT COMMISSIONER

Reg. No.	Action	Register
75-6-6	Amended	V. 13, p. 276

AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reg. No.	Action	Register
80-8-1 through 80-8-7	New	V. 12, p. 980, 981

AGENCY 81: OFFICE OF THE SECURITIES COMMISSIONER

Reg. No.	Action	Register
81-3-1	Amended	V. 12, p. 788
81-3-3	Amended	V. 12, p. 790
81-3-4	New	V. 12, p. 790
81-5-3	Amended	V. 12, p. 790
81-5-8	Amended	V. 12, p. 791
81-5-9	Amended	V. 12, p. 791
81-5-10	New	V. 12, p. 791
81-5-11	New	V. 12, p. 1873
81-7-1	Amended	V. 12, p. 791
81-7-2	New	V. 12, p. 794
81-11-11	Amended	V. 12, p. 794

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-228	Amended	V. 12, p. 147
82-1-232	Amended	V. 12, p. 148
82-3-206	Amended	V. 12, p. 1592
82-3-307	Amended	V. 12, p. 1592
82-3-401	Amended	V. 12, p. 376
82-3-401a	New	V. 12, p. 377
82-4-1	Amended	V. 12, p. 439
82-4-3	Amended	V. 12, p. 440
82-4-6d	Amended	V. 12, p. 441
82-4-8a	Amended	V. 12, p. 441
82-4-20	Amended	V. 12, p. 442
82-4-27a	Amended	V. 12, p. 442
82-4-29	Amended	V. 12, p. 443
82-4-34	Revoked	V. 12, p. 443
82-4-35a	Amended	V. 12, p. 443
82-4-37	Amended	V. 12, p. 443
82-4-38	Revoked	V. 12, p. 443
82-4-39	Amended	V. 12, p. 443

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-5	Amended	V. 12, p. 1662
86-1-11	Amended	V. 12, p. 1662
86-3-7	Amended	V. 12, p. 1663
86-3-22	Amended	V. 12, p. 1663
86-3-24	Revoked	V. 12, p. 980

AGENCY 88: BOARD OF REGENTS

Reg. No.	Action	Register
88-10-4	Amended	V. 12, p. 631
88-11-5	Amended	V. 12, p. 631
88-22-1 through 88-22-10	New	V. 12, p. 93, 94

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-1-30	Amended	V. 12, p. 579
91-1-56	Amended	V. 13, p. 308
91-1-80	Amended	V. 12, p. 580
91-1-102	Revoked	V. 13, p. 367
91-1-102a	Amended	V. 13, p. 308
91-1-104	Revoked	V. 13, p. 367
91-1-104a	Revoked	V. 13, p. 367
91-1-104b	Amended	V. 13, p. 309
91-1-104c	Amended	V. 13, p. 309
91-1-110a	Amended	V. 12, p. 582
91-1-110b	Revoked	V. 13, p. 367
91-1-110c	Amended	V. 13, p. 310
91-1-112a	Revoked	V. 13, p. 367
91-1-112b	Revoked	V. 13, p. 367
91-1-112c	Amended	V. 13, p. 310
91-1-112d	Amended	V. 13, p. 311
91-1-113a	Revoked	V. 13, p. 367
91-1-113b	Amended	V. 13, p. 311
91-12-22	Amended	V. 12, p. 1929
91-12-23	Amended	V. 12, p. 1933
91-12-24a	Amended	V. 12, p. 590
91-12-27	Amended	V. 12, p. 590
91-12-28	Amended	V. 12, p. 590
91-12-30	Amended	V. 12, p. 591
91-12-33	Amended	V. 12, p. 591
91-12-37	Amended	V. 12, p. 591
91-12-40	Amended	V. 12, p. 592
91-12-41	Amended	V. 12, p. 593
91-12-44	Amended	V. 12, p. 594
91-12-45	Amended	V. 12, p. 1934
91-12-46	Amended	V. 12, p. 1935
91-12-47	Amended	V. 12, p. 595
91-12-51	Amended	V. 12, p. 596
91-12-53	Amended	V. 12, p. 596
91-12-54	Amended	V. 12, p. 597

91-12-55	Amended	V. 12, p. 598
91-12-59	Amended	V. 12, p. 598
91-12-61	Amended	V. 12, p. 598
91-12-64	Amended	V. 12, p. 599
91-12-65	Amended	V. 12, p. 600
91-12-71	Amended	V. 12, p. 1935

AGENCY 98: KANSAS WATER OFFICE

Reg. No.	Action	Register
98-5-2	Amended	V. 12, p. 351
98-5-3	Amended	V. 12, p. 352
98-5-5	Amended	V. 12, p. 353

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-11-1	Amended	V. 12, p. 1704
100-38-1	Amended	V. 12, p. 1704
100-46-6	New	V. 12, p. 679
100-47-1	Amended	V. 12, p. 679
100-49-4	Amended	V. 12, p. 1704
100-54-6	Amended	V. 12, p. 1704
100-55-6	Amended	V. 12, p. 1704

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-13	Amended	V. 12, p. 1038
102-5-1 through 102-5-12	New	V. 12, p. 189-194
102-5-2	Amended	V. 12, p. 1038

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-2-1	Amended	V. 13, p. 183
105-3-2	Amended	V. 12, p. 976, 1013
105-3-11	New	V. 13, p. 184
105-5-2	Amended	V. 13, p. 184
105-5-6	Amended	V. 12, p. 977, 1013
105-5-7	Amended	V. 12, p. 977, 1014
105-5-8	Amended	V. 12, p. 977, 1014
105-5-9	New	V. 12, p. 1014
105-9-5	New	V. 12, p. 1014
105-10-1	Revoked	V. 13, p. 184
105-10-1a	New	V. 13, p. 184
105-10-3	New	V. 13, p. 184
105-10-4	New	V. 13, p. 185
105-10-5	New	V. 13, p. 185

AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-1-1	Amended	V. 12, p. 1873
109-2-5	Amended	V. 12, p. 1015
109-2-8	Amended	V. 12, p. 1016
109-5-1	Amended	V. 12, p. 1018
109-9-4	Amended	V. 12, p. 1874
109-9-5	Amended	V. 12, p. 1875
109-10-2	New	V. 12, p. 1091
109-10-3	New	V. 12, p. 1875
109-10-4	New	V. 12, p. 1876
109-11-1	Amended	V. 12, p. 1876
109-11-4	Amended	V. 12, p. 1019
109-11-8	Amended	V. 12, p. 1876
109-13-1	New	V. 12, p. 1877
109-13-3	New	V. 12, p. 1877

AGENCY 110: DEPARTMENT OF COMMERCE AND HOUSING

Reg. No.	Action	Register
110-6-1 through 110-6-6	New	V. 12, p. 1294, 1295, 1489, 1490
110-6-7	New	V. 12, p. 1490

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. 12, p. 1261
111-2-2a	Revoked	V. 9, p. 1675
111-2-6	Revoked	V. 13, p. 149
111-2-7	Revoked	V. 10, p. 1210
111-2-13	Revoked	V. 10, p. 881
111-2-14	New	V. 9, p. 30
111-2-15	Revoked	V. 10, p. 881
111-2-16	Revoked	V. 10, p. 1210
111-2-17	Revoked	V. 10, p. 1210
111-2-18	Revoked	V. 11, p. 413

111-2-19	Revoked	V. 11, p. 413
111-2-20	New	V. 11, p. 199
111-2-21	New	V. 11, p. 1471
111-2-22	New	V. 11, p. 1972
111-2-23	New	V. 12, p. 113
111-2-24	Amended	V. 12, p. 912
111-2-25	New	V. 12, p. 677
111-2-26	New	V. 12, p. 1113
111-2-27	New	V. 12, p. 1370
111-2-28	New	V. 12, p. 1844
111-2-29	New	V. 12, p. 1844
111-3-1	Amended	V. 13, p. 34
111-3-6	Amended	V. 12, p. 677
111-3-9	Revoked	V. 11, p. 1793

111-3-10 through 111-3-31	New	V. 7, p. 201-206
111-3-11	Amended	V. 13, p. 35
111-3-12	Amended	V. 10, p. 12
111-3-13	Amended	V. 11, p. 1148
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. 11, p. 1148
111-3-21	Amended	V. 11, p. 1148
111-3-22	Amended	V. 11, p. 1148
111-3-23	Revoked	V. 10, p. 883
111-3-25	Amended	V. 11, p. 1149
111-3-26	Amended	V. 11, p. 1149
111-3-27	Amended	V. 11, p. 1149
111-3-29	Revoked	V. 11, p. 1149
111-3-31	Amended	V. 8, p. 209
111-3-32	Amended	V. 10, p. 883
111-3-33	New	V. 7, p. 1434
111-3-34	New	V. 13, p. 149
111-3-35	New	V. 13, p. 337

111-4-1 through 111-4-5	Revoked	V. 12, p. 113
111-4-5a	Revoked	V. 12, p. 113
111-4-6 through 111-4-15	Revoked	V. 12, p. 113
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. 12, p. 1113
111-4-101	Amended	V. 12, p. 1113
111-4-102	Amended	V. 12, p. 1114
111-4-103	Amended	V. 10, p. 1211
111-4-104	Amended	V. 12, p. 1114
111-4-105	Amended	V. 12, p. 1114
111-4-106	Amended	V. 11, p. 1472
111-4-106a	Amended	V. 11, p. 1149
111-4-107	Amended	V. 11, p. 978
111-4-108	Amended	V. 12, p. 1114
111-4-110	Amended	V. 11, p. 978
111-4-111	Amended	V. 9, p. 1366
111-4-112	Amended	V. 12, p. 1114
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	Revoked	V. 10, p. 1213
111-4-217	Amended	V. 9, p. 986

111-4-221 through 111-4-224	Revoked	V. 10, p. 1585
111-4-225 through 111-4-228	Revoked	V. 10, p. 1585
111-4-229 through 111-4-236	Revoked	V. 10, p. 1585, 1586
111-4-237 through 111-4-240	Revoked	V. 11, p. 413
111-4-241 through 111-4-244	Revoked	V. 12, p. 1371

111-4-245 through 111-4-248	Revoked	V. 12, p. 1371
111-4-249 through 111-4-256	Revoked	V. 12, p. 113, 114
111-4-257 through 111-4-286	Revoked	V. 11, p. 413, 414
111-4-287 through 111-4-300	New	V. 10, p. 883-886
111-4-287 through 111-4-290	Revoked	V. 12, p. 1371
111-4-291 through 111-4-300	Revoked	V. 12, p. 114
111-4-301 through 111-4-307	New	V. 10, p. 1015, 1016
111-4-301	Amended	V. 12, p. 1115
111-4-301	Amended	V. 12, p. 1115
111-4-303	Amended	V. 12, p. 1115
111-4-306	Amended	V. 12, p. 1115
111-4-308 through 111-4-320	New	V. 10, p. 1214, 1215
111-4-308	Amended	V. 12, p. 1261
111-4-311	Amended	V. 12, p. 1262
111-4-312	Amended	V. 12, p. 1262
111-4-313	Amended	V. 12, p. 1262
111-4-318 through 111-4-321	Revoked	V. 12, p. 114
111-4-322 through 111-4-331	New	V. 10, p. 1411-1413
111-4-322 through 111-4-327	Revoked	V. 12, p. 1371
111-4-328 through 111-4-335	Revoked	V. 12, p. 114
111-4-336 through 111-4-345	New	V. 10, p. 1526-1528
111-4-336	Amended	V. 12, p. 1371, 1372
111-4-341	Revoked	V. 11, p. 1473
111-4-341a	Revoked	V. 12, p. 1372
111-4-341b	Amended	V. 12, p. 1372
111-4-341c	New	V. 12, p. 1664
111-4-344	Amended	V. 12, p. 1373
111-4-346 through 111-4-361	New	V. 10, p. 1586-1589
111-4-346 through 111-4-349	Revoked	V. 12, p. 114
111-4-362 through 111-4-365	Revoked	V. 12, p. 114, 115
111-4-362	Amended	V. 11, p. 13
111-4-366 through 111-4-379	New	V. 11, p. 136-139
111-4-366	Revoked	V. 12, p. 1373
111-4-380 through 111-4-383	Revoked	V. 12, p. 1664
111-4-384 through 111-4-387	Revoked	V. 12, p. 1373
111-4-388 through 111-4-400	New	V. 11, p. 478-481
111-4-388	Revoked	V. 12, p. 1373
111-4-392	Amended	V. 12, p. 520
111-4-394 through 111-4-400	Amended	V. 12, p. 521, 522
111-4-401 through 111-4-404	Revoked	V. 12, p. 1373
111-4-405 through 111-4-413	New	V. 11, p. 756, 757

(continued)

111-4-405	Amended	V. 12, p. 912	111-5-21			111-8-5		
111-4-407	Amended	V. 12, p. 912	through			through		
111-4-408	Amended	V. 12, p. 912	111-5-33	New	V. 11, p. 415-418	111-8-13	New	V. 7, p. 1634
111-4-409	Amended	V. 11, p. 1473, 1474	111-5-22	Amended	V. 11, p. 481	111-9-1		
111-4-411	Amended	V. 11, p. 1474	111-5-23	Amended	V. 11, p. 481	through		
111-4-412	Amended	V. 11, p. 1475	111-5-24	Amended	V. 11, p. 983	111-9-12	New	V. 7, p. 1714-1716
111-4-413	Amended	V. 11, p. 1475	111-5-25	Amended	V. 11, p. 482	111-9-1		
111-4-414			111-5-27	Amended	V. 11, p. 482	through		
through			111-5-28	Amended	V. 12, p. 317	111-9-6	Revoked	V. 9, p. 1680
111-4-428	New	V. 11, p. 981-983	111-5-34	New	V. 12, p. 318	111-9-13		
111-4-414	Amended	V. 11, p. 1150	111-5-35			through		
111-4-429			through			111-9-18	Revoked	V. 9, p. 1680
through			111-5-38	New	V. 12, p. 526	111-9-25		
111-4-432	Revoked	V. 12, p. 1373	111-6-1			through		
111-4-433			through			111-9-30	New	V. 9, p. 699, 700
through			111-6-15	New	V. 7, p. 213-217	111-9-31		
111-4-436	Revoked	V. 12, p. 1374	111-6-1	Amended	V. 13, p. 339	through		
111-4-437			111-6-3	Amended	V. 12, p. 527	111-9-36	New	V. 10, p. 262
through			111-6-4	Amended	V. 10, p. 1413	111-9-37		
111-4-444	New	V. 11, p. 1475-1477	111-6-5	Amended	V. 12, p. 1262	through		
111-4-437			111-6-6	Amended	V. 11, p. 1973	111-9-48	New	V. 10, p. 1439, 1440
through			111-6-7	Amended	V. 11, p. 1477	111-9-49		
111-4-440	Revoked	V. 12, p. 1374	111-6-7a	New	V. 12, p. 1118	through		
111-4-445			111-6-8	Revoked	V. 12, p. 1263	111-9-54	New	V. 12, p. 318, 319
through			111-6-9	Amended	V. 10, p. 1217	111-9-55		
111-4-453	New	V. 11, p. 1794-1796	111-6-11	Revoked	V. 12, p. 1376	through		
111-4-445			111-6-12	Amended	V. 8, p. 212	111-9-60	New	V. 12, p. 1263, 1264
through			111-6-13	Amended	V. 8, p. 299	111-10-1		
111-4-448	Revoked	V. 12, p. 1374	111-6-15	Amended	V. 12, p. 677	through		
111-4-454			111-6-17	Revoked	V. 10, p. 1475	111-10-9	New	V. 8, p. 136-138
through			111-6-18	New	V. 13, p. 150	111-10-7	Amended	V. 8, p. 301
111-4-465	Revoked	V. 12, p. 1664, 1665	111-6-19	New	V. 13, p. 340			
111-4-466			111-6-20	New	V. 13, p. 340			
through			111-7-1					
111-4-473	New	V. 12, p. 316, 317	through					
111-4-466			111-7-10	New	V. 7, p. 1192, 1193			
through			111-7-1	Amended	V. 8, p. 212			
111-4-473	New	V. 12, p. 316, 317	111-7-3	Amended	V. 11, p. 1796			
111-4-466			111-7-3a	Revoked	V. 13, p. 340			
through			111-7-4	Amended	V. 9, p. 1367			
111-4-469	Revoked	V. 12, p. 1665	111-7-5	Amended	V. 9, p. 986			
111-4-470	Amended	V. 12, p. 522	111-7-6	Amended	V. 9, p. 987			
111-4-474			111-7-9	Amended	V. 12, p. 1263			
through			111-7-11	Amended	V. 10, p. 1475			
111-4-488	New	V. 12, p. 522-524	111-7-12					
111-4-489			through					
through			111-7-32	New	V. 7, p. 1194-1196			
111-4-492	New	V. 12, p. 861	111-7-33					
111-4-493			through					
111-4-496	New	V. 12, p. 525	111-7-43	New	V. 7, p. 1197, 1198			
111-4-497			111-7-33a	New	V. 8, p. 300			
through			111-7-44					
111-4-500	New	V. 12, p. 913, 914	through					
111-4-501			111-7-54	Revoked	V. 13, p. 340			
through			111-7-46	Amended	V. 11, p. 1152			
111-4-512			111-7-54	Amended	V. 11, p. 1511			
111-4-513			111-7-55					
through			through					
111-4-521			111-7-63	Revoked	V. 10, p. 1217			
111-4-522			111-7-60	Amended	V. 10, p. 262			
through			111-7-64					
111-4-530	New	V. 12, p. 1569, 1570	through					
111-4-531			111-7-75	New	V. 11, p. 13, 14			
through			111-7-66	Amended	V. 12, p. 1666			
111-4-534	New	V. 12, p. 1665, 1666	111-7-66a	Revoked	V. 13, p. 340			
111-4-535			111-7-76					
through			through					
111-4-542	New	V. 12, p. 1844-1846	111-7-78	New	V. 11, p. 1478-1480			
111-4-543			111-7-79	Revoked	V. 13, p. 340			
through			111-7-80					
111-4-546	New	V. 13, p. 150	through					
111-4-547			111-7-83	New	V. 11, p. 1478-1480			
through			111-7-84					
111-4-554	New	V. 13, p. 337-339	through					
111-4-555			111-7-90	New	V. 12, p. 677, 678			
through			111-7-91					
111-4-563	New	V. 13, p. 396-398	through					
111-5-1			111-7-94	Revoked	V. 13, p. 340			
through			111-7-98	New	V. 12, p. 914			
111-5-23	New	V. 7, p. 209-213	111-7-99					
111-5-9			through					
through			111-7-105	New	V. 12, p. 1376, 1377			
111-5-15	Amended	V. 8, p. 210, 211	111-8-1	New	V. 7, p. 1633			
111-5-11	Amended	V. 9, p. 505	111-8-2	New	V. 7, p. 1633			
111-5-12	Amended	V. 11, p. 415	111-8-3	Amended	V. 10, p. 886			
111-5-17	Amended	V. 8, p. 211	111-8-4	New	V. 7, p. 1714			
111-5-18	Amended	V. 10, p. 13	111-8-4a	New	V. 7, p. 1995			
111-5-19	Amended	V. 8, p. 212						
117-4-1	Amended	V. 12, p. 1699						
117-4-4	Amended	V. 12, p. 530						
117-6-1	Amended	V. 12, p. 531						
117-6-2	Amended	V. 12, p. 531						
117-8-1	Amended	V. 12, p. 531						

AGENCY 112: KANSAS RACING COMMISSION

Reg. No.	Action	Register
112-4-1	Amended	V. 12, p. 1152, 1369
112-4-24	New	V. 12, p. 1153, 1370
112-9-2	Amended	V. 12, p. 975, 1211
112-9-18a	Amended	V. 12, p. 355, 378
112-9-30	Amended	V. 12, p. 975, 1211
112-9-39a	Amended	V. 12, p. 356, 378
112-9-40a	Amended	V. 12, p. 356, 379
112-9-41a	Amended	V. 12, p. 358, 380
112-9-42	Amended	V. 12, p. 359, 382
112-9-43	Amended	V. 12, p. 361, 383
112-9-44	New	V. 12, p. 361, 384
112-12-1	New	V. 12, p. 50
112-12-2		
through		
112-12-11	Amended	V. 12, p. 50-53
112-12-10	Amended	V. 12, p. 1816
112-17-15	New	V. 12, p. 1034, 1211

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 13, p. 233
115-4-1	Amended	V. 12, p. 570
115-4-3	Amended	V. 12, p. 570
115-4-5	Amended	V. 12, p. 571
115-4-6	Amended	V. 12, p. 572
115-4-7	Amended	V. 12, p. 574
115-5-1	Amended	V. 12, p. 1490
115-8-22	New	V. 13, p. 233
115-9-1	Revoked	V. 12, p. 1702
115-17-16		
through		
115-17-20	New	V. 13, p. 234-236
115-17-15	New	V. 12, p. 1702
115-18-4	Amended	V. 12, p. 1491
115-18-9	New	V. 12, p. 1702
115-18-10	New	V. 12, p. 1702
115-18-12	New	V. 12, p. 1491
115-21-3	New	V. 12, p. 1703
115-30-8	Amended	V. 12, p. 1703

AGENCY 116: STATE FAIR BOARD

Reg. No.	Action	Register
116-3-1	New	V. 12, p. 1175
116-3-2	New	V. 12, p. 1175

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-1-1	Amended	V. 12, p. 528
117-2-1	Amended	V. 12, p. 528
117-2-4	Amended	V. 12, p. 529
117-3-1	Amended	V. 12, p. 529

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, April 14, 1994.)

HOUSE BILL No. 2709

AN ACT enacting the health care provider cooperation act; authorizing certain cooperative agreements; prescribing powers and duties of the secretary of health and environment in relation thereto.

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

Section 1. (a) This act shall be known and may be cited as the health care provider cooperation act.

(b) The legislature finds as follows: (1) Technological and scientific developments in health care have enhanced the prospects for further improvement in the quality of care provided to Kansas citizens; (2) the costs of improved technology and improved scientific methods for the provision of health care are significant factors in the escalating cost of health care; (3) cooperative agreements among health care providers concerning the provision of services can foster further improvements in the quality of health care for Kansas citizens, moderate increases in costs, avoid duplication of resources and improve access to needed services in rural areas of Kansas; and (4) because cooperative agreements may require health care providers to collaborate on the provision of services, thereby raising the issue of anti-trust effects, regulatory oversight of cooperative agreements is necessary to ensure that the benefits of agreements outweigh any disadvantages attributable to any reduction in competition resulting from such agreements.

(c) Cooperative agreements approved pursuant to this act articulate and implement the policy of the state to improve and protect the quality and availability of health care to Kansas citizens. Continued active supervision by the state over all aspects of such agreements, and the standards and requirements established by this act, will provide protection to the public offsetting the loss of protection otherwise provided by competition.

Sec. 2. As used in this act:

(a) "Cooperative agreement" means an agreement among two or more health care providers for the sharing, allocation or referral of patients, personnel, instructional programs, support services and facilities, or medical, diagnostic or laboratory facilities or procedures or other services traditionally offered by health care providers.

(b) "Health care provider" means health care provider as defined under K.S.A. 65-4921 and amendments thereto; licensed pharmacist; or licensed optometrist.

(c) "Hospital" has the same meaning as defined under K.S.A. 65-425 and amendments thereto.

(d) "Secretary" means the secretary of health and environment.

Sec. 3. (a) A health care provider may negotiate and enter into cooperative agreements with other health care providers in the state if the likely benefits resulting from the agreements outweigh any disadvantages attributable to a reduction in competition that may result from the agreements.

(b) Parties to a cooperative agreement may apply to the secretary for a certificate of public advantage approving and governing that cooperative agreement. The application shall include an executed copy of the cooperative agreement and shall describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement. The application shall be

accompanied by an application fee fixed by the secretary by rules and regulations in an amount necessary to defray all or part of the costs of the agency in the determination of whether to grant or deny a certificate of public advantage under the health care provider cooperation act.

(c) The secretary shall review the application in accordance with the standards set forth in subsections (e) and (f) of this section, and shall hold a public hearing in accordance with rules and regulations adopted by the secretary. The secretary shall approve or deny the application within 90 days of the date of filing of the application and that decision shall be in writing and set forth the basis for the decision.

(d) The secretary shall issue a certificate of public advantage for a cooperative agreement if the secretary determines the applicants have demonstrated that the benefits resulting from the agreement outweigh any disadvantages attributable to a reduction in competition that may result from the agreement.

(e) In evaluating the potential benefits of a cooperative agreement, the secretary shall consider whether one or more of the following benefits may result from the cooperative agreement:

(1) Enhancement of the quality of health care provided to Kansas citizens;

(2) preservation of health care facilities or providers, or both, in geographical proximity to the communities traditionally served by those facilities or providers, or both;

(3) increased cost efficiency of services provided by the health care providers involved;

(4) improvements in the utilization of health care resources and equipment; and

(5) avoidance of duplication of resources.

(f) The secretary's evaluation of any disadvantages attributable to a reduction in competition likely to result from the agreement shall include, but not be limited to, the following factors:

(1) The extent of any adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents or other health care payers to negotiate optimal payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(2) the extent of any reduction in competition among health care providers or other persons furnishing goods or services to, or in competition with, health care providers that may result directly or indirectly from the cooperative agreement;

(3) the extent of any adverse impact on patients in the quality, availability and cost of health care services; and

(4) the availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition which may result from the agreement.

(g) A cooperative agreement approved pursuant to this act may be amended only after the amendment is approved by the secretary in the same manner as required for initial approval of the cooperative agreement.

Sec. 4. Any cooperative agreement approved pursuant to this act shall thereafter be reviewed annually by the secretary. If the secretary determines at any time that a cooperative agreement no longer meets the requirements of this act, the secretary may initiate proceedings to terminate the certificate of public advantage in accordance with the Kansas administrative procedure act.

Sec. 5. The secretary shall maintain on file all cooperative agreements for which certificates of public advantage are in effect. Any party to a cooperative agreement who terminates the agreement shall file a notice of termination with the secretary within 30 days after termination.

Sec. 6. (a) A cooperative agreement for which a certificate of public advantage has been issued is a lawful agreement. If the parties to a cooperative agreement file an application for a certificate of public advantage governing the agreement with the secretary, the conduct of the parties in negotiating and entering into a cooperative agreement is lawful conduct. Nothing in this act shall apply to any cooperative agreement, or to the actions of persons negotiating or executing a cooperative agreement, not submitted and approved in

(continued)

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 634

AN ACT relating to municipalities; concerning the investment of proceeds of bonds or notes in the municipal investment pool; relating to interest on bonds; amending K.S.A. 10-131 and K.S.A. 1993 Supp. 10-1009 and repealing the existing sections.

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

Section 1. K.S.A. 10-131 is hereby amended to read as follows: 10-131. The governing body of any municipality, as defined in K.S.A. 10-101, and amendments thereto, which has issued or may issue bonds or temporary notes for any purpose, is hereby authorized and empowered to invest any portion of the proceeds of such bonds, notes or funds held pursuant to the resolution or ordinance authorizing the issuance of such bonds or notes, which is not currently needed, in: (a) Investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein; (b) *the municipal investment pool established pursuant to K.S.A. 1993 Supp. 12-1677a, and amendments thereto;* (c) direct obligations of the United States government or any agency thereof; ~~(e)~~ (d) the municipality's temporary notes issued pursuant to K.S.A. 10-123, and amendments thereto; ~~(d)~~ (e) interest-bearing time deposits in commercial banks located in the county or counties in which the municipality is located; ~~(e)~~ (f) obligations of the federal national mortgage association, federal home loan banks or the federal home loan mortgage corporation; ~~(f)~~ (g) repurchase agreements collateralized by securities described in ~~(b)~~ (c) or ~~(e)~~ (f) above; ~~(g)~~ (h) investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's investors service or Standard and Poor's corporation; ~~(h)~~ (i) investments in shares or units of a money market fund or trust the portfolio of which is comprised entirely of securities described in ~~(b)~~ (c) or ~~(e)~~ (f) above; ~~(i)~~ (j) receipts evidencing ownership interests in securities or portions thereof described in ~~(b)~~ (c) or ~~(e)~~ (f) above; ~~(j)~~ (k) municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same; or ~~(k)~~ (l) bonds of any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in ~~(b)~~ (c) or ~~(e)~~ (f) above. The interest received on any such investment shall upon receipt thereof be set aside and used for the purpose of paying interest on the bonds or notes issued or used for paying the cost of the project for which the bonds or notes were issued.

Sec. 2. K.S.A. 1993 Supp. 10-1009 is hereby amended to read as follows: 10-1009. (a) The maximum stated rate of interest which may be fixed on fixed-rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the day the bonds are sold and shall not exceed the *index of daily yield for the thirty-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus 2%.*

(b) The maximum stated rate of interest which may be fixed on variable-rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the date on which the rate is determined in accordance with the resolution or ordinance of the issuer and shall not exceed the *index of daily yield for the thirty-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding such date, plus 2%.*

(c) The maximum rate of interest specified in this section shall be applicable to bonds issued after the effective date of this act pursuant to proceedings initiated either before or after the effective date of this act.

Sec. 3. K.S.A. 10-131 and K.S.A. 1993 Supp. 10-1009 are hereby repealed.

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

accordance with the provisions of this act.

(b) The provisions of this act shall apply to any agreement among health care providers by which ownership or control over substantially all of the stock, assets or activities of one or more health care providers is placed under the control of another health care provider.

(c) The provisions of this act shall not apply to:

(1) Any cooperative agreement entered into by health care providers prior to the effective date of this act; or

(2) any authorized activity of a rural health network under K.S.A. 65-468 *et seq.*, and amendments thereto.

(d) The rights and responsibilities of the parties to a cooperative agreement shall be determined in accordance with the provisions of the cooperative agreement.

Sec. 7. There is hereby created a committee of not to exceed five health care providers to be appointed as follows: One member by the governor; one member by the speaker of the house of representatives; one member by the minority leader of the house of representatives; one member by the president of the senate; and one member by the minority leader of the senate. The members of the committee shall serve at the pleasure of their appointing authority. The committee shall advise the secretary on matters concerning the administration of this act and make recommendations to the secretary concerning applications for the issuance of certificates of public advantage and the termination of such certificates. The committee shall meet on the call of the secretary. Committee members shall not be paid compensation, subsistence allowances, mileage or other expenses as otherwise may be authorized by law for attending meetings, or subcommittee meetings, of the committee.

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, April 14, 1994.)

HOUSE BILL No. 2570

AN ACT concerning certain cities; relating to the exclusion of land therefrom.

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

Section 1. (a) The governing body of any city in which is located a veterans affairs medical center, may exclude the veterans affairs medical center land from the corporate limits of the city in the manner provided by this section. The city shall adopt a resolution stating that the city is considering the exclusion of such land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the exclusion of the land and fix the date, hour and place of the public hearing; and

(2) describe the boundaries of the land to be excluded.

The date fixed for the public hearing shall not be less than 60 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing. A copy of the resolution shall be mailed by certified mail to the director or person in charge of the veterans affairs medical center not more than 10 days following the date of the adoption of the resolution. The resolution also shall be published in the official newspaper of the city not less than one week and not more than two weeks preceding the date fixed for the public hearing.

(b) At the public hearing, a representative of the city shall present the city's proposal for the exclusion of the land. Following the presentation, all interested persons shall be given an opportunity to be heard. The governing body may recess the hearing to a date and time certain which shall be fixed in the presence of persons in attendance at the hearing.

(c) Whenever the governing body of the city finds it advisable to exclude land under the provisions of this section, such exclusion shall be done by ordinance duly passed and published.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

HOUSE BILL No. 2762

AN ACT concerning the imprest fund of the department of commerce and housing; amending K.S.A. 75-3066 and repealing the existing section.

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

Section 1. K.S.A. 75-3066 is hereby amended to read as follows: 75-3066. The following imprest fund is hereby established:

Department of economic development commerce and housing \$2,000.00 \$8,000.00

New Sec. 2. (a) On the effective date of this act, or as soon thereafter as the transaction can be accomplished, the director of accounts and reports shall issue a warrant payable to the imprest fund of the department of commerce and housing which is increased by section 1 pursuant to a voucher approved by the secretary of commerce and housing payable from moneys appropriated for the fiscal year ending June 30, 1994, for the department of commerce and housing, in an amount equal to the increase in the balance in such imprest fund as provided in section 1.

(b) Expenditures required to accomplish the transaction described in subsection (a) which may be made from any special revenue fund shall be in addition to any expenditure limitation imposed on such special revenue fund.

Sec. 3. K.S.A. 75-3066 is hereby repealed.

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

(Published in the Kansas Register, April 14, 1994.)

HOUSE SUBSTITUTE FOR HOUSE BILL No. 2103

AN ACT concerning health care providers; relating to "do not resuscitate" orders or directives.

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

Section 1. As used in this act:

(a) "Cardiopulmonary resuscitation" means chest compressions, assisted ventilations, intubation, defibrillation, administration of cardiotoxic medications or other medical procedure which is intended to restart breathing or heart functioning;

(b) "do not resuscitate" directive" or "DNR directive" means a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of this act;

(c) "do not resuscitate order" or "DNR order" means instruction by the physician who is responsible for the care of the patient while admitted to a medical care facility licensed pursuant to K.S.A. 65-429, and amendments thereto, or an adult care home licensed pursuant to K.S.A. 39-928, and amendments thereto;

(d) "health care provider" means a health care provider as that term is defined by K.S.A. 65-4915, and amendments thereto;

(e) "DNR identifier" means a medallion or bracelet designed to be worn by a patient which has been inscribed to identify the patient and contains the letters "DNR" or the statement "do not resuscitate" when such DNR identifier is distributed by an entity certified by the emergency medical services board;

(f) "physician" means a person licensed to practice medicine and surgery by the state board of healing arts; and

(g) "declarant" means any person who has executed a "do not resuscitate" directive in accordance with the provisions of this act.

Sec. 2. A "do not resuscitate" directive shall be in substantially the following form:

PRE-HOSPITAL DNR REQUEST FORM

An advanced request to Limit the Scope of Emergency Medical Care

I, _____, request limited emergency care as herein described. (name)

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by pre-hospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the pre-hospital care providers, doctors, nurses or other health care personnel as necessary to implement this directive.

I hereby agree to the "Do Not Resuscitate" (DNR) directive.

Signature Date Witness Date

I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT'S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

Attending Physician's Signature * Date Address Facility or Agency Name

* Signature of physician not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.

REVOCATION PROVISION

I hereby revoke the above declaration.

Signature Date

Sec. 3. A "do not resuscitate" directive shall be: (a) In writing; (b) signed by the person making the declaration, or by another person in the declarant's presence and by the declarant's expressed direction; (c) dated; and (d) signed in the presence of a witness who is at least 18 years of age and who shall not be the person who signed the declaration on behalf of and at the direction of the person making the declaration, related to the declarant by blood or marriage, entitled to any portion of the estate of the declarant according to the laws of intestate succession of this state or under any will of the declarant or codicil thereto, or directly financially responsible for declarant's medical care.

Sec. 4. No health care provider who in good faith causes or participates in the withholding or withdrawing of cardiopulmonary resuscitation pursuant to a "do not resuscitate" order or directive or the presence of a DNR identifier shall be subject to any civil liability nor shall such health care provider be guilty of a crime or an act of unprofessional conduct.

Sec. 5. Any document or other method of establishing a "do not resuscitate" order or directive which has been adopted by a medical care facility, an adult care home, or an emergency medical service prior to the effective date of this act shall be considered in substantial compliance with the definition of a "do not resuscitate" order or directive under this act.

Sec. 6. The emergency medical services board shall certify pursuant to rules and regulations entities which distribute DNR identifiers. Such entities may be certified when a DNR identifier is distributed only pursuant to a properly executed "do not resuscitate" directive and when such entity maintains a toll free, staffed telephone line that may be called at any time to verify the identity of the patient.

Sec. 7. A "do not resuscitate" order established while the patient is admitted to a medical care facility licensed pursuant to K.S.A. 65-429, and amendments thereto, or an adult care home licensed pursuant to K.S.A. 39-928, and amendments thereto, shall remain valid during transport of the patient between such medical care facility and an adult care home or between such adult care home and a medical care facility unless rescinded by the physician who is responsible for the care of the patient.

Sec. 8. The board may adopt rules and regulations necessary to implement the provisions of this act.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

HOUSE BILL No. 2998

AN ACT relating to elections; concerning political parties; filing of petitions for official recognition; amending K.S.A. 25-302a and repealing the existing section.

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

Section 1. K.S.A. 25-302a is hereby amended to read as follows: 25-302a. Any political party seeking official recognition in this state after the effective date of this act shall, at least 60 days before the deadline for filing nomination papers and declarations of candidates, file in its behalf, not later than 12:00 noon, June 1, prior to the primary election held on the first Tuesday of August in even-numbered years, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday petitions signed by qualified electors equal in number to at least 2% of the total vote cast for all candidates for the office of governor in the state in the last preceding general election. Such petitions shall declare support for the official recognition of a political party, the name of which shall be stated in the declaration. No political party seeking official recognition shall assume a name or designation which is similar, in the opinion of the secretary of state, to that of an existing party as to confuse or mislead the voters at an election.

Petitions seeking official recognition of a political party shall be substantially in the following form:

PETITION SEEKING THE OFFICIAL RECOGNITION OF
THE _____ PARTY IN THE STATE OF KANSAS

I, the undersigned, hereby declare my support for the official recognition of the _____ Party.

I have personally signed this petition; I am a registered elector of the state of Kansas and the County of _____, and my residence address is correctly written after my name.

NAME OF SIGNER ADDRESS AS REGISTERED CITY DATE OF SIGNING

Appended to each petition page or set of pages shall be an affidavit by the circulator of the petition affirming that such circulator is a duly registered voter of the county in which the petition was circulated and that the circulator personally witnessed the signing of the petition by each person whose name appears thereon. The affidavit shall be executed before a person authorized to administer oaths and include the address of the circulator.

Each page of said such petition shall bear the names of registered voters of a single county. All petitions shall be grouped according to the county in which each was circulated before being filed with the secretary of state. All such petitions shall be filed at one time. Any related petitions presented thereafter will be deemed to be separate and not a part of earlier filings. County election officers shall cooperate with the secretary of state in verifying the sufficiency of these petitions as required by law.

The secretary of state shall transmit such petitions to the county election officer of each county for which petitions were presented to be examined for sufficiency pursuant to the provisions of K.S.A. 25-3601 *et seq.* and amendments thereto and applicable regulations. Not more than 20 days following receipt of such petitions from the secretary of state, the county election officer shall return these documents to the secretary of state certifying the number of sufficient signatures thereon. The secretary of state shall gather all petitions and determine whether a sufficient number of signatures was submitted. The secretary of state shall forthwith notify the person who submitted the declaration of intent to circulate such petitions of the sufficiency or insufficiency of the number of signatures.

Sec. 2. K.S.A. 25-302a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 640

AN ACT relating to insurance; concerning mammogram coverage; amending K.S.A. 40-2230 and repealing the existing section.

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

Section 1. K.S.A. 40-2230 is hereby amended to read as follows: 40-2230. Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this act applies, whenever reimbursement or indemnity for laboratory or x-ray services are covered, reimbursement or indemnification shall not be denied for mammograms or pap smears when performed at the direction of a person licensed to practice medicine and surgery by the board of healing arts within the lawful scope of such person's license, including services performed at a mobile facility certified by the federal health care financing administration and performing mammography testing by American cancer society guidelines. A policy, provision, contract, plan or agreement may apply to mammograms or pap smears the same deductibles, coinsurance and other limitations as apply to other covered services.

Sec. 2. K.S.A. 40-2230 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

HOUSE BILL No. 2591

AN ACT relating to elections; concerning federal services absentee voting; amending K.S.A. 25-1216 and repealing the existing section.

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

Section 1. K.S.A. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application made before the election to be held in August of any even-numbered year also may be valid for the election to be held in November of that year.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile. The voter may also request that the county election officer transmit to such voter by facsimile a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile, the transmittal shall contain the following statement: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer's staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as practicable.

Sec. 2. K.S.A. 25-1216 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 635

AN ACT relating to public moneys; concerning the investment thereof; amending K.S.A. 1993 Supp. 12-1675 and repealing the existing section.

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

New Section 1. Whenever the daily withdrawals in the municipal investment pool established in K.S.A. 1993 Supp. 12-1677a, and amendments thereto, exceed the available cash in such municipal investment pool and there are municipal investment pool moneys in investments authorized in subsection (b) of K.S.A. 12-1677a, and amendments thereto, the state treasurer, with approval of the pooled money investment board, may:

(a) Borrow upon the security of any one or more interest-bearing time deposits in an amount sufficient to meet the municipal investment pool's obligations. Any such loan shall be repaid in full within 60 days or prior to July 1, whichever occurs first. Interest payment by the state for any loan under this section shall be made only by way of setoff from interest obligations to the state from the bank making such loan. The amount borrowed under this section from any bank shall never exceed an amount equal to the amount of municipal investment pool moneys on deposit in the bank; or

(b) enter into reverse repurchase agreements utilizing securities purchased by the board pursuant to paragraph (1) of subsection (b) of K.S.A. 12-1677a, and amendments thereto. Such reverse repurchase agreements may be entered into with Kansas banks or primary government securities dealers which report to the market reports division of the federal reserve bank of New York. Expenses of reverse repurchase agreements shall be paid by deducting such expenses against other interest income to the municipal investment pool.

Sec. 2. K.S.A. 1993 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest any moneys which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by any other statute.

(b) Such moneys shall be invested only:

(1) In temporary notes or no-fund warrants issued by such investing governmental unit;

(2) in time deposit, open accounts or certificates of deposit with maturities of not more than two years: (A) In commercial banks which have offices located in such investing governmental unit; or (B) if the office of no commercial bank is located in such investing governmental unit, then in commercial banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(3) in time certificates of deposit with maturities of not more than two years: (A) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or (B) if the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(4) in repurchase agreements with: (A) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or (B) (i) if the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or (ii) if no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an in-

terest rate equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or (C) if no bank, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the state of Kansas;

(5) in United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with the following, which is doing business within the state of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and amendments thereto;

(6) in the municipal investment pool fund established in K.S.A. 1993 Supp. 12-1677a, and amendments thereto;

(7) in the investments authorized and in accordance with the conditions prescribed in K.S.A. 1993 Supp. 12-1677b, and amendments thereto; or

(8) ~~with~~ *in multiple municipal client investment pools managed by the trust departments of commercial banks which have offices located in the county or counties where such investing governmental unit is located or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be limited to those investments authorized under subsection (b) of subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 1993 Supp. 12-1677a, and amendments thereto.*

(c) The investments authorized in paragraphs (5), (6), (7) or (8) of subsection (b) shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraph (2) or (3) of subsection (b) available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto.

(d) In selecting a depository pursuant to paragraph (2) or (3) of subsection (b), if a commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in the investing governmental unit and such financial institution will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (1) of K.S.A. 75-4201, and amendments thereto, and such financial institution otherwise qual-

(continued)

(Published in the Kansas Register, April 14, 1994.)

HOUSE BILL No. 2661

AN ACT concerning crimes, punishment and criminal procedure; relating to the habitual sex offender registration act; relating to public records; amending K.S.A. 45-221 and K.S.A. 1993 Supp. 22-4901, 22-4902, 22-4904, 22-4905, 22-4906, 22-4908 and 22-4909 and repealing the existing sections.

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

Section 1. K.S.A. 1993 Supp. 22-4901 is hereby amended to read as follows: 22-4901. K.S.A. 1993 Supp. 22-4901 through 22-4910, and amendments thereto, shall be known and may be cited as the ~~habitual~~ sex offender registration act.

Sec. 2. K.S.A. 1993 Supp. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Habitual Sex offender" includes any person who, after the effective date of this act, is convicted a second or subsequent time in separate criminal actions for commission of any of a sexually violent crime set forth in subsection (b). Upon such conviction, the court shall certify that the person is a habitual sex offender and shall include this certification in the order of commitment. Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sexually violent crime" means:

(1) Rape as defined in K.S.A. 21-3502 and amendments thereto;

(2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;

(3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;

(5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;

(6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;

(7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;

(8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;

(9) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto; or

(10) any conviction for a felony offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (9), or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(11) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 1993 Supp. 21-3301a, 21-3302a or 21-3303a, and amendments thereto, of a sexually violent crime, as defined in this section; or

(12) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(c) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

Sec. 3. K.S.A. 1993 Supp. 22-4904 is hereby amended to read as follows: 22-4904. (a) Within 30 15 days of the habitual sex offender coming into any county in which the habitual sex offender resides or is temporarily domiciled for more than 30 15 days, the habitual sex offender shall register with the sheriff of the county.

ifies for such deposit, the investing governmental unit shall select one or more of such financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the investing governmental unit shall select for such deposits one or more commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, and which otherwise qualify for such deposits.

(e) (1) All security purchases and repurchase agreements shall occur on a delivery versus payment basis.

(2) All securities, including those acquired by repurchase agreements, shall be perfected in the name of the investing governmental unit and shall be delivered to the purchaser or a third-party custodian which may be the state treasurer.

Sec. 3. K.S.A. 1993 Supp. 12-1675 is hereby repealed.

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

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 566

AN ACT relating to insurance; Kansas uninsurable health insurance plan; amending K.S.A. 40-2124 and repealing the existing section.

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

Section 1. K.S.A. 40-2124 is hereby amended to read as follows: 40-2124. (a) Coverage under the plan shall be subject to both deductible and coinsurance provisions set by the board. The plan may offer applicants for coverage thereunder a choice of deductible and copayment options or combinations thereof. At least one option shall provide for a minimum annual deductible of \$5,000. Coverage shall contain a coinsurance provision for each service covered by the plan, and such copayment requirement shall not be subject to a stop-loss provision. However, such coverage may provide for a percentage or dollar amount of coinsurance reduction at specific thresholds of copayment expenditures by the insured.

(b) Coverage under the plan shall be subject to a maximum lifetime benefit of \$500,000 per covered individual.

(c) In the first two years of operation of the plan On and after May 1, 1994, coverage thereunder under the plan shall exclude charges or expenses incurred during the first 12 months 90 days following the effective date of coverage as to any condition: (1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment or; or (2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions thereunder may be excluded as determined by the board, except that no such exclusion shall exceed 12 months 180 calendar days.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 2. K.S.A. 40-2124 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

(b) (1) If any person required to register as provided in this act changes the address of their residence, the habitual sex offender shall, within 10 days, inform in writing the law enforcement agency where last registered of the new address.

(2) The law enforcement agency shall, within three days of receipt of the new address, forward this information to the Kansas bureau of investigation and to the law enforcement agency having jurisdiction of the new place of residence.

Sec. 4. K.S.A. 1993 Supp. 22-4905 is hereby amended to read as follows: 22-4905. (a) (1) Any habitual sex offender, who is discharged or paroled from a prison, hospital or other institution or facility involving a violation of a sexually violent crime pursuant to K.S.A. 1993 Supp. 22-4902, and amendments thereto, prior to discharge, parole or release, shall be informed by the staff of the facility in which the habitual sex offender was confined of the duty to register as provided in this act.

(2) (A) The staff of the facility shall explain the duty to register and the procedure for registration and require the person to sign a form prepared by the Kansas bureau of investigation stating that the duty and procedure have been explained to the person.

(B) The staff of the facility shall obtain the address where the person expects to reside upon discharge, parole or release and shall report the address to the Kansas bureau of investigation.

(C) The staff of the facility shall give one copy of the form to the person and shall send two copies to the Kansas bureau of investigation, which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon discharge, parole or release.

(b) (1) Any habitual sex offender who is released on probation, receives a suspended sentence, sentenced to community corrections or released on postrelease supervision because of the commission of one of the sexually violent crimes defined in K.S.A. 1993 Supp. 22-4902, and amendments thereto, prior to release, shall be informed of the offenders duty to register as provided in this act by the court in which the offender is convicted.

(2) (A) The court shall require the person to read and sign a form prepared by the Kansas bureau of investigation stating that the duty to register and the procedure for registration has been explained to such habitual sex offender.

(B) The court shall obtain the address where the person expects to reside upon release and shall report the address to the Kansas bureau of investigation.

(C) The court shall give one copy of the form to the person and shall send two copies to the Kansas bureau of investigation which shall then forward one copy to the law enforcement agency having jurisdiction where the person expects to reside upon release.

Sec. 5. K.S.A. 1993 Supp. 22-4906 is hereby amended to read as follows: 22-4906. (a) Any person required to register as provided in this act shall be required to register: (1) Upon the first conviction of a sexually violent crime, if not confined, for a period of 10 years after conviction, or, if confined, for a period of 10 years after paroled, discharged or released; or (2) upon a second or subsequent conviction for such person's lifetime.

(b) Upon the first conviction, liability for registration terminates, if not confined, at the expiration of 10 years from the date of conviction, or, if confined, at the expiration of 10 years from the date of parole, discharge or release, if the convicted habitual sex offender does not again become liable to register as provided by this act during that period.

Sec. 6. K.S.A. 1993 Supp. 22-4908 is hereby amended to read as follows: 22-4908. Any habitual sex offender registered as provided in this act may apply to the court in this state having jurisdiction over the county in which the habitual sex offender resides for an order relieving the habitual sex offender of the duty of further registration. The court shall hold a hearing on the application at which the applicant and any interested persons may present witnesses and other evidence. If, after the hearing, the court finds by a preponderance of the evidence that the habitual sex offender is rehabilitated, the court shall grant an order relieving the offender of the duty of further registration under this act.

Sec. 7. K.S.A. 1993 Supp. 22-4909 is hereby amended to read as follows: 22-4909. The statements or any other information required by this act shall not be open to inspection in the sheriff's office by

the public and specifically are not subject to the provisions of the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto; nor may this data be obtained by any person other than a law enforcement officer or other individual as may be authorized specifically by law.

Sec. 8. K.S.A. 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.

(continued)

(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; and

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, shall be subject to disclosure to any person.

(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. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 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 act. 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. 9. K.S.A. 45-221 and K.S.A. 1993 Supp. 22-4901, 22-4902, 22-4904, 22-4905, 22-4906, 22-4908 and 22-4909 are hereby repealed.

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

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 636

AN ACT concerning public moneys; relating to the deposit thereof; amending K.S.A. 48-309, 75-4215, 75-4217, 75-4220 and 75-4221 and K.S.A. 1993 Supp. 9-1405, 75-3732, 75-4201, 75-4209, 75-4214, 75-4218 and 75-4222 and repealing the existing sections.

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

Section 1. K.S.A. 1993 Supp. 9-1405 is hereby amended to read as follows: 9-1405. (a) All bonds and securities given by any bank, state or federally chartered savings and loan association or federally chartered savings bank to secure public moneys of the United States or any board, commission or agency thereof, shall be deposited as required by the United States government or any of its designated agencies.

(b) All bonds and securities pledged to secure the deposits of any municipal corporation or quasi-municipal corporation shall be deposited with a ~~Kansas state or national bank or trust company bank, trust company, or national bank authorized to do business in Kansas~~ having adequate modern facilities for the safekeeping of securities, ~~the federal reserve bank of Kansas City, the federal home loan bank of Topeka or with the state treasurer, and a joint custody receipt taken therefor with one copy going to the municipal corporation or quasi-municipal corporation making the public deposit and one copy going to the bank, state or federally chartered savings and loan association or federally chartered savings bank which has secured such public deposits. This section shall not prohibit any custodial bank receiving securities for safekeeping from issuing a joint custody receipt and placing those securities in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, or any centralized securities depository wherever located within the United States.~~ No bonds or securities pledged to secure public deposits shall be left for safekeeping ~~in any safe deposit vault owned or controlled directly or indirectly by in any bank, trust company, or national bank which is owned directly or indirectly by any parent corporation of the depository bank, or with any bank, trust company, or national bank, having common controlling shareholders, having a common majority of the board of directors or having common directors with the ability to control or influence directly or indirectly the acts or policies of the bank, state or federally chartered savings and loan association or federally chartered savings bank securing such public deposits.~~ When bonds and securities are deposited with the state treasurer as authorized by this subsection, the state treasurer shall make a charge for such service which is equivalent to the reasonable and customary charge made therefor.

(c) All such bonds and securities shall be deposited under a joint custody receipt issued by a bank or trust company within the state of Kansas or the federal reserve bank of Kansas City, the federal home loan bank of Topeka or with the state treasurer. All bonds or securities held by any depository and for which a joint custody receipt has been issued shall be retained by such depository and not released except upon consent of both the municipal corporation or quasi-municipal corporation making the deposit and the bank, state or federally chartered savings and loan association or federally chartered savings bank taking or securing such deposit. In every report required to be published by any bank, state or federally chartered savings and loan association or federally chartered savings bank it shall show in full all of the assets pledged or deposited as security for public moneys.

(d) A bank, state or federally chartered savings and loan association or federally chartered savings bank which fails to pay according to its terms any deposit of public moneys of any municipal or quasi-municipal corporation shall immediately take such actions as are required to enable bonds and securities pledged to secure such deposit to be sold to satisfy its obligation to the municipal or quasi-municipal corporation.

(e) *As used in this section: "Centralized securities depository" means a clearing agency registered with the securities and exchange commission which provides safekeeping and book-entry settlement services to its participants.*

Sec. 2. K.S.A. 1993 Supp. 75-3732 is hereby amended to read as follows: 75-3732. (a) Subject to the provisions of K.S.A. 75-3731,

and amendments thereto, the director of accounts and reports shall provide for the payment of accounts, bills, claims, funds and demands by issuing warrants drawn on the state treasurer or as an alternative, permissive method in the case of claims for salaries or wages, by utilizing procedures authorized by K.S.A. 75-5540, and amendments thereto. Except as authorized by subsection (c) and (d), the director of accounts and reports shall sign and the state treasurer shall cosign all such warrants for money before their delivery by the director of accounts and reports to the persons entitled thereto. Forms for such warrants shall be prescribed by the director of accounts and reports. The director of accounts and reports shall transmit to the state treasurer a duplicate copy of the director's record of all warrants issued by the director.

(b) When the claim as shown to be due any individual payee on any voucher submitted by an agency is less than \$5, no warrant shall be issued except as approved by the director of accounts and reports. Claims for amounts less than \$5 shall be paid by an agency from the agency's imprest fund or petty cash fund under procedures prescribed by the director of accounts and reports or as otherwise prescribed by the director.

(c) The director of accounts and reports may designate one or more persons to sign, on behalf of the director of accounts and reports, warrants which do not exceed \$5,000 for the payment of prizes to the holders of valid winning lottery tickets or shares pursuant to K.S.A. 74-8712, and amendments thereto.

(d) *The secretary of administration and the state treasurer may agree, in writing, to establish funds transfers pursuant to article 4a of chapter 84 of the Kansas Statutes Annotated for various categories of payments. In addition to the paper warrants described in subsection (a), the term warrant or state warrant as used in state law, shall also include payments pursuant to any funds transfers authorized pursuant to this subsection.*

Sec. 3. K.S.A. 1993 Supp. 75-4201 is hereby amended to read as follows: 75-4201. As used in this act, unless the context otherwise requires:

- (a) "Treasurer" means state treasurer.
- (b) "Controller" means director of accounts and reports.
- (c) "Board" means the pooled money investment board.
- (d) "Bank" means a state bank incorporated under the laws of Kansas or a national bank doing business having such bank's home office within the state of Kansas.
- (e) "State moneys" means all moneys in the treasury of the state or coming lawfully into the possession of the treasurer.
- (f) "Custodial moneys" means state moneys deposited with the treasurer which, in the written opinion of the attorney general, are required by contract, bequest or law to be segregated from other bank accounts.
- (g) "Special moneys" means moneys which are required to be or are deposited in a custodial bank account or a fee agency account by the state or any agency thereof.
- (h) "State bank account" means state moneys or special moneys deposited in accordance with the provisions of this act.
- (i) "Operating account" means a state bank account which is payable or withdrawable, in whole or in part, on demand.
- (j) "Investment account" means a state bank account which is not payable on demand but shall not include custodial accounts.
- (k) "Market rate" means the average of the average equivalent yields, with equivalent maturities, of: (1) United States government securities; and (2) debt obligations of the following United States government agencies, federal home loan banks, federal national mortgage association and federal farm credit bank.
- (l) "Investment rate" means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. For liquidity investments, the 0-90 day rate shall be computed on the average effective federal funds rate as published by the federal reserve system for the previous week.
- (m) "Custodial account" means a state bank account of custodial moneys.
- (n) "Fee agency account" means a state bank account of any state agency consisting of fees, tuition or charges authorized by law prior to remittance to the state treasurer.
- (o) "Disbursement" means a payment of any kind whatsoever

(continued)

made from the state treasury or from any operating account, except transfer of state or special moneys between or among operating accounts and investment accounts or either or both of them.

(p) "Securities" means, for the purposes of K.S.A. 75-4218, and amendments thereto, any one or more of the following, which may be accepted or rejected by the pooled money investment board:

(1) Direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations, letters of credit and securities of United States sponsored enterprises which under federal law may be accepted as security for public funds.

(2) Kansas municipal bonds which are general obligations of the municipality issuing the same.

(3) Revenue bonds of any agency or arm of the state of Kansas.

(4) Revenue bonds of any municipality, as defined by K.S.A. 10-101, and amendments thereto, within the state of Kansas or bonds issued by a public building commission as authorized by K.S.A. 12-1761, and amendments thereto, if approved by the state bank commissioner, except (A) bonds issued under the provisions of K.S.A. 12-1740 *et seq.*, and amendments thereto, unless such bonds are rated at least MIG-1 or Aa by Moody's Investors Service or AA by Standard & Poor's Corp. and (B) bonds secured by revenues of a utility which has been in operation for less than three years. Any expense incurred in connection with granting approval of revenue bonds shall be paid by the applicant for approval.

(5) Temporary notes of any municipal corporation or quasi-municipal corporation within the state of Kansas which are general obligations of the municipal corporation or quasi-municipal corporation issuing the same.

(6) Warrants of any municipal corporation or quasi-municipal corporation within the state of Kansas the issuance of which is authorized by the state board of tax appeals and which are payable from the proceeds of a mandatory tax levy.

(7) Bonds of any municipal or quasi-municipal corporation of the state of Kansas which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America. A copy of such escrow agreement shall be furnished to the treasurer.

(8) Securities listed in paragraph (13) of subsection (d) of K.S.A. 9-1402 and amendments thereto within limitations of K.S.A. 9-1402 and amendments thereto. Such securities may be accepted or rejected by the treasurer.

(9) A corporate surety bond guaranteeing deposits in a bank, savings or savings and loan association in excess of federal deposit insurance corporation insurance, underwritten by an insurance company authorized to do business in the state of Kansas.

(10) All of such securities shall be current as to interest according to the terms thereof.

(11) Whenever a bond is authorized to be pledged as a security under this section, such bond shall be accepted as a security if: (i) in the case of a certificated bond, it is assigned, delivered or pledged to the holder of the deposit for security; (ii) in the case of an uncertificated bond, registration of a pledge of the bond is authorized by the system and the pledge of the uncertificated bond is registered; or (iii) in a form approved by the attorney general, which assures the availability of the bond proceeds pledged as a security for public deposits.

(q) "Savings bank" means a federally chartered savings bank insured by the federal deposit insurance corporation and doing business within the state of Kansas.

(r) "Savings and loan association" means a state or federally chartered savings and loan association insured by the federal deposit insurance corporation and doing business within the state of Kansas.

(s) "Custodial bank" means a bank designated to keep safely collateral pledged as security for state bank accounts.

(t) "Centralized securities depository" means a clearing agency registered with the securities and exchange commission which provides safekeeping and book-entry settlement services to its participants.

(u) "Depository bank" means a bank, savings bank or savings and loan association authorized and eligible to receive state moneys.

Sec. 4. K.S.A. 1993 Supp. 75-4209 is hereby amended to read

as follows: 75-4209. (a) After the board determines the liquidity needs for the state, and determines the varying maturities of the investment accounts to be offered and the amount of state moneys to be invested in each of the maturities offered, in accordance with rules and regulations adopted pursuant to K.S.A. 1993 Supp. 75-4232, and amendments thereto, the board shall make available state moneys eligible for investment accounts in the following manner:

(1) (A) The board shall offer to all qualified banks, on a competitive bid basis, state moneys for deposit in investment accounts at maturities of not more than four years and such bids shall be at a rate of at least the market rate, as defined in subsection (k) of K.S.A. 75-4201, and amendments thereto.

(B) As part of the offering under subparagraph (A) the board shall offer to all qualified banks, on a twelve-month average, 50% of the amount of state moneys available for investment or \$350,000,000, whichever amount is greater, at maturities of not more than four years and at the investment rate as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto. Such accounts shall be apportioned by the board among the banks which propose to receive such accounts and which qualify therefor on the basis of the ratio of each bank's combined capital, undivided profits and surplus to the total capital, undivided profits and surplus of all such banks.

(C) Qualified banks shall be determined in accordance with requirements established by rules and regulations adopted pursuant to K.S.A. 1993 Supp. 75-4232, and amendments thereto.

(2) The board may invest and reinvest state moneys eligible for investment which are not invested in accordance with paragraph (1), in the following investments:

(A) Direct obligations of, or obligations that are insured as to principal and interest by, the United States of America or any agency thereof and obligations and securities of the United States sponsored enterprises which under federal law may be accepted as security for public funds, except that not more than 10% of the moneys available for investment under this subsection may be invested in mortgage backed securities of such enterprises and of the government national mortgage association;

(B) repurchase agreements with a Kansas bank or a primary government securities dealer which reports to the market reports division of the federal reserve bank of New York for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof and obligations and securities of United States government sponsored enterprises which under federal law may be accepted as security for public funds; or

(C) investments in state agency and SKILL act projects and bonds pursuant to K.S.A. 1993 Supp. 74-8920, and amendments thereto, and investments in any state agency bonds or bond project.

(b) At any time moneys are available for deposits or investments for a period of time which is insufficient to permit deposit in investment accounts or to provide for the liquidity needs for the state, the board may invest such moneys in repurchase agreements as authorized in subparagraph (B) of paragraph (2) of subsection (a).

(c) When moneys are available for deposits or investments, the board may invest in preferred stock of Kansas venture capital, inc., under terms and conditions prescribed by K.S.A. 74-8203, and amendments thereto, but such investments shall not in the aggregate exceed a total amount of \$10,000,000.

(d) When moneys are available for deposits or investments, the board may invest in loans pursuant to legislative mandates, except that not more than the lesser of 10% or \$80,000,000 of the state moneys shall be invested.

(e) Interest on investment accounts in banks is to be paid at maturity, but not less than annually, except that interest on such investment accounts awarded between August 1, 1992, and June 30, 1993, is to be paid no later than June 30, 1993.

(f) Investments made by the board under the provisions of this section shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

(g) Investments under subsection (a) shall be for a period not to exceed four years, except for investments in mortgage-backed securities.

(h) Investments in securities under subparagraph (A) of paragraph

(2) of subsection (a) shall be limited to securities which do not have any more interest rate risk than do direct United States government obligations of similar maturities except for the 10% limitation on mortgage-backed securities. For purposes of this subsection, "interest rate risk" means market value changes due to changes in current interest rates.

Sec. 5. K.S.A. 1993 Supp. 75-4214 is hereby amended to read as follows: 75-4214. (a) The board shall designate one or more banks, savings banks or savings and loan associations in each county in which a state agency making collection of any fee, tuition, or charge is located to have a fee agency account for the deposit of accounts of such agency having an average daily balance of \$10,000 or more.

(b) Any state agency making collection of fees, tuition or charges, with the approval of the board, may select a bank, savings bank or savings and loan association in the county in which the agency is located to have a fee agency account for the deposit of accounts of such agency having an average daily balance of less than \$10,000.

(c) To be eligible to hold a fee agency account as provided under subsections (a) and (b), any designated bank, savings bank or savings and loan association must meet the minimum capital requirements for a commercial bank as required by the federal deposit insurance corporation.

(d) At the end of each month any bank, savings bank or savings and loan association having a fee agency account shall forward to the board and the director of accounts and reports a detailed statement of such account on forms approved by the director of accounts and reports.

Sec. 6. K.S.A. 75-4215 is hereby amended to read as follows: 75-4215. (a) All fees, tuition and charges of any and whatsoever nature hereafter collected by any state agency shall be remitted daily to the state treasurer unless otherwise provided under authority specified in this act.

(b) Agencies otherwise required to make daily remittances to the treasurer may make such remittances less frequently if so authorized by the board, but not less often than monthly.

(c) If authorized by the board, fees, tuition and charges shall be deposited in a fee agency account designated by the board. The same shall be remitted monthly, or more often if required by the board, to the state treasurer by such agency drawing on such fee agency account all moneys therein except such balance as is specified by the board and except for any direct refunds of tuition, fees or charges from such fee agency account authorized under K.S.A. 76-738, and amendments thereto. When requested, such agency shall file with the board, state treasurer and director of accounts and reports a detailed and verified report with each deposit showing the sources from which such fees, tuition and charges were received.

(d) Fee agency accounts and moneys to be deposited therein shall be subject to post audit under article 11 of chapter 46 of Kansas Statutes Annotated.

Sec. 7. K.S.A. 75-4217 is hereby amended to read as follows: 75-4217. Awards of all state bank accounts, aggregating more than \$100,000, shall be made pursuant to a written agreement between the board and the banks having such accounts security agreement between the depository bank and the board, granting the state of Kansas a security interest in securities pledged to secure payment of deposits in state bank accounts. This agreement shall be approved by the board of directors of the depository bank, as reflected in the minutes of the board. From the time of execution, the security agreement shall remain continuously an official record of the depository bank. Separate security agreements shall be entered into for each class of account in each bank.

Sec. 8. K.S.A. 1993 Supp. 75-4218 is hereby amended to read as follows: 75-4218. (a) All state bank accounts shall be secured by pledge of securities as provided in this section.

(b) The bank, savings bank or savings and loan association receiving or having a state bank account shall deposit or cause its agent, trustee or an affiliate bank having identical ownership as the bank receiving or having such account to deposit securities acceptable to the board and owned by it, or by its agent or trustee holding securities on its behalf, or by such its affiliate bank, in one of the following ways:

(1) Deposit with the treasurer.

(2) Deposit with a custodial bank having adequate modern fac-

ilities for the safekeeping of securities and doing business in the state of Kansas, and which facilities shall have had the prior approval of the board. Any such custodial bank receiving securities for safekeeping shall be liable to the state for any loss suffered by the state in the event such custodial bank relinquishes the custody of any such securities contrary to the provisions of this act or rules and regulations adopted thereunder. No such deposit of securities shall be made in any facility owned or controlled directly or indirectly by the bank depositing the same. This section shall not prohibit any custodial bank receiving securities for safekeeping from issuing a joint custody receipt and placing those securities in such bank's account with any bank chartered in Kansas or any other state, any trust company chartered in Kansas or any other state, any national bank, or any centralized securities depository wherever located within the United States. No bonds or securities pledged to secure public deposits shall be left for safekeeping in any bank, trust company, or national bank which is owned directly or indirectly by any parent corporation of the depository bank, or with any bank, trust company, or national bank, having common controlling shareholders, having a common majority of the board of directors or having common directors with the ability to control or influence directly or indirectly the acts or policies of the bank, state or federally chartered savings and loan association or federally chartered savings bank securing such public deposits.

(3) Deposit with the federal reserve bank of Kansas City, Missouri.

(4) Deposit with the federal home loan bank of Topeka, Kansas.

(5) Any combination of (1), (2), (3) and (4).

(c) The depository bank shall obtain a written agreement from its affiliate bank that the affiliate bank grants a security interest to the state of Kansas in securities owned by the affiliate bank which are pledged on behalf of the depository bank to secure payment of deposits made with the depository bank pursuant to this section. Such agreement shall be approved by the board of directors of the affiliate bank and reflected in its minutes. From the time of execution of such agreement, the agreement shall remain continuously an official record of the affiliate bank. Any such deposit of securities, except with the treasurer, shall have a joint custody receipt which shall constitute a perfected security interest taken therefor with one copy going to the treasurer and one copy going to the bank, savings bank or savings and loan association which deposits such securities. In lieu of the initial deposit of securities provided for in this subsection (c), the treasurer or the treasurer's duly authorized deputy, for a period of not to exceed 10 calendar days, may accept the telephone assurance of a bank qualified as provided in (2) or (3) of subsection (b), that the depository bank has requested the issuance of a joint custody receipt with the state of Kansas, specifying the securities pledged, for the purpose of compliance with this section and that such joint custody receipt will be forthcoming.

(d) The depository bank, the board and the custodial bank shall enter into a written agreement for the safekeeping of securities and the agreement shall be maintained in the records of the depository bank.

(e) Securities deposited to comply with this section may be withdrawn on application of the bank, savings bank or savings and loan association depositing the securities, if such application is approved by the treasurer or the treasurer's duly authorized deputy for the reason that such deposit of securities is no longer needed to comply with this section or are required for collection by virtue of their maturity or for exchange. Securities withdrawn for collection by virtue of their maturity or for exchange shall be replaced within 15 calendar days, but until replaced the state shall retain a first lien on the withdrawn security or the proceeds therefrom.

(f) Operating accounts, investment accounts, fee agency accounts and custodial accounts shall be secured by pledge of securities, the market value of which is equal to 100% of the amount of the deposits in the account, plus accrued interest, less so much of any such the amount of deposits in the account as is protected by the federal deposit insurance corporation. Any agency responsible for a fee agency account shall transfer immediately all moneys not so secured to the state treasurer for deposit in the state treasury.

Sec. 9. K.S.A. 75-4220 is hereby amended to read as follows: 75-4220. The bank and securities pledged by it (a) Each depository or its affiliate bank pledging securities for such depository

(continued)

pursuant to K.S.A. 75-4218, and amendments thereto, shall be liable for payment in ease any bank having a state bank account of any type shall fail (a) to if: (1) The depository bank fails to: (A) Pay any check, draft or warrant drawn by the treasurer and director of accounts and reports, or (b) to; or (B) account for any check, draft, warrant, order, or certificate of deposit, or any money entrusted to it such bank by the treasurer; or (2) a conservator or receiver is appointed for the depository bank.

Any loss incurred by the state by reason of failure by any depository bank to safely keep and account for state or special moneys and interest thereon shall be recovered by the state from the depository bank and a sale of the securities pledged under this act. The attorney general is authorized to prosecute in the name of the state any and all actions for recovery of any loss incurred by the state under this act.

In case of default by any depository bank having a state bank account of any type, the securities pledged under this act shall be sold by the person holding such securities, if not in the possession of the treasurer, shall be transferred to the treasurer by the custodial bank to be sold by the treasurer and payment of the proceeds of such sale shall be made to the state to the extent of its the state's interest, but such sale shall be without recourse as to the state subject to the provisions of K.S.A. 75-4221, and amendments thereto.

Sec. 10. K.S.A. 75-4221 is hereby amended to read as follows: 75-4221. (a) In all cases wherein it shall appear to the board that the securities pledged by any depository bank have become in any manner impaired inadequate, it shall be the duty of the board to immediately notify such depository bank and demand that additional security be pledged to make good such impairment inadequacy; and in default of such additional security being promptly furnished, the board shall instruct the treasurer and the director of accounts and reports to forthwith close the account.

(b) In cases where a depository bank fails to meet the requirements established by the board pursuant to K.S.A. 75-4232, and amendments thereto, the board shall instruct the treasurer to advise the depository bank it must select one of the following options:

(1) Close the account for the full amount, including accrued interest and without penalty if the deposit exceeds seven days, or
(2) convert the account to a repurchase agreement under terms acceptable to the board.

(c) In the event of the insolvency or dissolution from any cause of a depository bank having a state bank account of any type, the state shall be entitled to file a claim for the full amount of such account and shall retain or collect dividends or interest on securities pledged by said such depository bank until the amount of said the dividends or interest added to the amount realized from sale of any securities so pledged to the state shall equal equals the amount of said the account and any interest due thereon.

The state shall be fully responsible to any depository bank for the safe return of any securities deposited in the state treasury in accordance with this act.

Sec. 11. K.S.A. 1993 Supp. 75-4222 is hereby amended to read as follows: 75-4222. (a) It shall be unlawful for the pooled money investment board to award a state bank account to any depository bank in which any member of the board is interested as a stockholder or officer, except upon the unanimous vote of the other members of the board.

(b) The state treasurer shall be chairperson of the board. The board shall appoint an executive officer and such executive officer shall be in the classified service of the Kansas civil service act. The person performing the functions and duties of the executive officer immediately prior to the effective date of this act shall continue as executive officer and shall attain permanent status in the classified position without examination and without a probationary period and shall retain all retirement benefits which such person had prior to the effective date of this act, and such person's service shall be deemed to have been continuous. The board may appoint such additional classified employees as may be needed. The persons employed as classified employees of the board immediately prior to the effective date of this act shall continue in such employment and shall attain permanent status in the classified service without examination and without a probationary period and shall retain all retirement benefits which such persons have prior to the

effective date of this act, and the service of such employees shall be deemed to have been continuous. In addition to the above personnel, the board may appoint investment officers and investment analysts, who shall be in the unclassified service of the Kansas civil service act. The executive officer chairperson shall keep and preserve a written record of the board's proceedings.

(c) The executive officer of the pooled money investment board and employees working for the pooled money investment board shall have access at all times to all papers, documents and property in the custody or possession of the state treasurer that relate to duties of the board, and the state treasurer shall take such steps as may be necessary to make this provision of law effective for such purposes as the pooled money investment board may indicate.

(d) Except as otherwise provided in this act, all budgeting, purchasing and related management functions of the pooled money investment board shall be administered under the direction and supervision of the state treasurer.

(e) The board shall make an annual report to the legislature of the investments by the board of all moneys under the jurisdiction and control of the board, by filing a copy of the report with the chief clerk of the house of representatives and with the secretary of the senate no later than the tenth 10th calendar day of each regular session of the legislature.

Sec. 12. K.S.A. 48-309 is hereby amended to read as follows: 48-309. (a) The governing body of any city in this state having a Kansas army or air national guard unit or Kansas state guard unit within its boundaries, or within 12 miles thereof, and the board of county commissioners of any county in this state having a Kansas army or air national guard unit or Kansas state guard unit within its boundaries are each hereby authorized and empowered to make an annual expenditure in cash, for furnishing equipment and maintenance to such national guard or state guard unit, in an amount not to exceed \$2,000 for each Kansas army or air national guard unit which is now or hereafter may be organized, if such national guard unit has qualified for federal recognition as a part of the army or air national guard of the United States. For the purpose of providing funds for the purposes authorized under this section the board of county commissioners of any such county is hereby authorized to make such expenditures from the general fund of the county or may levy annually a tax upon all the taxable tangible property of the county sufficient to provide funds for the purposes authorized under this section and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county.

(b) All funds received by any Kansas army or air national guard unit or Kansas state guard unit from a city or county under this section for furnishing equipment and maintenance to such unit may be expended for such purposes in accordance with rules and regulations adopted by the adjutant general. Each Kansas army or air national guard unit or Kansas state guard unit shall deposit all such funds received under this section in a separate account for such purposes in a bank, federally chartered savings bank or state or federally chartered savings and loan association designated by the pooled money investment board.

(c) All revenues received by any Kansas army or air national guard unit or Kansas state guard unit from other sources, including but not limited to armory rentals, vending proceeds and gifts and donations may be expended for operating expenses including maintenance and equipment and for morale and welfare purposes in accordance with rules and regulations adopted by the adjutant general. Each Kansas army or air national guard unit shall deposit all such funds received under this section in a separate account in a bank, federally chartered savings bank or state or federally chartered savings and loan association designated by the pooled money investment board.

(d) Each Kansas army or air national guard unit or Kansas state guard unit receiving funds under this section shall account for the receipt and expenditure of such funds as the adjutant general may direct.

Sec. 13. K.S.A. 48-309, 75-4215, 75-4217, 75-4220 and 75-4221 and K.S.A. 1993 Supp. 9-1405, 75-3732, 75-4201, 75-4209, 75-4214, 75-4218 and 75-4222 are 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, April 14, 1994.)

Substitute for HOUSE BILL No. 2625

AN ACT concerning recreation commissions; relating to the powers and duties thereof; amending K.S.A. 12-1928 and K.S.A. 1993 Supp. 12-1926 and 12-1927 and repealing the existing sections.

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

Section 1. K.S.A. 1993 Supp. 12-1926 is hereby amended to read as follows: 12-1926. (a) Except as provided by subsection (b), all this section, recreation commissions shall consist of five members to be appointed as follows: (1) Upon the adoption of the provisions of this act by the city or school district acting independently, the governing body of such city or school district shall appoint four persons who are residents of the taxing district to serve as members of the recreation commission, the first appointee to serve for four years, the second for three years, the third for two years, and the fourth for one year, and the fifth member who also shall serve for four years shall be appointed by the four appointee members of such commission; or (2) upon the adoption of the provisions of this act by the city and school district acting jointly, the governing bodies each shall appoint two persons who are residents of the taxing district to serve as members of the recreation commission, and the persons so selected shall select one additional person, and all of such persons shall constitute the recreation commission.

Of the members of the commission first selected by the school district, one shall serve for a term of one year, and one for a term of four years; one of those first selected by the governing body of the city shall serve for a term of two years, and one for a term of three years. The additional member shall serve for a term of four years. Thereafter, the members of the commission shall be selected in the same manner as the member such person is succeeding and the term of office of each shall be four years. Any member of the recreation commission may be removed from the commission, by the appointing authority, for any cause which would justify removal of an appointive officer of the city or school district. Except for members first appointed to the commission, all commissioners not filling a vacancy shall hold office for a term of four years and until their successors are appointed and qualified. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding. The commission shall elect a chairperson and secretary from their membership. The commissioners are hereby empowered to administer in all respects the business and affairs of the recreation system. The treasurer of the city or school district to which is certified the budget of the recreation commission shall serve as ex officio treasurer of the recreation commission. Such treasurer shall keep an accurate record of all money and property received and disbursed and shall make a report thereof monthly to the commission, or as often as the commission requires. Members of the commission and the ex officio treasurer of the commission shall serve without compensation.

(b) Any recreation commission established pursuant to K.S.A. 12-1901 *et seq.*, and amendments thereto, prior to the effective date of this act may continue as constituted on the effective date of this act or may, upon a majority vote of the commissioners, reorganize into a five-member commission as provided by subsection (a). If the commission continues as constituted on the effective date of this act, upon the expiration of the term of a member, a person shall be appointed to the commission in the same manner as the member such person is succeeding. The term of office shall be four years. Whenever a vacancy occurs in the membership of the commission, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.

(c) From and after the effective date of this act, the Blue Valley recreation system established by the Blue Valley unified school district No. 229 shall be governed by a recreation commission consisting of seven members appointed by the board of education of such school district. There shall be at least two residents of each member district of such school district appointed to the recreation commission. The terms of office of members of the recreation commission serving prior to the effective date of this act shall expire on the effective date of this act, but such members shall continue to serve until their successors are appointed hereunder. Members of the recreation commission serving prior to the effective date of this act may be reap-

pointed as provided by this subsection. Of the members first appointed to the commission after the effective date of this act: (1) One member shall be appointed for a term of one year; (2) two members shall be appointed for terms of two years; (3) two members shall be appointed for terms of three years; and (4) two members shall be appointed for terms of four years. Thereafter successors are appointed and qualified. Members may be removed from the commission by the board of education. Vacancies shall be filled by appointment for the unexpired term.

Sec. 2. K.S.A. 1993 Supp. 12-1927 is hereby amended to read as follows: 12-1927. (a) Except as provided by subsection (b) the recreation commission shall prepare an annual budget for the operation of the recreation system. Prior to the certification of its budget to the city or school district, the recreation commission shall meet for the purpose of answering and hearing objections of taxpayers relating to the proposed budget and for the purpose of considering amendments to such proposed budget. The recreation commission shall give at least 10 days' notice of the time and place of the meeting by publication in a weekly or daily newspaper having a general circulation in the taxing district. Such notice shall include the proposed budget and shall set out all essential items in the budget except such groupings as designated by the director of accounts and reports on a special publication form prescribed by the director of accounts and reports and furnished with the regular budget form. The public hearing required to be held herein shall be held not less than 10 days prior to the date on which the recreation commission is required to certify its budget to the city or school district. After such hearing the budget shall be adopted or amended and adopted by the recreation commission. In order to provide funds to carry out the provisions of this act and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, the recreation commission shall annually, not later than August 1 of any year, certify its budget to such city or school district which shall levy a tax sufficient to raise the amount required by such budget on all the taxable tangible property within the taxing district. Each year a copy of the budget adopted by the recreation commission shall be filed with the city clerk in the case of a city-established recreation system or with the clerk of the school district in the case of a school district-established recreation system or with the clerk of the taxing district in the case of a jointly established recreation system. A copy of such budget also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The city or school district shall not be required to levy a tax in excess of the maximum tax levy set by the city or school district by current resolution. In the case of a new recreation commission established under the provisions of this act, such levy shall not be required to exceed one mill. Whenever the recreation commission determines that the tax currently being levied for the commission, as previously established by the city or school district, is insufficient to operate the recreation system and the commission desires to increase the mill levy above the current levy, the commission shall request that the city or school district authorize an increase by adopting a resolution declaring it necessary to increase the annual levy. The city or school district may authorize the increase by resolution, but such increase shall not exceed one mill per year. The maximum annual mill levy for the recreation commission general fund shall not exceed a total of four mills.

(b) Prior to adopting the budget pursuant to subsection (a), the Blue Valley recreation commission appointed by the Blue Valley unified school district No. 229 shall submit its proposed budget to the board of education of such school district. The school board either shall approve, or modify and approve, the proposed budget. The recreation commission shall adopt such budget as approved, or modified and approved, by the board.

(b) (c) Any resolution adopted under subsection (a) shall state the total amount of the tax to be levied for the recreation system and shall be published once each week for two consecutive weeks in the official newspaper of the taxing district. Whereupon, such annual levy in an amount not to exceed the amount stated in the resolution may be made for the ensuing budget year and each suc-

(continued)

cessive budget year unless a petition requesting an election upon the proposition to increase the tax levy in excess of the current tax levy, signed by at least 5% of the qualified voters of the taxing district, is filed with the county election officer within 30 days following the date of the last publication of the resolution. In the event a valid petition is filed, no such increased levy shall be made without such proposition having been submitted to and having been approved by a majority of the voters of the taxing district voting at an election called and held thereon. All such elections shall be called and held in the manner provided by the general bond law, and the cost of the election shall be borne by the recreation commission. Such taxes shall be levied and collected in like manner as other taxes, which levy the city or school district shall certify, on or before August 25 of each year, to the county clerk who is hereby authorized and required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission.

(d) The tax levy provided in this section shall not be considered a levy of such city or school district under any of the statutes of this state, but shall be in addition to all other levies authorized by law and, with respect to any such levy made for the first time in 1989, shall not be subject to the provisions of K.S.A. 79-5021 et seq., and amendments thereto.

(e) At any time after the making of the first tax levy pursuant to this act, the amount of such tax levy may be reduced by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b) (c). The authority of any recreation commission in existence on the effective date of this act or any recreation commission established under the provisions of this act to operate and conduct its activities, other than the recreation commission appointed by the Blue Valley unified school district No. 229, may be revoked in any year following the third year of its operation by a majority of the voters of the taxing district voting at an election called pursuant to a petition and conducted in the same manner as that prescribed by subsection (b) (c). If the petition submitted is for the purpose of reducing the mill levy, it shall state the mill levy reduction desired. Upon revocation, all property and money belonging to the recreation commission shall become the property of the taxing authority levying the tax for the commission, and the recreation commission shall be dissolved.

(f) All financial records of the recreation commission shall be audited as provided in K.S.A. 75-1122, and amendments thereto, and a copy of such annual audit report shall be filed with the governing body of the city or school district, or both, in the case of a jointly established recreation system. A copy of such audit also shall be filed with the county clerk of the county in which the recreation system is located. If the recreation system is located in more than one county, a copy of the budget shall be filed with the clerk of the county in which the greater portion of the assessed valuation of the recreation system is located. The cost of each audit shall be borne by the recreation commission.

Sec. 3. K.S.A. 12-1928 is hereby amended to read as follows: 12-1928. Every recreation commission appointed pursuant to this act shall have the power to:

(a) Make and adopt rules and regulations for the operation of the recreation system;

(b) conduct the activities of the recreation system on any property under its custody and management, or, with proper consent, on any other public property and upon private property with the consent of the owners;

(c) receive any gift or donation from any source;

(d) receive, accept and administer any money appropriated or granted to it by the state or federal government or any agency thereof;

(e) purchase insurance. The city or school district to which the recreation commission certifies its budget shall levy an annual tax upon all taxable tangible property within the taxing district in an amount necessary to pay for insurance purchased for those purposes authorized by K.S.A. 75-6111, and amendments thereto, and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (j), is in excess of one mill without the approval of the city or school district. Taxes levied pursuant to

this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law;

(f) sue and be sued;

(g) enter contracts;

(h) enter lease agreements for real and personal property. The term of any such lease shall not exceed 10 years. Any such lease agreement shall be subject to the approval of the city or school district to which the recreation commission certifies its budget;

(i) employ a superintendent of recreation and any other employees which may be necessary for proper operation of the recreation system;

(j) create and establish employee benefits contribution funds for the purpose of paying the employer's share of any employee benefits, exclusive of any salaries, wages or other direct payments to such employees, as may be prescribed in the resolution creating such funds. The recreation commission may receive and place in such funds any moneys from any source whatsoever which may be lawfully utilized for the purposes stated in the resolution creating such funds, including the proceeds of tax levies authorized by law for such purposes. The city or school district to which is certified the budget of any recreation commission which has established employee benefits contribution funds pursuant to this subsection shall levy an annual tax upon all taxable tangible property within the taxing district in an amount determined by the recreation commission to be necessary for the purposes for which such funds were created and to pay a portion of the principal and interest on bonds issued pursuant to K.S.A. 12-1774, and amendments thereto, except that no levy shall be made under this subsection which, when coupled with any levy made pursuant to subsection (e), is in excess of one mill without the approval of the city or school district. Taxes levied pursuant to this subsection shall be in addition to all other taxes authorized or limited by K.S.A. 12-1927, and amendments thereto, or any other provisions of law. For the purposes of this subsection, employee benefits shall include social security as provided by subsection (c) of K.S.A. 40-2305, and amendments thereto, workers' compensation as provided by K.S.A. 44-505c, and amendments thereto, unemployment compensation as provided by K.S.A. 44-710a, and amendments thereto, health insurance and retirement benefits;

(k) acquire title to personal property by purchase, bequest, gift or other donation and acquire title to real property by devise, gift or other donation. *No real property may be purchased by the recreation commission appointed by the Blue Valley unified school district No. 229 without first obtaining the approval of the board of education of such school district.* Whenever property owned by a recreation commission is sold, the proceeds shall be used for recreation purposes; and

(l) perform any other acts necessary to carry out the provisions of this act.

New Sec. 4. (a) The recreation commission appointed by the Blue Valley unified school district No. 229 may petition the board of education of such school district to adopt a resolution proposing to make an annual levy not to exceed one mill upon all taxable tangible property within the taxing district for the purpose of creating a capital improvement fund to be used for the acquisition of sites, and for the constructing, equipping, repairing, remodeling and furnishing of buildings for recreation system purposes and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the taxing district. Upon receipt of such petition, the board shall adopt a resolution imposing such levy. No levy shall be made unless the proposal to make such levy is submitted to and approved by a majority of the qualified electors of the taxing district voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law.

(b) Any fund created pursuant to this section shall not be subject to the provisions of K.S.A. 79-2925 to 79-2937, inclusive, and amendments thereto. In making the budget of the recreation system, the amounts credited to, and the amount on hand in, the capital improvement fund and the amount expended therefrom shall be shown on the budget for the information of the taxpayers of the taxing district. Moneys in such fund may be invested in accordance with the provisions of K.S.A. 10-131, and amendments thereto, with interest thereon credited to such fund.

Sec. 5. K.S.A. 12-1928 and K.S.A. 1993 Supp. 12-1926 and 12-1927 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the Kansas register.

(Published in the Kansas Register, April 14, 1994.)

SENATE BILL No. 554

AN ACT concerning agricultural corporations and limited liability companies; relating to swine production facilities; relating to contract mediation between the processor and producer; amending K.S.A. 12-1749b and 79-250 and K.S.A. 1993 Supp. 17-5903, 17-5904, 74-8905 and 79-32,154 and repealing the existing sections; also repealing K.S.A. 17-5905 and 17-5906.

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

New Section 1. (a) (1) The board of county commissioners, by resolution, may permit a swine production facility, as defined in K.S.A. 17-5903, and amendments thereto, to be established within the county. Such resolution shall be published once each week for two consecutive weeks in the official county newspaper. The resolution shall take effect 60 days after final publication unless a valid petition in opposition to the same is filed.

(2) If within 60 days of the final publication of the resolution, a valid protest petition to submit the resolution to the qualified voters of the county is signed by qualified electors of the county equal in number to not less than 5% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected and is filed with the county election officer, the county election officer shall submit the question of whether a swine production facility shall be allowed to be established in such county at the next state or county-wide regular or special election.

(b) (1) The board of county commissioners, upon a petition filed in accordance with paragraph (b)(2), shall submit to the qualified electors of the county a proposition to permit a swine production facility, as defined in K.S.A. 17-5903, and amendments thereto, to be established within the county.

(2) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 5% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear on the petition:

"We request an election to determine whether a corporate swine production facility shall be allowed to be established in _____ county, pursuant to K.S.A. 17-5904."

(3) Upon the submission of a valid petition calling for an election pursuant to this subsection, the county election officer shall submit the question of whether a swine production facility shall be allowed to be established in such county at the next state or county-wide regular or special election which occurs more than 60 days after the petition is filed with the county election officer.

(c) If a majority of the votes cast and counted are in opposition to allowing swine production facilities to be established in such county, the county election officer shall transmit a copy of the result to the secretary of state who shall publish in the Kansas register the result of such election and that swine production facilities are not allowed to be established in such county.

(d) If a majority of the votes cast and counted is in favor of the proposition, the county election officer shall transmit a copy of the result to the secretary of state who shall publish in the Kansas register the result of such election and that swine production facilities are allowed to be established in such county.

(e) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

Sec. 2. K.S.A. 12-1749b is hereby amended to read as follows: 12-1749b. No revenue bonds shall be issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, in which all or part of the proceeds of such bond issue are to be used to purchase, acquire, construct, reconstruct, improve, equip, furnish, repair, enlarge or remodel property for any swine confinement production facility on agricultural land which is owned, acquired, obtained or leased by a corporation. As used in this section, "cor-

poration," "agricultural land" and "swine confinement production facility" have the meanings respectively ascribed thereto by K.S.A. 17-5903, and amendments thereto.

Sec. 3. K.S.A. 1993 Supp. 17-5903 is hereby amended to read as follows: 17-5903. As used in this act:

(a) "Corporation" means a domestic or foreign corporation organized for profit or nonprofit purposes.

(b) "Nonprofit corporation" means a corporation organized not for profit and which qualifies under section 501(c)(3) of the federal internal revenue code of 1954 as amended.

(c) "Limited partnership" has the meaning provided by K.S.A. 56-1a01, and amendments thereto.

(d) "Limited agricultural partnership" means a limited partnership founded for the purpose of farming and ownership of agricultural land in which:

(1) The partners do not exceed 10 in number;

(2) the partners are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and

(3) at least one of the general partners is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one partner is meeting the requirement of this provision and such partner dies, the requirement of this provision does not apply for the period of time that the partner's estate is being administered in any district court in Kansas.

(e) "Corporate partnership" means a partnership, as defined in K.S.A. 56-306, and amendments thereto, which has within the association one or more corporations or one or more limited liability companies.

(f) "Feedlot" means a lot, yard, corral, or other area in which livestock fed for slaughter are confined. The term includes within its meaning agricultural land in such acreage as is necessary for the operation of the feedlot.

(g) "Agricultural land" means land suitable for use in farming.

(h) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock. Farming does not include the production of timber, forest products, nursery products or sod, and farming does not include a contract to provide spraying, harvesting or other farm services.

(i) "Fiduciary capacity" means an undertaking to act as executor, administrator, guardian, conservator, trustee for a family trust, authorized trust or testamentary trust or receiver or trustee in bankruptcy.

(j) "Family farm corporation" means a corporation:

(1) Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related;

(2) all of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons; and

(3) at least one of the stockholders is a person residing on the farm or actively engaged in the labor or management of the farming operation. A stockholder who is an officer of any corporation referred to in this subsection and who is one of the related stockholders holding a majority of the voting stock shall be deemed to be actively engaged in the management of the farming corporation. If only one stockholder is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

(k) "Authorized farm corporation" means a Kansas corporation, other than a family farm corporation, all of the incorporators of which are Kansas residents and which is founded for the purpose of farming and the ownership of agricultural land in which:

(1) The stockholders do not exceed 15 in number;

(2) the stockholders are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations; and

(continued)

(3) at least 30% of the stockholders are persons residing on the farm or actively engaged in the day-to-day labor or management of the farming operation. If only one of the stockholders is meeting the requirement of this provision and such stockholder dies, the requirement of this provision does not apply for the period of time that the stockholder's estate is being administered in any district court in Kansas.

For the purposes of this definition, if more than one person receives stock by bequest from a deceased stockholder, all of such persons, collectively, shall be deemed to be one stockholder, and a husband and wife, and their estates, collectively, shall be deemed to be one stockholder.

(l) "Trust" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney-in-fact and in any similar capacity.

(m) "Family trust" means a trust in which:

(1) A majority of the equitable interest in the trust is held by and the majority of the beneficiaries are persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related; and

(2) all the beneficiaries are natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations.

(n) "Authorized trust" means a trust other than a family trust in which:

(1) The beneficiaries do not exceed 15 in number;

(2) the beneficiaries are all natural persons, are persons acting in a fiduciary capacity, other than as trustee for a trust, or are nonprofit corporations; and

(3) the gross income thereof is not exempt from taxation under the laws of either the United States or the state of Kansas.

For the purposes of this definition, if one of the beneficiaries dies, and more than one person succeeds, by bequest, to the deceased beneficiary's interest in the trust, all of such persons, collectively, shall be deemed to be one beneficiary, and a husband and wife, and their estates, collectively, shall be deemed to be one beneficiary.

(o) "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Kansas probate code.

(p) "Poultry confinement facility" means the structures and related equipment used for housing, breeding, laying of eggs or feeding of poultry in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined poultry from exposure to disease. As used in this subsection, "poultry" means chickens, turkeys, ducks, geese or other fowl.

(q) "Rabbit confinement facility" means the structures and related equipment used for housing, breeding, raising, feeding or processing of rabbits in a restricted environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes and for isolation of the facility to reasonably protect the confined rabbits from exposure to disease.

(r) "Processor" means a person, firm, corporation, limited liability company or limited partnership, which alone or in conjunction with others, directly or indirectly, controls the manufacturing, processing or preparation for sale of pork products having a total annual wholesale value of \$10,000,000 or more. Any person, firm, corporation, member or limited partner with a 10% or greater interest in another person, firm, corporation, limited liability company or limited partnership involved in the manufacturing, processing or preparation for sale of pork products having a total annual wholesale value of \$10,000,000 or more shall also be considered a processor. The term "processor" shall not include collective bargaining units or farmer-owned cooperatives.

(s) "Swine marketing pool" means an association whose membership includes three or more business entities or individuals formed for the sale of hogs to buyers but shall not include any trust, cor-

poration, limited partnership or corporate partnership, or limited liability company other than a family farm corporation, authorized farm corporation, limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust.

(s) "Swine confinement production facility" means the land, structures and related equipment owned or leased by a corporation or limited liability company and used for housing, breeding, farrowing or feeding of swine in an enclosed environment. The term includes within its meaning only such agricultural land as is necessary for proper disposal of liquid and solid wastes in environmentally sound amounts for crop production and to avoid nitrate buildup and for isolation of the facility to reasonably protect the confined animals from exposure to disease.

(t) "Limited liability company" has the meaning provided by K.S.A. 1993 Supp. 17-7602, and amendments thereto.

(u) "Limited liability agricultural company" means a limited liability company founded for the purpose of farming and ownership of agricultural land in which:

(1) The members do not exceed 10 in number;

(2) the members are all natural persons, persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations, or general partnerships other than corporate partnerships formed under the laws of the state of Kansas; and

(3) at least one of the members is a person residing on the farm or actively engaged in the labor or management of the farming operation. If only one member is meeting the requirement of this provision and such member dies, the requirement of this provision does not apply for the period of time that the member's estate is being administered in any district court in Kansas.

Sec. 4. K.S.A. 1993 Supp. 17-5904 is hereby amended to read as follows: 17-5904. (a) No corporation, trust, limited liability company, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust shall, either directly or indirectly, own, acquire or otherwise obtain or lease any agricultural land in this state. The restrictions provided in this section do not apply to the following:

(1) A bona fide encumbrance taken for purposes of security.

(2) Agricultural land when acquired as a gift, either by grant or devise, by a bona fide educational, religious or charitable nonprofit corporation.

(3) Agricultural land acquired by a corporation or a limited liability company in such acreage as is necessary for the operation of a nonfarming business. Such land may not be used for farming except under lease to one or more natural persons, a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust. The corporation shall not engage, either directly or indirectly, in the farming operation and shall not receive any financial benefit, other than rent, from the farming operation.

(4) Agricultural land acquired by a corporation or a limited liability company by process of law in the collection of debts, or pursuant to a contract for deed executed prior to the effective date of this act, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise, if such corporation divests itself of any such agricultural land within 10 years after such process of law, contract or procedure, except that provisions of K.S.A. 9-1102, and amendments thereto, shall apply to any bank which acquires agricultural land.

(5) A municipal corporation.

(6) Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as a trustee for a nonprofit corporation.

(7) Agricultural land owned or leased or held under a lease purchase agreement as described in K.S.A. 12-1741, and amendments thereto, by a corporation, corporate partnership, limited corporate partnership or trust on the effective date of this act if: (A) Any such entity owned or leased such agricultural land prior to July 1, 1965, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is in compliance with the provisions of this act; (B) any such entity was in compliance with the provisions of K.S.A. 17-5901 prior to its repeal by this act, provided such entity shall not own or lease any greater acreage of agricultural land than it owned or leased prior to the effective date of this act unless it is

in compliance with the provisions of this act, and absence of evidence in the records of the county where such land is located of a judicial determination that such entity violated the provisions of K.S.A. 17-5901 shall constitute proof that the provisions of this act do not apply to such agricultural land, and that such entity was in compliance with the provisions of K.S.A. 17-5901 prior to its repeal; or (C) any such entity was not in compliance with the provisions of K.S.A. 17-5901 prior to its repeal by this act, but is in compliance with the provisions of this act by July 1, 1991.

(8) Agricultural land held or leased by a corporation or a limited liability company for use as a feedlot, a poultry confinement facility or rabbit confinement facility.

(9) Agricultural land held or leased by a corporation for the purpose of the production of timber, forest products, nursery products or sod.

(10) Agricultural land used for bona fide educational research or scientific or experimental farming.

(11) Agricultural land used for the commercial production and conditioning of seed for sale or resale as seed or for the growing of alfalfa by an alfalfa processing entity if such land is located within 30 miles of such entity's plant site.

(12) Agricultural land owned or leased by a corporate partnership or limited corporate partnership in which the partners associated therein are either natural persons, family farm corporations, authorized farm corporations, limited liability agricultural companies, family trusts, authorized trusts or testamentary trusts.

(13) Any corporation, either domestic or foreign, or any limited liability company, organized for coal mining purposes which engages in farming on any tract of land owned by it which has been strip mined for coal.

(14) Agricultural land owned or leased by a limited partnership prior to the effective date of this act.

(15) *Except as provided by section 1, agricultural land held or leased by a corporation or a limited liability company for use as a swine production facility in any county which has voted favorably pursuant to section 1, either by county resolution or by the electorate.*

(b) *Except as provided for in K.S.A. 17-5905, and amendments thereto, Production contracts entered into by a corporation, trust, limited liability company, limited partnership or corporate partnership and a person engaged in farming for the production of agricultural products shall not be construed to mean the ownership, acquisition, obtainment or lease, either directly or indirectly, of any agricultural land in this state.*

(c) Any corporation, trust, limited liability company, limited partnership or corporate partnership, other than a family farm corporation, authorized farm corporation, family trust, authorized trust or testamentary trust, violating the provisions of this section shall be subject to a civil penalty of not more than \$50,000 and shall divest itself of any land acquired in violation of this section within one year after judgment is entered in the action. The district courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or district or county attorney shall institute suits on behalf of the state to enforce the provisions of this section.

(d) Civil penalties sued for and recovered by the attorney general shall be paid into the state general fund. Civil penalties sued for and recovered by the county attorney or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

Sec. 5. K.S.A. 79-250 is hereby amended to read as follows: 79-250. No city or county may grant any exemption from ad valorem taxation under section 13 of article 11 of the Constitution of the state of Kansas for all or any portion of the appraised valuation of all or any part of the buildings, improvements, tangible personal property and land of any poultry confinement facility, rabbit confinement facility or swine confinement production facility which is on agricultural land and which is owned or operated by a corporation or limited liability company. As used in this section, "corporation," "limited liability company," "agricultural land," "poultry confinement facility," "rabbit confinement facility" and "swine confinement production facility" have the meanings respectively ascribed thereto by K.S.A. 17-5903, and amendments thereto.

Sec. 6. K.S.A. 1993 Supp. 79-32,154 is hereby amended to read as follows: 79-32,154. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Facility" shall mean any factory, mill, plant, refinery, warehouse, feedlot, building or complex of buildings located within the state, including the land on which such facility is located and all machinery, equipment and other real and tangible personal property located at or within such facility used in connection with the operation of such facility. The word "building" shall include only structures within which individuals are customarily employed or which are customarily used to house machinery, equipment or other property.

(b) "Qualified business facility" shall mean a facility which satisfies the requirements of paragraphs (1) and (2) of this subsection.

(1) Such facility is employed by the taxpayer in the operation of a revenue producing enterprise, as defined in subsection (c). Such facility shall not be considered a qualified business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of a revenue producing enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of a revenue producing enterprise, the portion employed by the taxpayer in the operation of a revenue producing enterprise shall be considered a qualified business facility, if the requirements of paragraph (2) of this subsection are satisfied.

(2) If such facility was acquired by the taxpayer from another person or persons, such facility was not employed, immediately prior to the transfer of title to such facility to the taxpayer, or to the commencement of the term of the lease of such facility to the taxpayer, by any other person or persons in the operation of a revenue producing enterprise and the taxpayer continues the operation of the same or substantially identical revenue producing enterprise, as defined in subsection (i), at such facility.

(c) "Revenue producing enterprise" shall mean: (1) The assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;

(2) the storage, warehousing, distribution or sale of any products of agriculture, aquaculture, mining or manufacturing;

(3) the feeding of livestock at a feedlot;

(4) the operation of laboratories or other facilities for scientific, agricultural, aquacultural, animal husbandry or industrial research, development or testing;

(5) the performance of services of any type;

(6) the feeding of aquatic plants and animals at an aquaculture operation;

(7) the administrative management of any of the foregoing activities; or

(8) any combination of any of the foregoing activities.

"Revenue producing enterprise" shall not mean a swine confinement production facility as defined in K.S.A. 17-5903, and amendments thereto.

(d) "Qualified business facility employee" shall mean a person employed by the taxpayer in the operation of a qualified business facility during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. A person shall be deemed to be so engaged if such person performs duties in connection with the operation of the qualified business facility on: (1) A regular, full-time basis; (2) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week throughout the taxable year; or (3) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed. The number of qualified business facility employees during any taxable year shall be determined by dividing by 12 the sum of the number of qualified business facility employees on the last business day of each month of such taxable year. If the qualified business facility is in operation for less than the entire taxable year, the number of qualified business facility employees shall be determined by dividing the sum of the number of qualified business facility employees on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such

(continued)

period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment, the number of qualified business facility employees employed in the operation of such facility shall be reduced by the average number, computed as provided in this subsection, of individuals employed in the operation of the facility during the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(e) "Qualified business facility investment" shall mean the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the qualified business facility, or which is used by the taxpayer in the operation of the qualified business facility, during the taxable year for which the credit allowed by K.S.A. 79-32,153, and amendments thereto, is claimed. The value of such property during such taxable year shall be: (1) Its original cost if owned by the taxpayer; or (2) eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The qualified business facility investment shall be determined by dividing by 12 the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the qualified business facility is in operation for less than an entire taxable year, the qualified business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the qualified business facility was in operation by the number of full calendar months during such period. Notwithstanding the provisions of this subsection, for the purpose of computing the credit allowed by K.S.A. 79-32,153, and amendments thereto, in the case of an investment in a qualified business facility, which facility existed and was operated by the taxpayer or related taxpayer prior to such investment the amount of the taxpayer's qualified business facility investment in such facility shall be reduced by the average amount, computed as provided in this subsection, of the investment of the taxpayer or a related taxpayer in the facility for the taxable year preceding the taxable year in which the qualified business facility investment was made at the facility.

(f) "Commencement of commercial operations" shall be deemed to occur during the first taxable year for which the qualified business facility is first available for use by the taxpayer, or first capable of being used by the taxpayer, in the revenue producing enterprise in which the taxpayer intends to use the qualified business facility.

(g) "Qualified business facility income" shall mean the Kansas taxable income, as defined in article 32 of chapter 79 of the Kansas Statutes Annotated and amendments thereto, derived by the taxpayer from the operation of the qualified business facility. If a taxpayer has income derived from the operation of a qualified business facility as well as from other activities conducted within this state, the Kansas taxable income derived by the taxpayer from the operation of the qualified business facility shall be determined by multiplying the taxpayer's Kansas taxable income, computed in accordance with article 32 of chapter 79 of the Kansas Statutes Annotated and amendments thereto, by a fraction, the numerator of which is the property factor, as defined in paragraph (1), plus the payroll factor, as defined in paragraph (2), and the denominator of which is two.

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in connection with the operation of the qualified business facility during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period. The average value of all such property shall be determined as provided in K.S.A. 79-3281 and 79-3282, and amendments thereto.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid during the tax period by the taxpayer for compensation to persons qualifying as qualified business facility employees, as determined under subsection (d), at the qualified business facility, and the denominator of which is the total amount paid in this state during the tax period by the taxpayer for compensation.

The compensation paid in this state shall be determined as provided in K.S.A. 79-3283, and amendments thereto.

The formula set forth in this subsection (g) shall not be used for any purpose other than determining the qualified business facility income attributable to a qualified business facility.

(h) "Related taxpayer" shall mean (1) a corporation, partnership, trust or association controlled by the taxpayer; (2) an individual, corporation, partnership, trust or association in control of the taxpayer; or (3) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. For the purposes of this act, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of all other classes of stock of the corporation; "control of a partnership or association" shall mean ownership of at least 80% of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of at least 80% of the beneficial interest in the principal or income of such trust.

(i) "Same or substantially identical revenue producing enterprise" shall mean a revenue producing enterprise in which the products produced or sold, services performed or activities conducted are the same in character and use, are produced, sold, performed or conducted in the same manner and to or for the same type of customers as the products, services or activities produced, sold, performed or conducted in another revenue producing enterprise.

Sec. 7. K.S.A. 1993 Supp. 74-8905 is hereby amended to read as follows: 74-8905. (a) The authority is hereby authorized and empowered to issue bonds, either for a specific activity or on a pooled basis for a series of related or unrelated activities or projects duly authorized by a political subdivision or group of political subdivisions of the state in such amounts as shall be determined by the authority for the purpose of financing capital improvement facilities, educational facilities, health care facilities and housing developments. Nothing in this act shall be construed to authorize the authority to issue bonds or use the proceeds thereof to (1) purchase, condemn, or otherwise acquire a utility plant or distribution system owned or operated by a regulated public utility or (2) finance any capital improvement facilities, educational facilities, or health care facilities which are authorized under the laws of the state to be financed by the issuance of general obligation or utility revenue bonds of a political subdivision, except that the acquisition by the authority of general obligation or utility revenue bonds issued by political subdivisions with the proceeds of pooled bonds shall not violate the provisions of the foregoing. Nothing in this subsection (a) shall prohibit the issuance of bonds by the authority when any statute specifically authorizes the issuance of bonds by the authority or approves any activity or project of a state agency for purposes of authorizing any such issuance of bonds in accordance with this section and provides an exemption from the provisions of this subsection (a).

(b) The authority is hereby authorized and empowered to issue bonds for activities and projects of state agencies as requested by the secretary of administration. No bonds may be issued pursuant to this act for any activity or project of a state agency unless the activity or project either has been approved by an appropriation or other 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 in subsection (c) of K.S.A. 75-3711c and amendments thereto. When requested to do so by the secretary of administration, the authority is further authorized and empowered to issue bonds for the purpose of refunding, whether at maturity or in advance of maturity, any outstanding bonded indebtedness of any state agency. The revenues of any state agency which are pledged as security for any bonds of such state agency which are refunded by refunding bonds of the authority may be pledged to the authority as security for the refunding bonds.

(c) The authority is hereby authorized and empowered to issue bonds for the purpose of financing industrial enterprises, agricultural business enterprises, educational facilities, health care facilities and housing developments, or any combination of such facilities, or any interest in facilities, including without limitation leasehold interests in and mortgages on such facilities. No less than 30 days prior to the issuance of any bonds authorized under this act with respect to any project or activity which is to be undertaken for the direct benefit

of any person or entity which is not a state agency or a political subdivision, written notice of the intention of the authority to provide financing and issue bonds therefor shall be given by the president of the authority to the governing body of the city in which the project or activity is to be located, or, if the project or activity is not proposed to be located within a city, such notice shall be given to the governing body of the county. No bonds for the financing of the project or activity shall be issued by the authority for a one-year period if, within 15 days after the giving of such notice, the governing body of the political subdivision in which the project or activity is proposed to be located shall have duly enacted an ordinance or resolution stating express disapproval of the project or activity and shall have notified the president of the authority of such disapproval. The provisions of this subsection shall not apply to the Kansas basic enterprises loan program.

(d) The authority is hereby authorized and empowered to issue bonds for the purpose of establishing and funding one or more series of venture capital funds in such principal amounts, at such interest rates, in such maturities, with such security, and upon such other terms and in such manner as is approved by resolution of the authority. The proceeds of such bonds not placed in a venture capital fund or used to pay or reimburse organizational, offering and administrative expenses and fees necessary to the issuance and sale of such bonds shall be invested and reinvested in such securities and other instruments as shall be provided in the resolution under which such bonds are issued. Moneys in a venture capital fund shall be used to make venture capital investments in new, expanding or developing businesses, including, but not limited to, equity and debt securities, warrants, options and other rights to acquire such securities, subject to the provisions of the resolution of the authority. The authority shall establish an investment policy with respect to the investment of the funds in a venture capital fund not inconsistent with the purposes of this act. The authority shall enter into an agreement with a management company experienced in venture capital investments to manage and administer each venture capital fund upon terms not inconsistent with the purposes of this act and such investment policy. The authority may establish an advisory board to provide advice and consulting assistance to the authority and the management company with respect to the management and administration of each venture capital fund and the establishment of its investment policy. All fees and expenses incurred in the management and administration of a venture capital fund not paid or reimbursed out of the proceeds of the bonds issued by the authority shall be paid or reimbursed out of such venture capital fund.

(e) The authority is hereby authorized and empowered to use the proceeds of any bond issues herein authorized, together with any other available funds, for venture capital investments or for purchasing, leasing, constructing, restoring, renovating, altering or repairing facilities as herein authorized, for making loans, purchasing mortgages or security interests in loan participations and paying all incidental expenses therewith, paying expenses of authorizing and issuing the bonds, paying interest on the bonds until revenues thereof are available in sufficient amounts, purchasing bond insurance or other credit enhancements on the bonds, and funding such reserves as the authority deems necessary and desirable. All moneys received by the authority, other than moneys received by virtue of an appropriation, are hereby specifically declared to be cash funds, restricted in their use and to be used solely as provided herein. No moneys of the authority other than moneys received by appropriation shall be deposited with the state treasurer.

(f) (1) The authority is hereby authorized and empowered to develop and implement the Kansas basic enterprises loan program and to issue bonds for the financing of loans thereunder. *The authority is hereby authorized to target preference among agricultural business enterprise applicants within the basic enterprises loan program for swine production facilities and swine marketing pools which are owned, acquired, obtained or leased by any family farm corporation, authorized farm corporation, limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust, as defined in K.S.A. 17-5903 and amendments thereto.* All loans under the program shall be made to eligible Kansas basic enterprises in accordance with guidelines and conditions prescribed by the authority and by statute. Each loan under the program shall be qualified, entered into and serviced by a financial institution acting as the agent of the authority and receiving a fee for such

services pursuant to a contract entered into by the authority with the financial institution. The authority shall prescribe monitoring and reporting requirements for participating financial institutions to provide for the monitoring of each loan under the program and the activities of the eligible Kansas basic enterprise in connection with the loan to provide for compliance with the loan provisions and the provisions of this subsection. Each loan under the program shall be in an amount of not less than \$20,000 and not more than \$200,000 and shall be matched by a loan to the eligible Kansas basic enterprise from the participating financial institution which shall be in an amount of not less than 15% of the amount of the loan made under the program. The eligible Kansas basic enterprise receiving a loan under the program shall contribute equity capital to the project, for which the loan is being made under the program, which capital is equal to at least 10% of the total cost of the project. Loans may be made to an eligible Kansas basic enterprise under the Kansas basic enterprise loan program for the purposes of purchasing, leasing, constructing, restoring, renovating, altering, repairing and equipping facilities, refinancing of facilities and providing working capital. Subject to the provisions of this subsection (f), the authority is hereby authorized to pledge moneys credited to the Kansas basic enterprises loan guarantee fund in security for bonds issued under the program. Nothing in this act shall preclude the making of any loan under this program as part of a packaged loan arrangement for an eligible Kansas basic enterprise which includes one or more loans or loan guaranties from the small business administration or farmers home administration of the federal government or from other lenders.

(2) There is hereby established in the state treasury the Kansas basic enterprises loan guarantee fund. The fund shall be administered by the authority and all moneys in the fund shall be used for the purposes of pledging security for bonds issued to finance loans to eligible Kansas basic enterprises pursuant to this subsection (f). All expenditures from the Kansas basic enterprises loan guarantee fund shall be made in accordance with the provisions of appropriations acts for the purposes of satisfying obligations arising pursuant to surety agreements entered into pursuant to this subsection (f) on warrants of the director of accounts and reports issued pursuant to vouchers signed by the president of the authority or a person designated by the president.

New Sec. 8. (a) For the purposes of sections 8 through 13 the term "contractor" means any corporation, trust, limited liability company, or limited partnership or corporate partnership other than a family farm corporation, authorized farm corporation, limited liability agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust, as defined in K.S.A. 17-5903 and amendments thereto, which established a swine production facility in this state or which contracts with a producer to grow or raise hogs in this state and in either case which in the ordinary course of business buys hogs in this state.

(b) For the purposes of sections 8 through 13 the term producer means any individual, family farm corporation, authorized farm corporation, limited liability, agricultural company, limited agricultural partnership, family trust, authorized trust or testamentary trust, as defined in K.S.A. 17-5903 and amendments thereto, which raises hogs in this state or provides the service of raising hogs in this state and which is able to transfer title in such hogs to another or who provides management, feed, labor, facilities, machinery or other production input for raising hogs in this state.

(c) For the purposes of this section production input includes, but is not limited to, management, labor, facilities, machinery or feed used in the raising of hogs in this state.

(d) If the contractor is the subsidiary of another corporation, partnership, or a member of another association or other business entity, the parent corporation, partnership, association or other business entity is liable to a producer for the amount of any unpaid claim or contract performance claim if the contractor fails to pay or perform according to the terms of the contract.

(e) There is an implied promise of good faith as defined in subsection (19) of K.S.A. 84-1-201, and amendments thereto, by all parties in all contracts between contractors and producers. In an action to recover damages, if the court finds that there has been a violation of this provision, damages, court costs, and attorney fees may be recovered.

(continued)

(f) Each contractor shall require in its contract that the producer comply with any applicable state and federal environmental laws and shall provide to the producer, upon request, information regarding compliance with such laws.

New Sec. 9. (a) Except as provided in subsection (b), if a producer fails to comply with the provisions of a contract that requires a capital investment in excess of \$100,000 or more and has a useful life of five years or more, a contractor may not terminate or cancel that contract until:

(1) The contractor has given written notice with all the reasons for the termination or cancellation at least 90 days before termination or cancellation or as provided in subsection (b); and

(2) the producer who receives the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice.

(b) The 90-day notice period and 60-day notice period under subsection (a)(1) and (2) are waived and the contract may be terminated or canceled immediately if the alleged grounds for termination or cancellation are:

(1) Voluntary abandonment of the contract relationship by the producer;

(2) conviction of the producer of an offense directly related to the business contracted under the contract;

(3) material breach of the contract by the producer;

(4) a failure to care for the swine in accordance with good animal husbandry practices;

(5) the bankruptcy or insolvency of the producer; or

(6) an acceleration of any indebtedness secured by the property on which the swine are being raised.

New Sec. 10. (a) For the benefit of orderly marketing of swine in Kansas and to facilitate the capture of markets by swine producers and to improve the quality of the state's swine herd, registered swine marketing pools may be created. To qualify for participation under this act a swine marketing pool created pursuant to this act must register with the Kansas state board of agriculture. The Kansas state board of agriculture will facilitate creation of swine marketing pools and information sharing to foster contract agreements between swine marketing pools and purchasers of hogs for slaughter. Such registration for any swine marketing pool may be revoked by the secretary of agriculture for failure to properly carry out its functions pursuant to subsection (b) subsequent to a hearing pursuant to the provisions of the Kansas administrative procedure act.

(b) Swine marketing pools are hereby authorized to do the following on behalf of their members:

(1) Assume debt;

(2) enter and negotiate contracts for the sale and delivery of hogs;

(3) own assets;

(4) sue and be sued;

(5) assist members to upgrade the quality of hogs marketed by the pool;

(6) negotiate in good faith for timely completion and quality assurance of swine marketing contracts; and

(7) perform any other activities to achieve the goals and objectives of the swine marketing pool.

New Sec. 11. (a) Any contractor who establishes a swine production facility in this state or who contracts for the production or raising of hogs in this state shall:

(1) Provide fair and open access to all registered swine marketing pools and actively negotiate in good faith with all registered swine marketing pools who desire to market hogs to that contractor;

(2) provide to all registered swine marketing pools on a regular basis descriptive data concerning carcass efficiency value;

(3) pay a fair price; and

(4) make all payments promptly pursuant to the requirements of applicable federal and state law.

(b) For the purposes of this section, the terms contractor and producer shall have the meaning ascribed to them in section 8.

(c) Nothing in this section shall prohibit any contractor from purchasing hogs from any other business entity or from refusing to purchase and/or discounting hogs which do not meet the contractor's quality specifications or delivery terms.

(d) Nothing in this section shall prevent a marketing pool from selling hogs to any other business entity.

New Sec. 12. Any swine purchasing contract, swine marketing contract or swine production contract between a contractor and a swine production facility owner or swine marketing pool or swine producer shall contain language providing for resolution of contract disputes by either mediation or arbitration. If there is a contract dispute the parties may submit the disputed issue to an arbitrator or mediator selected by the parties pursuant to the contract provisions. All arbitration proceedings held pursuant to this act shall follow the procedures set forth in K.S.A. 5-201 *et seq.* If the parties cannot agree upon a mediator or arbitrator, either party may make a written request to the secretary of Kansas state board of agriculture for mediation or arbitration services to facilitate resolution of the dispute.

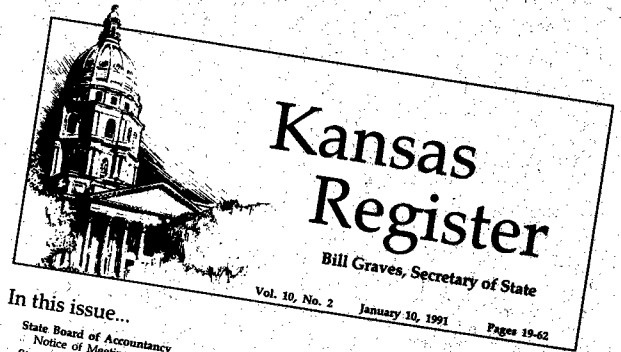
New Sec. 13. The secretary of agriculture may promulgate rules and regulations to implement the provisions of sections 8, 9, 10, 11 and 12.

Sec. 14. K.S.A. 12-1749b, 17-5905, 17-5906 and 79-250 and K.S.A. 1993 Supp. 17-5903, 17-5904, 74-8905 and 79-32,154 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after its publication in the Kansas register.

NOW AVAILABLE . . .

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



In this issue...

State Board of Accountancy Notice of Meeting.....	20
State Records Board Notice of Meeting.....	20
Kansas Agricultural Value-Added Processing Center Notice of Leadership Council Meeting.....	20
Kansas Water Authority Notice of Meeting.....	20
Kansas Sentencing Commission Notice of Meeting.....	20
Executive Appointments Kansas Apprenticeship Committee Notice of Meeting.....	21
Notice to Bidders for State Purchases.....	21
Notice of Bond Sale City of Hillsboro.....	22
	22
	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
\$3.54 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**