

# Kansas Register

Bill Graves, Secretary of State

Vol. 13, No. 21

May 26, 1994

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State of Kansas

## Office of the Governor

Executive Order No. 94-164

Establishing the Governor's Commission on  
School-to-Work Transition

WHEREAS, all Kansans should have the opportunity to achieve the highest possible quality of life and standard of living;

WHEREAS, ensuring that all Kansas children, youth and adults are prepared for and involved in meaningful and growth-producing living, learning and working activities is an essential goal of education;

WHEREAS, educating and training people to be highly skilled workers with the ability to produce highly valued products and services is integral to the economic vitality of the State of Kansas;

WHEREAS, preparing Kansans with world-class education and employment skills is necessary to maintain the competitiveness of the state's work force and business community in a world-wide market;

WHEREAS, strengthening family and community life and providing learning communities for all Kansans will foster life-long learning necessary to develop and maintain a highly-skilled work force in Kansas; and

WHEREAS, fostering innovation, collaboration and cooperation among institutions providing education, employment and supportive services is necessary to ensure an effective system for students making the transition from school to work;

NOW THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, I hereby establish the Governor's Commission on School-to-Work Transition:

1. Membership on the Commission shall be by official commission of appointment of the Governor, certified by and filed with the Secretary of State. The membership shall include individuals and officials who serve in policy-making or executive level positions within state agencies and organizations with functions or responsibilities related to the transition from school to work.

2. The Governor shall serve as chairperson of the Commission. The members of the Commission shall meet upon the call of the chairperson as necessary to carry out its duties under this Executive Order.

3. Members of the Commission shall receive no compensation. For attending meetings and authorized subcommittee meetings of the Commission, members shall be paid subsistence allowances and mileage in accordance with K.S.A. 75-3223(b) and (c) which shall be submitted to and paid by the Secretary of Human Resources.

4. The Commission shall formulate a plan setting out: (a) a description of the structure and the elements of a comprehensive, state-wide school-to-work transition system; and (b) a strategy for implementing the recommended system. The plan shall be completed prior to December 1, 1994. The Commission shall be abolished on December 31, 1994.

This document shall be filed with Secretary of State as Executive Order No. 94-164 and shall become effective immediately.

Dated May 16, 1994.

Joan Finney  
Governor  
Attest: Bill Graves  
Secretary of State

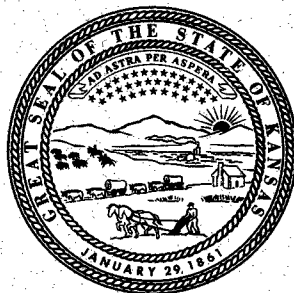
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Topeka, KS 66612-1594  
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235-N, State Capitol  
(913) 296-3489

## State of Kansas

**Board of Adult Care Home Administrators****Notice of Meeting**

The Board of Adult Care Home Administrators will meet at 9:30 a.m. Friday, June 3, in Room C of the Kansas National Education Association Building, 715 S.W. 10th, Topeka.

Cathy Rooney, Director  
Health Occupations Credentialing

Doc. No. 014906

## State of Kansas

**Secretary of State****Notice of Hearing on Proposed Administrative Regulations**

A public hearing will be conducted at 2 p.m. Monday, June 27, in the conference room of the Secretary of State's Office, Room 233-N, State Capitol, Topeka, to consider proposed new Kansas Administrative Regulations 7-19-1 through 7-19-6 pertaining to the electronic filing of uniform commercial code documents. These regulations permit authorized filing parties to transmit information required in a financing statement to the Secretary of State's Office using the Information Network of Kansas. Electronic filing is not mandatory, but gives uniform commercial code filers the option to transmit data to the Secretary of State's Office electronically, in addition to mail or hand delivery. These regulations are proposed for adoption on a temporary and permanent basis.

K.A.R. 7-19-1 defines terms used in the electronic filing regulations. There will be no economic impact on governmental agencies or the general public.

K.A.R. 7-19-2 establishes procedures enabling a user to become authorized to file uniform commercial code documents electronically. There will be no economic impact on governmental agencies or the general public.

K.A.R. 7-19-3 specifies the contents of uniform commercial code documents transmitted to the Secretary of State electronically. There will be minimal economic impact on the Secretary of State's Office and no economic impact on the general public.

K.A.R. 7-19-4 specifies the signature requirements for electronically filed documents. There will be no economic impact on governmental agencies or the general public.

K.A.R. 7-19-5 specifies the method of identifying secured parties in electronically filed documents. There will be no economic impact on governmental agencies or the general public.

K.A.R. 7-19-6 specifies filing date and filing fee procedures for electronically filed documents. There will be no economic impact on governmental agencies or the general public.

This 30-day notice of public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed regulations. Comments may be submitted prior to the hearing to Jenny Chaulk Wentz, Legal Counsel, Office of the Sec-

retary of State, 2nd Floor, State Capitol, 300 S.W. 10th Ave., Topeka 66612-1594.

All interested parties will be given a reasonable opportunity at the hearing to present their views. It may be necessary to request each participant to limit any oral presentation to five minutes. Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Barbara Nemeck at (913) 296-2114.

Copies of the regulations and their fiscal impact statements may be obtained at the address above or by calling (913) 296-2114.

Bill Graves  
Secretary of State

Doc. No. 014878

## State of Kansas

**Department of Health and Environment****Notice of Proposed Permit Action**

The Secretary of Health and Environment is proposing to issue an air emission source construction permit in accordance with K.A.R. 28-19-14 (permits required), to Russell Stover Candies (RSC), Kansas City, Missouri, to install and operate a candy production facility at N.W. 14th St., Abilene. Indirect heating equipment for steam production will be required for the candy production.

Written materials, including the permit application and information relating to the application submitted by RSC, and the draft permit are available for public inspection during normal business hours through June 26 by contacting Peter Denning, Northeast District Air Quality Representative, Northeast District KDHE Office, Salina, (913) 827-9639. This material also can be reviewed at the KDHE Office, Building 283, Forbes Field, Topeka. Questions concerning this proposed permit should be directed to L.C. Hinthner, KDHE, (913) 296-1576.

K.S.A. 65-3008 provides that any person affected by the issuance of a permit can request a public hearing prior to the permit's issuance. The request must be in writing and addressed to the secretary. If the secretary determines there is sufficient reason in the request, a public hearing will be conducted—the place, date and time of the hearing will be announced in this publication. A request for a hearing or written comments on the proposed permit must be submitted to the Secretary, Kansas Department of Health and Environment, Landon State Office Building, 900 S.W. Jackson, Topeka 66612, before June 26.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 014911

## State of Kansas

## State Conservation Commission

## Notice to Contractors

Re-advertisement for sealed bids for the construction of a livestock waste system for a dairy operation in Saline County will be received by the Saline County Conservation District at the district office, 1821 S. Ohio, Salina 67401-6601, until 3 p.m. June 20, and then opened. A copy of the invitation for bids and plans and revised specifications can be obtained at the district office, (913) 825-8260.

Kenneth F. Kern  
Executive Director

Doc. No. 014921

## State of Kansas

## Department of Transportation

## Notice of Public Auction

The Kansas Secretary of Transportation will offer for sale and removal at public auction on June 28 the following improvements located on the south and south-east side of Winfield, Kansas, described as follows:

1. 10 a.m. Tract 10 - Located approximately 1200 feet east of the intersection of 19th Avenue and Wheat Road on the north side of 19th Avenue. One 1085 sq. ft. frame single family house, one garage and several small sheds. Unit has 6 rooms, 3 bedrooms, 1 bath and a 2 car detached garage.
2. 1 p.m. Tract 4 - Located approximately 2300 feet south of the intersection of Brandt Road and U.S. 160 on the east side of Brandt Road. One 1700 sq. ft. partially completed earth home.
3. 3 p.m. Tract 5 - Located approximately 1800 feet south of the intersection of Brandt Road and U.S. 160 on the east side of Brandt Road. One 1130 sq. ft. two story frame single family home with 5 rooms, 2 bedrooms and one bath.

An inspection of properties will be June 21 from 10 a.m. to 11 a.m. for tract 10 and from 1 p.m. to 2 p.m. for tracts 4 and 5, and 30 minutes prior to sale.

The successful bidders will be required to remove the structures from the right of way on or before July 28. A performance bond of \$2,500 must be posted on the day of the sale as a guarantee of removal of the structures. Any item not removed from the right of way on or before the specified date shall revert to and become the property of the Kansas Department of Transportation. The purchaser shall have no right, title, interest or claim to or lien upon said remaining item or part thereof, nor any claim against the Department of Transportation for the sale price paid after said date.

The purchaser shall not permit use or occupancy of said structure pending removal from highway right of

way. If applicable, the purchaser shall during interim period of moving the improvement and filling in the basement, mark the area with tape, ribbon or fencing warning the public of the opening.

The Kansas Department of Transportation ensures the acceptance of any bid pursuant to this notice will be without discrimination on the grounds of sex, race, color, religion, physical handicap, or national origin.

## Terms of the Sale:

Money order, certified or cashier's check for full price on the day of sale. Make check payable to "Secretary of Transportation." The purchaser will receive a bill of sale.

The seller reserves the right to reject any and all bids and is not responsible for accidents. For additional information, contact Gerald Cain at (708) 898-0532.

Michael L. Johnston  
Secretary of Transportation

Doc. No. 014912

## State of Kansas

Department of Health  
and EnvironmentNotice Concerning Kansas  
Water Pollution Control Permits

In accordance with state regulations 28-16-57 through 63, 28-18-1 through 4, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, tentative permits have been prepared for 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 Environmental Protection Agency, 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-94-42

Name and Address of Applicant	Legal Description	Receiving Water
John and Kenna Hutto Route 1, Box 230 Galena, KS 66739	SE/4, Sec. 19, T33S, R25E, Cherokee County	Neosho River Basin

Kansas Permit No. A-NECK-S006

The proposed facility has the capacity for approximately 700 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.

Dewatering equipment shall be obtained within four months after this facility becomes active through purchase, rental or custom application agreement. It shall be capable of pumping and dispersing the liquids and solids as outlined in this permit. Written verification of the acquisition of the equipment shall be submitted to the department.

**Public Notice No. KS-EG-94-4**

A tentative permit has been prepared for the re-permitting of one salt-solution mining well which will be part of a two-well salt-solution mining gallery, within the state of Kansas, for the applicant described below.

Description: The well listed below is designed for the production of salt by solution mining activity. The well is located in Reno County, Kansas, and is operated by Cargill, Inc., P.O. Box 1403, Hutchinson, KS 67504.

Well No. and Kansas Permit No.	Well Location
Well Number I-6	SE NW SW 19-23-5W
Kansas Permit No. KS-03-155-150	1404' fsl and 4027' fel of SE/4

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 June 25 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate public notice number (KS-AG-94-42, KS-EG-94-4) 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 (28-46-21 for UIC). 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 740, Forbes Field, Topeka, from 8 a.m. to 4:30 p.m. Monday through Friday. The documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 014925

State of Kansas

Department of Transportation

Notice of Public Auction

The Kansas Secretary of Transportation will offer for sale at public auction at 1 p.m. June 23 the following improvement located in Basehor, Kansas, described as follows:

**Address: 1104 N. 150th**, a 1500 sq. ft. frame house with attached 2-car garage, fireplace, 3 bedrooms and 2 1/2 bathrooms.

An inspection of property will be from 11:30 a.m. to noon June 16 and 30 minutes prior to the sale.

The successful bidder will be required to remove the structure from the right of way on or before July 25. A performance bond of \$2,500 must be posted on the day of the sale as a guarantee of removal of the structure. Any item not removed from the right of way on or before the specified date shall revert to and become the property of the Kansas Department of Transportation. The purchaser shall have no right, title, interest or claim to or lien upon said remaining item or part thereof, nor any claim against the Department of Transportation for the sale price paid after said date. The purchaser shall not permit use or occupancy of said structure pending removal from highway right of way. If applicable, the purchaser shall during interim period of moving the improvement and filling in the basement, mark the area with tape, ribbon or fencing warning the public of the opening.

The Kansas Department of Transportation ensures the acceptance of any bid pursuant to this notice will be without discrimination on the grounds of sex, race, color, religion, physical handicap, or national origin.

**Terms of the Sale:**

Money order, certified or cashier's check for full price on the day of sale. Make check payable to "Secretary of Transportation." The purchaser will receive a bill of sale.

The seller reserves the right to reject any and all bids and is not responsible for accidents. For additional information, contact Beverly Lee, Bureau of Right of Way, (913) 296-6933.

Michael L. Johnston  
Secretary of Transportation

Doc. No. 014916

State of Kansas

Department of Transportation

Notice to Contractors

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

**District One—Northeast**

**Douglas**—40-23 TE-0050-01—U.S. 40, east of the South Lawrence Trafficway, pedestrian bicycle underpass. (Federal Funds)

(continued)

**Douglas**—10-23 K-3359-10—K-10, South Lawrence Trafficway from 0.6 mile south of county road 438 south to 0.4 mile south of U.S. of 40, grading and bridges. (Federal Funds)

**Johnson**—169-46 K-5343-01—Intersection of U.S. 169 and 175th Street and U.S. 169 and 199th Street, intersection improvements. (Federal Funds)

**Osage**—35-70 K-5028-01—I-35, 0.3 mile east of the east junction of K-31, northeast to Osage-Franklin county line, 5.1 miles, pavement reconstruction. (Federal Funds)

**Saline/Dickinson/Geary**—106 K-5550-01—I-70, from the K-143 interchange at Salina east to the Geary-Riley county line, except portion K-15 at Abilene to K-57 at Grandview Plaza, 38 miles, signing. (State Funds)

**Shawnee**—70-89 K-5559-01—I-70, from the east end of Polk-Quincy Viaduct east to the KTA, 3.9 miles, signing. (State Funds)

**Various counties**—106 K-5051-94—Travel and tourism signing, signing. (State Funds)

#### District Two—Northcentral

**Geary**—31 C-2310-01—County road, from Junction City then southwest, 6.1 miles, surfacing. (Federal Funds)

**Marion**—50-57 K-3046-03—U.S. 50, from 690 feet west of the west city limits of Peabody, then east, 1.4 miles, surfacing. (Federal Funds)

**Marion**—50-57 K-3219-02—U.S. 50, from the Harvey-Marion county line to 690 feet west of the city limits of Peabody, 1.9 miles, surfacing. (Federal Funds)

**Mitchell**—62 C-3135-01—County road, from Tipton east, 5 miles, surfacing. (Federal Funds)

#### District Three—Northwest

**Logan**—55 C-2786-01—County road, from Winona, then north, 6 miles, surfacing. (Federal Funds)

**Osborne**—281-71 K-5242-01—U.S. 281, bridge 36, north fork Solomon River, bridge overlay. (State Funds)

**Sheridan**—90 C-3044-01—County road, 11 miles south and 9.2 miles west of Hoxie, 0.2 mile, grading and bridge. (Federal Funds)

**Smith**—281-92 K-5248-01—U.S. 281, bridge 21, Lindley Creek, 0.1 mile north of the Smith-Osborne county line, bridge overlay. (State Funds)

**Thomas**—70-97 K-5572-01—I-70, from the Sherman-Thomas county line, east 4.4 miles, overlay. (State Funds)

**Thomas**—70-97 M-1775-01—I-70, from the K-25/I-70 junction, then southeast, 9 miles, crack seal, recycling and overlay. (State Funds)

#### District Four—Southeast

**Anderson**—59-2 K-5357-01—U.S. 59/K-31 and Park Road in Garnett, traffic signal. (State Funds)

**Coffey**—35-16 K-5215-01—I-35, five bridges in Coffey County, bridge overlay. (State Funds)

**Coffey**—75-16 K-5379-01—U.S. 75 and Cross Street in Burlington, traffic signal. (State Funds)

**Franklin**—35-30 K-3596-01—I-35, from the Osage-Franklin county line, northeast to 0.3 mile east of the

junction of K-273, 2.5 miles, grading, bridge and surfacing. (Federal Funds)

#### District Five—Southcentral

**Barton**—281-5 K-4618-01—U.S. 281, from the junction of K-4 south 1,000 feet in Hoisington, 0.2 mile, pavement reconstruction. (State Funds)

**Harvey**—50-40 K-4058-03—U.S. 50, from the east city limits of Walton northeast to the Harvey-Marion county line, 6.9 miles, surfacing. (Federal Funds)

**Sedgwick**—87 U-1363-01—Maize Road, from West Central to 13th Street in Wichita, 1 mile, grading and surfacing. (Federal Funds)

**Stafford**—281-93 K-4106-01—U.S. 281, from the junction of K-19, north to Stafford-Barton county line, 7.1 miles, recycling. (State Funds)

#### District Six—Southwest

**Finney**—50-28 K-4430-01—U.S. 50, from the south junction of U.S. 83, east 2.3 miles at Garden City, 2.2 miles grading and surfacing. (State Funds)

**Lane**—51 C-3138-01—County road, 4.5 miles east of Dighton, then north, 10.5 miles, surfacing. (Federal Funds)

**Seward**—54-88 K-4437-01—U.S. 54, Pershing Avenue to Country Estates at Liberal, 1.5 miles, grading, bridge and surfacing. (State Funds)

**Seward**—54-88 U-1347-01—U.S. 54, east of Clay Avenue to Pershing Avenue at Liberal, 0.2 mile, grading. (State Funds)

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

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

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

Michael L. Johnston  
Secretary of Transportation

Doc. No. 014896

## 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 May 16-20:

## State Representative, 20th District

**Gary M. Merritt**, 10301 Granada Lane, Overland Park 66207. Term expires when a successor is elected and qualifies according to law. Succeeds Blaise Plummer, resigned.

## Commission on Autism

(Members serve at the pleasure of the Governor.)

**Lynne Bourne**, 823 S.W. Mulvane, Topeka 66606. Succeeds Sue Steele.

**Mirah Dow**, P.O. Box 108, Eureka 67045. Succeeds Patrick Dow.

**Shirley Erickson**, 5834 Sunrise Drive, Shawnee Mission 66205. Succeeds Gary Slimmer.

**Tom Stafford**, 1571 220 Ave., Hays 67601. Succeeds Merilee Larson.

**Phyllis Young**, 15307 W. 93rd, Lenexa 66219. Succeeds Joan Strickler.

## Kansas Lottery Commission

**Mary Kay Peltzer**, Chairperson, 2515 Coolidge, Wichita 67204. Serves at the pleasure of the Governor. Succeeds C.W. "Pete" Klein, deceased.

## Kansas Quality Management Council

(Members serve at the pleasure of the Governor.)

**Joe Dick**, Secretary of Human Resources, 401 S. Topeka Blvd., Topeka 66603.

**Ted Ensley**, Secretary of Wildlife and Parks, Room 502, Landon State Office Building, 900 S.W. Jackson, Topeka 66612.

**Phillip Fishburn**, Acting Secretary of Agriculture, 1st Floor, 910 S. Kansas Ave., Topeka 66612.

**Robert Harder**, Secretary of Health and Environment, Room 901, Landon State Office Building, 900 S.W. Jackson, Topeka 66612.

**JoAnne Hurst**, Secretary of Aging, Room 122-S, Docking State Office Building, 915 S.W. Harrison, Topeka 66612.

**Stephen Hurst**, Director, Kansas Water Office, Suite 300, 109 S.W. 9th, Topeka 66612.

**Bob Knight**, Secretary of Commerce and Housing, Suite 1300, 700 S.W. Harrison, Topeka 66603.

**Nancy Parrish**, Secretary of Revenue, 2nd Floor, Docking State Office Building, 915 S.W. Harrison, Topeka 66612.

**Ed Redmon**, State Fire Marshal, Suite 600, 700 S.W. Jackson, Topeka 66603.

**Gary Stotts**, Secretary of Corrections, 4th Floor, Landon State Office Building, 900 S.W. Jackson, Topeka 66612.

**Gloria Timmer**, Secretary of Administration, 2nd Floor, State Capitol, 300 S.W. 10th Ave., Topeka 66612.

**Gregory Ziemak**, Executive Director, Kansas Lottery, 128 N. Kansas Ave., Topeka 66603.

## Kansas Racing Commission

**Oscar H. Peltzer**, 2515 Coolidge, Wichita 67204. Subject to Senate confirmation. Term expires June 30, 1997. Reappointment.

**Bill Graves**  
Secretary of State

## State of Kansas

## Kansas Racing Commission

## Notice of Hearing on Proposed Administrative Regulations

A public hearing will be conducted at 9:30 a.m. Monday, June 27, at Hill's Practice Management Center, fourth floor, Trotter Hall, College of Veterinary Medicine, Kansas State University, Manhattan, to consider the adoption of proposed permanent regulations of the Kansas Racing Commission. This 30-day notice constitutes a public comment period for the purpose of receiving written public comments on these proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Damien Baker at the Kansas Racing Commission, 3400 Van Buren, Topeka 66611-2228, (913) 296-5800.

A copy of the full text of the regulations and the economic impact statements may be reviewed or obtained at the commission office. The following is a summary of the proposed amendments:

K.A.R. 112-7-24 was recently adopted on an emergency basis as a temporary regulation which makes it mandatory for a jockey or apprentice jockey to wear a safety vest when riding in a race.

K.A.R. 112-5-10 is a new regulation which defines and sets forth the duties of the mutuel manager.

K.A.R. 112-6-9 is a new regulation under Article 6 which refers to K.A.R. 112-5-10 for the definition of mutuel manager.

K.A.R. 112-6-1 is amended to include a chartwriter as a racing official.

K.A.R. 112-6-10 is a new regulation which sets out the duties of the chartwriter.

K.A.R. 112-11-21 is amended to include horsemen's bookkeeper, chartwriter, placing judge and patrol judge as racing officials who are not eligible to wager.

K.A.R. 112-4-25 is a new regulation which defines the qualifications for being licensed as a greyhound owner.

K.A.R. 112-6-2 changes the number of judges from three to two who are needed to be present at the race track facility before weigh-in time. The reason is to eliminate overtime pay.

(continued)

K.A.R. 112-8-13 is a new regulation which requires all greyhounds racing at the facility to be housed on the premises except for greyhounds racing in stakes races.

K.A.R. 112-9-1 is a new regulation which defines "business day" as used in the regulations and the racing act.

K.A.R. 112-12-14 allows for the registration of minor breeds into the Kansas horse breeders development fund through December 31, 1994, at a reduced rate. This regulation is being processed as temporary on an emergency basis.

K.A.R. 112-15-2 changes the time frame from the commission to solicit grant proposals from a fiscal year ending June 30 to a calendar year ending December 31 of each year.

K.A.R. 112-15-3 deletes the requirement for a budget summary because the budget summary is required elsewhere in this article and does not need to be duplicated in this regulation.

K.A.R. 112-15-5 eliminates the dates which are no longer applicable, and changes the remaining language to be consistent with the calendar year set out in 112-15-2.

K.A.R. 112-15-6 amends the dates to be consistent with the calendar year set out in 112-15-2.

K.A.R. 112-18-9 is amended to include the simulcast official as a voice contact person at the receiving facility.

K.A.R. 112-18-11 changes subsections (a), (c), (d) and (e) to allow for emergency procedures in the event of a failure to send or receive a signal. Subsection (f) is a new subsection that identifies which wagers are subject to a refund.

K.A.R. 112-18-17 adds language to include the simulcast official as one of the individuals to be notified upon the completion of a manual merge.

K.A.R. 112-18-18 is amended to reduce the options in a failure to merge situation from (1) paying track odds, (2) refunding monies not successfully merged, and (3) calculating the pool as a separate pool to one option only which is to calculate the pool as a separate pool.

K.A.R. 112-18-20 delays the paying of mutual tickets until the accuracy of payoffs is confirmed.

Economic impact statement for K.A.R. 112-7-24: Cost to the agency is approximately \$2,300. The money will be taken from the state racing fund. The commission justifies the purchase which will provide protection to the jockey, more specifically to the upper extremity which is the area to which the majority of injuries occur.

Economic impact statement for K.A.R. 112-12-14: No cost anticipated to the agency or other governmental agencies or units. The cost to horse owners will be \$50 for registering each horse. The industry will see an increase in horses being eligible to race, increasing purses and the wagering dollars.

There is no known economic impact from the adoption of the remaining regulations listed above.

Janet Chubb  
Executive Director

Doc. No. 014919

## State of Kansas

### Commission on Disability Concerns

#### Notice of Meeting

The Kansas Commission on Disability Concerns will meet from 9:30 a.m. to 4 p.m. Thursday, June 2, in the first floor conference room, 1430 S.W. Topeka Blvd., Topeka.

Joe Dick  
Secretary of Human Resources

Doc. No. 014915

## State of Kansas

### Attorney General

#### Opinion No. 94-58

**Procedure, Civil—Immunity from Liability for Volunteers of Nonprofit Organizations and Athletic Officials—Immunity from Liability for Volunteers of Certain Nonprofit Organizations; Limitations. Senator Audrey Langworthy, 7th District, Prairie Village; Representative Barbara P. Allen, 21st District, Prairie Village, April 22, 1994.**

In the absence of willful, wanton, or intentionally tortious conduct, a professional engineer who volunteers his services, without compensation, to a not-for-profit organization which carries general liability insurance is protected from liability for acts or omissions in negligence actions. The organization must, however, qualify for "501(c)" status under section 501(c) of the Internal Revenue Code. Cited herein: K.S.A. 40-3402; K.S.A. 1993 Supp. 60-3601; K.S.A. 74-7001; 26 U.S.C. § 501. GE

#### Opinion No. 94-59

**State Boards, Commissions and Authorities—Public Employees Retirement Systems; Kansas Public Employees Retirement System—Rights of Members and Beneficiaries Not Affected by Change or Repeal of Act, Exception; Benefits and Rights Exempt From Taxes; 1994 Senate Bill No. 623. Representative Tom Bradley, 52nd District, Topeka, April 26, 1994.**

Because the legislation proposed in 1994 Senate Bill No. 623 impairs a contractual right of those members having a vested interest in the retirement system without accompaniment of an offsetting or counterbalancing advantage, the bill violates Section 10 of Article 1 of the United States Constitution and K.S.A. 74-4923. Cited herein: K.S.A. 74-4901; K.S.A. 1993 Supp. 74-4917; K.S.A. 74-4923; 74-4951; 1994 S.B. No. 623; 1994 S.B. No. 624; U.S. Const., art. 1, § 10. RDS

#### Opinion No. 94-60

**Constitution of the State of Kansas—Legislative—Journals; Passage of Bills. Representative Carl Holmes, 125th District, Liberal, April 26, 1994.**

The Kansas Constitution, Article 2, Section 14, mandates that a bill signed by the Governor must be the same as that passed by the House and Senate. Legislative records of House Bill No. 3039 evidence a discrepancy between the bill that was passed by the Senate and con-



curred with by the House and that approved and signed by the Governor. House Bill No. 3039 contravenes Article 2, Section 14 of the Kansas Constitution and is void. Cited herein: K.S.A. 45-317; Kan. Const., art. 2, secs. 14, 10. GE

#### Opinion No. 94-61

**Automobiles and Other Vehicles—General Provisions; Registration of Vehicles—Application for Registration; County of Registration for Corporate Entities. Representative Kent Glasscock, 62nd District, Manhattan, April 27, 1994.**

The Kansas county in which a Kansas corporation's headquarters is located and from which it conducts much of its business may be considered the corporation's domicile, and thus its residence, for purposes of K.S.A. 8-129 (vehicle registration), unless its charter or articles of incorporation reflect a different domicile. Cited herein: K.S.A. 1993 Supp. 8-126; K.S.A. 8-127; 8-129; 8-149; 8-1,138. JLM

#### Opinion No. 94-62

**Cities and Municipalities—Code for Municipal Courts; Proceedings After Arrest and Prior to Trial—Municipal Court Diversion; Ineligibility Based Upon Prior Alcohol Related Conviction. David E. Retter, Concordia City Attorney, Concordia, May 3, 1994.**

A city attorney is prohibited from offering diversion to a person who has a prior alcohol related conviction regardless of whether the person had counsel or did not waive the right to counsel. Cited herein: K.S.A. 8-284; K.S.A. 1993 Supp. 8-1567; K.S.A. 12-4415. MF

#### Opinion No. 94-63

**Criminal Procedure—Appeals—Criminal Appeals from District Court; Duties of County Attorney; Supplemental Payment. Robert G. Frey, Haskell County Counselor, Wichita, May 13, 1994.**

All reasonable costs of the county attorney's assistance in representing the interests of the state in appeals and other post-conviction actions shall be allowed and must be paid by the county commissioners from the county general fund. The work performed in relation to post trial motions, such as reviewing sentencing reports and probation violation reports, are not representation of the state in appeals or post-conviction actions as contemplated by K.S.A. 22-3612. Further, when the county attorney appears in the court having jurisdiction within the county to prosecute or defend on behalf of the people, the county attorney is not entitled to supplemental payments pursuant to K.S.A. 22-3612. Cited herein: K.S.A. 19-702; 22-3603; 22-3612; 60-1501; 60-1507. NKF

#### Opinion No. 94-64

**Cities of the Second Class; Part I-Government by Mayor and Council and General Laws Applicable to Cities of the Second Class—General Provisions—Change in Classification of City from City of Third Class to City of Second Class; Governor's Proclamation; Authority to Rescind.**

**State Departments; Public Officers and Employees—Governor—Proclamation. Bill McCormick, Governor's Chief Counsel, Topeka, May 13, 1994.**

The Governor has no authority to rescind or revoke a proclamation duly promulgated and filed pursuant to K.S.A. 14-1010 *et seq.* Cited herein: K.S.A. 14-101; Kan. Const., art. 1, § 3. MF

#### Opinion No. 94-65

**Counties and County Officers—Employment Systems—Civil Service Systems in Urban Areas and Other Counties; Political Party Activity Prohibition. Linda Jeffrey, Shawnee County Counselor, Topeka, May 14, 1994.**

K.S.A. 19-4315 does not apply to the members of the county civil service board. Cited herein: K.S.A. 19-4306; 19-4314; 19-4315. NKF

#### Opinion No. 94-66

**Schools—Organization, Powers and Finances of Boards of Education—School District Officers and Employees; Appointment; Nepotism Policy. Senator Phil Martin, 13th District, Pittsburg, May 17, 1994.**

Under the circumstances presented, the nepotism policy adopted by Unified School District No. 249 serves the valid purpose of preventing conflicts of interest in the administration of the educational system and thus is within the school district's authority to promulgate. Cited herein: K.S.A. 46-246a; 72-8202e; K.A.R. 19-40-4; L. 1921, ch. 171, § 1. RDS

#### Opinion No. 94-67

**Minors—Kansas Code for Care of Children: Matters Prior to Filing Petition—Reporting of Certain Abuse or Neglect of Children; Persons Reporting.**

**Public Health—Confidential Communications and Information; Treatment Facility Patients—Privilege of Patient of Treatment Facility to Prevent Disclosure of Treatment and of Confidential Communications; Exceptions to Privilege. Representative Tim Shallenburger, 1st District, Baxter Springs, May 17, 1994.**

Licensed psychologists (who direct registered masters level psychologists) and licensed social workers employed at a treatment facility are required to report incidents of suspected child abuse or neglect which are disclosed during an examination or interview. This requirement is applicable to communications made by a criminal defendant during the course of a court-ordered mental evaluation as well as to other communications made by a patient of a treatment facility. Because of a specific statutory exception, the reporting of such incidents is not considered a breach of the patient's privilege to prevent disclosure of confidential communications. Cited herein: K.S.A. 21-2606; K.S.A. 1993 Supp. 21-3504; 21-3505; K.S.A. 38-1522; 65-5601; 65-5602. CN

Robert T. Stephan  
Attorney General

Doc. No. 014922

## State of Kansas

## Health Care Data Governing Board

## Notice of Meeting

The June 1 meeting of the Health Care Data Governing Board has been cancelled. The next meeting will be from 11:30 a.m. to 1:30 p.m. Wednesday, July 6, and every first Wednesday of the month thereafter, at the Kansas Medical Society Building, 623 S.W. 10th, Topeka. The meeting is open to the public. Any person requiring visual or communication aid or assistance, building access assistance or other similar assistance should contact Dr. Lou Saadi at (913) 296-5639 immediately so appropriate arrangements can be made.

Robert C. Harder  
Secretary of Health  
and Environment

Doc. No. 014914

## State of Kansas

Kansas Commission on Governmental  
Standards and Conduct

## Advisory Opinion No. 94-10

Written April 28, 1994, to David Bybee, Department of Commerce and Housing, Topeka.

This opinion is in response to your letter of March 23, 1994, in which you request an opinion from the Kansas Commission on Governmental Standards and Conduct concerning the state level conflict of interests law (K.S.A. 46-215 *et seq.*).

## Factual Statement

We understand you request this opinion in your capacity as the manager of the High Performance Incentive Program (HPIP) for the Kansas Department of Commerce and Housing (KDOC & H). You advise us that prior to being appointed manager of the HPIP on August 25, 1993, you were a Community Development Block Grant (CDBG) Economic Development Specialist within the KDOC & H. In that role, you had extensive contact with businesses, communities and application writers for the purpose of providing technical assistance in meeting application requirements for the CDBG program. You were also involved with review of CDBG applications to make sure the numerous state and federal CDBG program requirements were complied with and that all regulations and policies were met. There is a significant amount of regulation, both state and federal, which encompass CDBG grants, and you were involved with those processes as well.

You also performed extensive commercial credit analysis of financial data, business plans and related information to assist KDOC & H in reaching a conclusion about whether funding should be offered to a particular entity. You note there were also three other persons within the department who would review your conclusions and perform a limited amount of analysis and review of their own. The four of you would then meet to discuss the overall evaluation of the applicant and ultimately provide a recommendation to the CDBG pro-

gram administrator and secretary of KDOC & H. In the vast majority of instances, the program administrator and secretary agreed with the recommendation. Clearly, the position with CDBG involved significant discretion and judgment in recommending which business plans and applicants should receive funding.

You left your position as CDBG Economic Development Specialist on August 25, 1993, to begin work in the HPIP area. You point out that you are still peripherally involved in a highly complex business relocation project for CDBG which was ongoing at the time you moved to HPIP. For purposes of continuity only, you were directed to continue working on that project until the contracts were in place and initial funding drawdowns were made. Final execution of the contracts took place a week or so ago and the initial draws have just been completed. The remainder of your involvement with this project will be to organize some material before turning it over to CDBG, and to assist CDBG with potential questions which may arise concerning your recollection of what happened and when during the negotiation, evaluation and contracting phases of the project.

In your current position as manager of the High Performance Incentive Program, you are involved with promulgating the policies and procedures to implement HPIP legislation, which involves offers of tax and other incentives to manufacturers to invest in employee training and education. You also provide technical assistance for potential applicants to the HPIP program and generally market the program. Additional responsibilities involve coordinating efforts with the Department of Revenue, Human Resources, and Administration to implement the program within the various existing constraints inherent in the state system of information gathering and business contacts.

Other present responsibilities include a nominal amount of commercial credit analysis on community development block grant (CDBG) and non CDBG business financing situations regarding potential businesses seeking financial assistance from the state. It is conceivable that some of the analysis work may involve CDBG funding.

The focus of your inquiry and basis for your request for an opinion involve two potential scenarios. First, there is the possibility that you may wish to start up or purchase, either individually or as part of another business entity, a business which may wish to approach CDBG for funding. In all probability, this endeavor would not come to fruition until well over a year subsequent to the time you went from CDBG to HPIP. In the second scenario, you may wish to become employed in the private sector as a consultant for the purpose of preparing grant applications on behalf of potential CDBG applicants.

## Questions

1. Upon termination of state employment, may you apply for CDBG grants on behalf of your own business?
2. Upon termination of state employment, may you consult with another business and receive a fee for preparing its application for CDBG funding?
3. If either of the above is not permitted, is there a time frame after which the prohibition is removed?

**Opinion**

Two sections of the Act might apply to this situation. K.S.A. 46-233(a) states:

No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to, has been substantially involved in the preparation of or is a participant in the making of such contract and is employed by such person or business or such officer or employee or any member of such officer's or employee's immediate family has a substantial interest in such person or business.

Whenever any individual has, within the preceding two years participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business for one year following termination of employment as a state officer or employee.

K.S.A. 46-241 states:

No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person.

The provisions of the second paragraph of K.S.A. 46-233(a) cannot apply to the first question since your business does not exist yet. Therefore, as a state officer or employee, you could not have participated in the making of a contract with your business.

The term "employment" as used in the second paragraph of K.S.A. 46-233(a) has consistently been interpreted by this commission to mean the establishment of an employer-employee relationship. The term does not, therefore, encompass an independent consulting arrangement. We have raised this issue with the Legislature on several occasions, and thus far our interpretation has not been modified by changes in the statute. Thus, it is our opinion that the situation in question number two is not prohibited.

Should a situation arise where you decide to accept employment with any entity with which you have participated in the preceding two years in the making of a contract as a state employee, the period of recusal is one (1) year as set forth in K.S.A. 46-233(a).

Finally, we note that particular attention should be paid to the confidentiality requirements of K.S.A. 46-241.

**Advisory Opinion No. 94-11**

Written April 28, 1994, to Russell Rudy, Program Consultant, Kansas Department of Commerce and Housing, Topeka.

This opinion is in response to your letter of April 11, 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. 45-215 *et seq.*).

**Factual Statement**

We understand you request this opinion in your capacity as an employee of the Kansas Department of

Commerce and Housing (KDOC & H). You advise us that you have been involved during the past year in efforts to introduce home energy rating systems (HERS) to the state of Kansas. Your activities have been funded through a grant from the Kansas Corporation Commission (KCC) to the KDOC & H, and have been a component of your job duties at the KDOC & H. Those activities have included:

- \* Securing various market reports and studies to direct efforts toward the establishment of HERS in Kansas.
- \* Attending training to become certified as an inspector/rater for the purpose of demonstrating inspection procedures for interested individuals from various segments of the shelter industry in Kansas.
- \* Organizing and presenting an introductory conference and a training session for potential inspector/raters in Kansas.
- \* Conducting presentations for civic and industry organizations to promote the establishment of HERS in Kansas.

You advise us that the process of introducing HERS to Kansas has evolved to the point that the demands of developing it further will tax the Division of Housing in terms of available staff time and resources. You state that you are interested in personally continuing the effort to establish HERS in Kansas through an organization that will be called the Kansas Energy Ratings Association (KERA). The function of KERA will be to:

1. Provide continuing support for HERS efforts that have been established to date in Kansas.
2. Continue to promote the establishment of HERS in Kansas.
3. Continue efforts to develop a Kansas not-for-profit organization which would ultimately assume responsibility for support, promotion and operation of HERS in Kansas.

In order to establish KERA, you have prepared a grant proposal for the development and support of home energy rating systems in Kansas. The grant would be awarded by the KCC to KERA for the purposes enumerated above. Upon the grant award, you would voluntarily terminate your employment with the KDOC & H and establish a separate office in Topeka for the Kansas Energy Ratings Association.

**Question**

May you apply for a grant from the Kansas Corporation Commission on behalf of the Kansas Energy Ratings Association while a state officer or employee and, if so, may you accept the grant and then terminate employment with the state?

**Opinion**

Two sections of the statute may apply to your situation.

K.S.A. 46-233(a) states:

No state officer or employee shall in the capacity as such officer or employee be substantially involved in the preparation of or participate in the making of a contract with

(continued)

any person or business by which such officer or employee is employed or in whose business such officer or employee or any member of such officer's or employee's immediate family has a substantial interest and no such person or business shall enter into any contract where any state officer or employee, acting in such capacity, is a signatory to, has been substantially involved in the preparation of or is a participant in the making of such contract and is employed by such person or business or such officer or employee's immediate family has a substantial interest in such person or business.

Whenever any individual has, within the preceding two years participated as a state officer or employee in the making of any contract with any person or business, such individual shall not accept employment with such person or business for one year following termination of employment as a state officer or employee.

K.S.A. 46-241 states:

No state officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further his or her own economic interest or those of any other person.

In applying K.S.A. 46-233(a), we note that you may not participate in your capacity with KDOC & H in the grant application to the Kansas Corporation Commission. To do so would violate the first paragraph of this section. If you do avoid any participation in your capacity as a state employee in the grant from the KCC to KERA, then the second paragraph of the statute does not apply.

Finally, note that you may not use confidential information obtained in violation of K.S.A. 46-241. We also note it would be inappropriate for you to prepare the grant application on state time or using state resources to do so. In sum, so long as you do not participate in your capacity as a state employee in the grant between the KCC and KERA, you may accept the grant on behalf of KERA and terminate state employment to work for KERA.

#### Advisory Opinion No. 94-12

Written April 28, 1994, to Gregory Miller, Director, Public Affairs Division, City of Topeka.

This opinion is in response to your letter of April 11, 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 Director of the Public Affairs Division for the City of Topeka. You advise us that one of your responsibilities during your four and a half years with the City of Topeka was to negotiate a cable franchise with TCI of Kansas, Inc. The franchise was passed by the city council of the City of Topeka, Kansas, and approved by the mayor on March 9, 1993.

You have been offered a position as a manager trainee with Tele-Communications, Inc. The training will take place in the Oklahoma/Kansas state office in Tulsa, Oklahoma, and you have been asked to report to work May 9, 1994.

#### Question

Does the local conflict of interests law prohibit you from accepting employment with a business when you participated in your capacity as a city official in the making of a contract between the city and that business?

#### Opinion

We have reviewed the local conflict law in its entirety and no provision relates to the situation you have described. You are therefore not prohibited from taking the position under K.S.A. 75-4301 *et seq.* Please note that had you been a state officer or employee, under K.S.A. 46-233, you would have been prohibited from taking the position.

In closing, we note that our opinion is limited to the application of the statutes cited, as we do not have jurisdiction over any common law theory or any other statutes which might apply to your question.

#### Advisory Opinion No. 94-13

Written April 28, 1994, to the Honorable Dennis McKinney, State Representative, Greensburg.

This opinion is in response to your letter of January 8, 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 state legislator. You advise us that in the 1993 session the Legislature passed House Substitute for Senate Bill No. 437. Section 54(c) provides that the Board of Agriculture "is hereby authorized to receive and accept grants, gifts, funds or donations of any kind from the United States government, or its agencies or from any other source whatsoever for the printing and distribution of 'Insects in Kansas.'" You further advise us that agricultural businesses and professions are the logical entities from which to seek funding.

#### Question

Can the Board of Agriculture raise money from agriculture industry groups, both individual businesses and associations, to publish this book?

#### Opinion

The conflicts law has two prohibitions concerning funding from outside organizations and persons.

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 services 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 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) or subsection (c) of section 501 of the internal revenue code of 1954, as amended. (emphasis added)

K.S.A. 46-237(a)(b)(c) state:

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.

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 officer or employee in the performance of official duties or prospective official duties.

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. (emphasis added)

The first section above prohibits solicitations made by state officers and employees under certain circumstances and the second section deals with acceptance by state officers and employees of donations to them and their agencies by persons with special interests. We recognize the rule that a specific statute which permits an action overrules a general statute which prohibits the same action and are satisfied that the specific language of House Substitute for Senate Bill No. 437 overrules the general prohibition in K.S.A. 46-237. The agency may accept the donations you describe.

However, House Substitute for Senate Bill No. 437 does not deal with solicitations by state officers or employees and K.S.A. 46-236 still applies. Therefore, the Board of Agriculture may accept whatever is freely offered for the purpose described, but may not seek out donations, with one exception. The exception is inherent in the word "grant." Since grants are usually applied for, we believe the use of that word does allow for the application for grant program funding.

#### Advisory Opinion No. 94-14

Written April 28, 1994, to Richard S. Wetzler, Bennett, Lytle, Wetzler, Martin & Fishny, Attorneys at Law, Prairie Village.

This opinion is in response to your letter of March 11, 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 as the counsel for the City of Leawood and on behalf of Peggy Dunn, a city councilperson.

Peggy Dunn, as noted above, is a duly elected member of the Leawood City Council. As a part of her council duties, she is called upon to consider various proposals for rezoning, development and planning of property located within the City of Leawood. The matter which has given rise to the present concern relates to the fact that Peggy Dunn's husband is a principal in a construction company which is involved in numerous projects in the Kansas City metropolitan area. On occasion, Mr. Dunn's business is requested to bid or negotiate for the award of construction contracts which will be constructed within the City of Leawood. Mrs. Dunn recently was informed by her husband that his company had been requested to submit a proposal for consideration as a contractor on a substantial project which the developers plan to construct in the City of Leawood. You want to emphasize that the City of Leawood will not be a party to this contract and is involved in the project only to the extent that the City Council and Planning Commission will be requested by the developer to approve the proposed development plan. Mr. Dunn's company is not the developer.

The developer recently presented its development plan to the City Planning Commission. You anticipate that the matter will be further reviewed by the Planning Commission later this month and will be considered by the city council in April. At the present time, Mrs. Dunn advises that there is no contract or other assurance by the developer that Mr. Dunn's company will be awarded the construction project. There is, nevertheless, a possibility that Mr. Dunn's company will ultimately be the contractor for the development.

#### Question

What is the permissible extent of participation of a council member in the consideration of a project where there is a possibility that her husband's company will perform construction in the event that the developer obtains the approval of the city council?

#### Opinion

We first note that spouse's "substantial interests" are attributed to each other pursuant to K.S.A. 1993 Supp. 75-4301a. Thus, Mrs. Dunn holds a "substantial interest" in all of her husband's holdings.

K.S.A. 1993 Supp. 75-4304 and 75-4305 relate to your question.

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.

(continued)

(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.

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.

Please note that K.S.A. 1993 Supp. 75-4304 relates to contracts between the city and a business in which a city official holds a "substantial interest." Thus, it would be illegal for the city councilperson to participate in making a contract between the city and her husband's business unless the contract is let after competitive bidding or is one for which the price or rate is fixed by law. This section does not, however extend to situations where a legislative decision, such as zoning, may lead to a contract between a developer and a business in which the city official holds a "substantial interest." Rather, K.S.A. 1993 Supp. 75-4305 covers this situation and requires the city official to either abstain or disclose the interest. If the interest is disclosed, then the city councilperson may fully participate in legislative decisions concerning the development of land even though her husband's business may ultimately receive a benefit from the city's decision.

In closing, we note that our opinion does not require a city official to vote on any matter. Certainly, when a public official knows that a legislative decision may affect a "substantial interest" he or she may have, the public official may abstain to avoid even the appearance of impropriety.

#### Advisory Opinion No. 94-15

Written April 28, 1994, to Susan Seltsam, Secretary, Department of Administration, Topeka.

This opinion is in response to your letter of March 11, 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 Secretary of Administration. You describe two

situations involving solicitations of private business which may be licensed, regulated or inspected or contracts with your agency. Your agency would seek donations from such businesses solely for the purpose of giving all proceeds to a charitable organization. The first situation you describe would be soliciting a television or some other item and raffling it with the proceeds going to charity. The other situation you describe involves solicitation of food and beverage for a luncheon with all proceeds going to a charity.

#### Question

K.S.A. 46-236 allows solicitations (except when a particular course of official action is to be followed as a condition thereon) for the benefit of any charitable organization, but the charitable organization must be one 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. These two statutes have been repealed. Does the exemption for charitable solicitations in K.S.A. 46-236 still exist?

#### Opinion

Implied repeals are not favored by the law. In other words, when K.S.A. 17-1740 and K.S.A. 17-1741 were repealed, the law does not mandate the repeal of other sections mentioning those sections unless the legislative intent to repeal the other sections is clear or the other sections cannot be saved.

When K.S.A. 17-1740 and 17-1741 were repealed in 1988, an entire new law covering the same topics was enacted. Nothing in that act indicates any intent to repeal directly or by implication any portion of K.S.A. 46-236. In addition, after removing the reference to K.S.A. 17-1740 and K.S.A. 17-1741, K.S.A. 46-236(3) reads:

... any solicitation for the benefit of any charitable organization ... or for the benefit of any educational institution or such institution's endowment association, if such organization has qualified as a non-profit organization under paragraph (3) or subsection (c) of section 501 of the internal revenue code of 1954, as amended.

This language, absent the reference to K.S.A. 17-1740 and 17-1741, provides an understandable statutory framework.

Since the repeal of 17-1740 and 17-1741 does not show an interest to modify K.S.A. 46-236, and 46-236(3) operates understandably without the reference, it is our opinion that the exception for solicitation for the benefit of charitable organizations is still in effect as described in this opinion. Therefore, solicitation for the benefit of charitable organizations as described above is permissible except when a particular course of official action is to be followed as a condition thereon.

In closing, the commission is concerned that this situation may lead to an appearance of impropriety and we intend to present this issue to the legislature next session.

Richard C. Loux  
Chairman

Doc. No. 014842

State of Kansas

State Corporation Commission

Notice of Hearing

The State Corporation Commission has directed that a hearing be conducted (pursuant to K.S.A. 1993 Supp. 55-603, 55-604, 55-703 and K.S.A. 55-703a) to allow the following to show cause as to why its basic proration order should not be dissolved:

- In the matter of the application of OXY USA, INC. for an order modifying the Kinsler-Coover Morrow Oil Pool basic proration order in the SW/4 of Section 32, Township 31 South, Range 39 West, and the NW/4 of Section 5, Township 32 South, Range 39 West, Morton

County, Kansas, located in the SW/4 of Section 32, Township 31 South, Range 39 West along with the NW/4 of Section 5, Township 32 South, Range 39 West being approximately 320 acres in total.

Docket No. 176,124-C (C-26,056)

The hearing will be at 9 a.m. Thursday, June 16, in the third floor hearing room, 202 W. 1st, Wichita. Further information can be obtained by contacting William J. Wix, Assistant General Counsel, State Corporation Commission, Conservation Division, 202 W. 1st, Wichita 67202, (316) 263-3238.

Judith McConnell  
Executive Director

Doc. No. 014910

State of Kansas

Office of Judicial Administration  
Court of Appeals Docket

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

Kansas Court of Appeals  
Court of Appeals Courtroom, Second Floor  
Kansas Judicial Center  
Topeka, Kansas  
Monday, June 6, 1994

Before Brazil, P.J.; Elliott and Royse, J.J.

9:30 a.m.

Case No.	Case Name	Attorneys	County
70,851	Marilynn Spielman, Appellant, v. Larry McCollum, Appellee.	Brian G. Boos Larry G. Pepperdine	Shawnee
70,485	Leslie McIntosh, Appellant, v. ATSF Rwy, et al., Appellees.	Michael R. McIntosh Nola Wright Viola	Wyandotte
10:30 a.m.			
70,827	Everett and Mary Laffoon, Appellees, v. Robert and Jeanette Hoshaw, Appellants.	John C. Tillotson Rosemary Podrebarac	Leavenworth
69,706	Edward Kraemer & Sons, Inc., Appellee, v. City of Overland Park, et al., Appellants.	Weston A. Sechtem Stephen J. Dennis Theresa Pasek Donald Whitney	Johnson
1:30 p.m.			
70,324	Rev. Joseph Hill, Appellee, v. Faith Tabernacle United Pent. Church, Inc., et al., Appellants.	Charles M. Tuley David P. Troup Ellen J. Richardson	Atchison
70,320	State of Kansas, Appellee, v. Kenneth Eugene Ross, Appellant.	County Attorney Attorney General Thomas Jacquinet	Butler
2:30 p.m.			
70,033	State of Kansas, Appellee, v. Fred A. Martinez, Appellant.	County Attorney Attorney General Thomas Jacquinet	McPherson

(continued)

70,284	State of Kansas, Appellee, v. Dawann V. Noel, Appellant.	County Attorney Attorney General Max Rowinsky	McPherson
<b>Summary Calendar — No Oral Argument</b>			
69,725	In the Matter of the Application of Johnny Duane Crouch for a writ of habeas corpus.	Jessica R. Kunen County Attorney John J. Knoff	Butler
70,332	Frank Harold Allen, Appellant, v. State of Kansas, Appellee.	Rebecca Woodman Attorney General County Attorney	Finney
70,814	State of Kansas, Appellee, v. Richard A. Staven, Appellant.	County Attorney Attorney General Jean Gilles Phillips	Harvey
70,393	Berry Tractor & Equip. Co., Appellee, v. Georgene Mercer, Appellant.	Mark A. Werner	Crawford
69,993	State of Kansas, Appellee, v. Larry Dale Wells, Appellant.	Pamela G. Phalen County Attorney Attorney General J. Patrick Lawless	Lyon
70,512	State of Kansas, Appellee, v. Theodore Franklin, Appellant.	District Attorney Attorney General Max Rowinsky	Johnson
70,312	State of Kansas, Appellee, v. Lloyd M. Baird III, Appellant.	District Attorney Attorney General Benjamin Wood	Johnson

Tuesday, June 7, 1994

Before Briscoe, C.J.; Lewis and Green, J.J.

9:30 a.m.

Attorneys

County

Case No.	Case Name		
70,227	In the Matter of C.L.M.	Mark Davis District Attorney	Wyandotte
70,845	State of Kansas, Appellee, v. Hugh Riley, Appellant.	District Attorney Attorney General Francis G. Martin	Wyandotte
70,459	Sherri and Jon Moyer, Appellees, v. Allen Freight Lines, Inc., Appellant.	Stacie Kennon Gram Michael J. Abrams Robert J. Harrop	Wyandotte
11:00 a.m.			
71,017	Donald Hall, Appellant, v. Roadway Express, Inc., et al., Appellees.	Davy C. Walker Dorothy Wade Elizabeth Kaplan	WC Board
1:30 p.m.			
70,665	State of Kansas, Appellant, v. Austin Garza, Appellee.	District Attorney Attorney General Kevin P. Moriarty	Johnson
69,574	State of Kansas, Appellee, v. Dennis R. Marbley, Appellant.	District Attorney Attorney General Reid Nelson	Johnson
69,801	State of Kansas, Appellee, v. Thi Q. Tran, Appellant.	District Attorney Attorney General Rick Kittel	Johnson
3:00 p.m.			
70,364	In the Matter of M.L.L.	Robert S. Tomassi County Attorney	Crawford



Summary Calendar — No Oral Argument

69,788	State of Kansas, Appellee, v. Anthony Ray Jenkins, Appellant.	County Attorney Attorney General Jean Gilles Phillips	Seward
70,596	In the Interests of V.R.H. and J.W.H.	William R. Griffith Alma A. Heckler Donald C. Astle	Sedgwick
70,949	State of Kansas, Appellee, v. Joseph D. Tucker, Appellant.	County Attorney Attorney General Gregory G. Meredith	Reno
70,367	In the Interests of R.C.S. and S.R.R.	Willard L. Thompson Jr. Alma A. Heckler Thomas McDowell Pamela J. Guizlo	Sedgwick
70,209	State of Kansas, Appellee, v. Sylvester Henry, Appellant.	Debra S. Byrd Attorney General Stephen Moss	Sedgwick
70,031	State of Kansas, Appellee, v. Joseph Sauls, Jr., Appellant.	Debra S. Byrd Attorney General Hazel Haupt	Sedgwick
70,725	Louis Schwartz, Appellant, v. H.R. Medley, Appellee.	Jack Shelton Tracy A. Applegate D. Lee McMaster	Sedgwick

Kansas Court of Appeals  
Supreme Court Courtroom, Third Floor  
Kansas Judicial Center  
Topeka, Kansas

Monday, June 6, 1994

Before Pierron; P.J.; Larson and Gernon, J.J.

9:30 a.m.

Case No.	Case Name	Attorneys	County
70,582	State Bank Commissioner, Appellant, v. Rebecca Emery, Appellee.	Mark W. Stafford Attorney General William F. Ebert	Shawnee
70,731	Freed's Pharmacy, Appellee, v. Dept. of SRS, Appellant.	Barry D. Martin  Reid Stacey	Shawnee

Summary Calendar — No Oral Argument

70,204	State of Kansas, Appellee, v. Steven H. Peimann, Appellant.	County Attorney Attorney General Steven Peimann, pro se	Chase
69,936	Willie Palmer, Appellant, v. Bob Wilson, Appellee.	Randall K. Rathbun  Arthur S. Chalmers	Dickinson
70,746	Martin Foster, Appellant, v. Kansas Parole Board, et al., Appellees.	Martin L. Foster, pro se Karen L. Griffiths Robert Wasinger	Norton

Before Pierron; P.J.; Larson and Rulon, J.J.

11:00 a.m.

69,659	In the Matter of the Estate of Louise Florence Leathers, deceased.	Gary H. Hanson Gary F. Conklin	Pottawatomie
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(continued)

70,947	Terry Vrbas, Appellant, v. Wanklyn Plumbing & Electric, et al., Appellees.	Michael J. Unrein  Melvin J. Sauer Jr.	Marshall
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**Summary Calendar — No Oral Argument**

69,966 69,968	State of Kansas, Appellee, v. James H. Taylor, Appellant.	County Attorney Attorney General Julie Gorenc	Waubaussee
70,753	Clifton E. Means, Appellant, v. Jay Shelton, et al., Appellees.	Clifton E. Means, pro se	Norton
70,145	Charles E. Young, Appellant, v. State of Kansas, Appellee.	Robert Wasinger  Kristine Paredes Attorney General County General	Geary

**Before Pierron, P.J. Rulon and Gernon, J.J.**

1:30 p.m.

70,329	State of Kansas, Appellee, v. William A. Jackson, Appellant.	County Attorney Attorney General Jessica R. Kunen Benjamin Wood	Jefferson
70,328	State of Kansas, Appellee, v. Arthur L. Wright, Appellant.	County Attorney Attorney General Jessica R. Kunen Benjamin Wood	Jefferson
70,626	James Saunders, Appellant, v. Holiday Inn, et al., Appellees.	John Ostrowski  C. Stanley Nelson	Saline

**Summary Calendar — No Oral Argument**

70,181	In the Matter of the Marriage of Dorothy Ann Knoll and Terry J. Knoll.	Gene F. Anderson Donald F. Hoffman	Ellis
70,719	Raymond Wahrman, Appellant, v. Charles Peckham, et al., Appellees.	Raymond Wahrman, pro se Elmo Lund Charles A. Peckham	Rawlins

**Before Larson, P.J.; Rulon and Gernon, J.J.**

3:15 p.m.

70,391	Daniel Hamrick, et al., Appellants, v. Abrabian Commun., Inc., Appellee.	Philip J. Bernhart  Merrill Hicklin Befort	Montgomery
70,778	Roger and Charlene McCartney, Appellants, v. Farmers Livestock Comm. Co., Inc., et al., Appellees.	Don W. Noah Lyle Koenig Clarence L. King Jr.	Republic

**Summary Calendar — No Oral Argument**

70,435	State of Kansas, Appellee, v. Lewis Nelson Carter, Appellant.	County Attorney Attorney General Jessica R. Kunen Stephen Douglas Bonney	Thomas
70,806	In the matter of D.H.	Kyle L. Larson County Attorney	Sherman
69,914	State of Kansas, Appellee, v. Mark K. Hendrix, Appellant.	District Attorney Attorney General Steven Zinn	Johnson

Carol G. Green  
Clerk of the Appellate Courts

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

Monday, June 6, 1994

30485

Statewide—Automotive batteries

30486

Emporia State University—Cleaning chemicals, supplies and equipment

30493

Department of Health and Environment—Menu analysis

99180

University of Kansas Medical Center—Furnish and install windows

Tuesday, June 7, 1994

A-6905

Department of Transportation—Chemical storage building, Pittsburg

A-7259

Department of Transportation—Chemical storage building, Ottawa

A-7260

Department of Transportation—Chemical storage building, Garnett

A-7398

University of Kansas—Carruth O'Leary Hall police emergency generator

A-7402

Emporia State University—Central plant chiller addition

A-7411

University of Kansas—Room 400 remodel, Murphy Hall

30426

University of Kansas Medical Center—Cardiac catheter supplies (diagnostic)

30427

University of Kansas Medical Center—Cardiac catheter supplies (interventional)

30496

Kansas State University—July (1994) meat products

30497

University of Kansas Medical Center—Detergents (Animal Care Unit)

99043

Larned State Hospital—Tractor

99044

Ellsworth Correctional Facility—Building materials

99045

Lansing Correctional Facility—Metal window frames and inserts

99046

Wichita State University—Unix workstations

99059

Larned State Hospital—Passenger bus

99060

Department of Transportation—Motorgraders, various locations

99061

Department of Transportation—Wheeled excavator, Hutchinson

99062

Lansing Correctional Facility—Detention doors and frames

99063

Lansing Correctional Facility—Structural steel

99064

University of Kansas—Tape vault

99126

El Dorado Correctional Facility—Food holding and delivery carts

Wednesday, June 8, 1994

A-7387

University of Kansas—Water distribution improvements on campus

30421

Statewide—Graduated compression stockings

30487

Kansas Correctional Industries—Various paint resins

30488

Kansas Correctional Industries—Calcium carbonate for paint

99074

Department of Transportation—Concrete saw

99091

Department of Transportation—Self-propelled sweepers, various locations

99092

Department of Transportation—Portable conveyor belt

99093

Department of Transportation—Shop air compressors, Norton

99094

Kansas Public Employees Retirement System—Computer assisted software engineering (CASE) tool

99104

Ellsworth Correctional Facility—Compactor/pulper waste handling system

99136

Department of Human Resources—Pentium server/LAN

99137

University of Kansas—Microcomputer/Pentium

(continued)

99157

University of Kansas—Server

Thursday, June 9, 1994

A-7016

Emporia State University—Preparation for main switchgear/electrical upgrade

A-7361

Department of Administration, Division of Facilities Management—Replace cooling towers, Statehouse

A-7393

Department of Administration, Division of Facilities Management—Roof replacement, Landon State Office Building

30483

Winfield State Hospital—Orthotic and prosthetic devices

30489

Kansas Correctional Industries—Rutile titanium dioxide

30490

Kansas Correctional Industries—55-gallon steel drums (lined)

30498

Statewide—Individual portions

30501

University of Kansas—Radiological consultation services

99100

Department of Transportation—Salt elevating auger, Hutchinson

99101

Department of Transportation—Hydraulic earth auger, Garden City

99102

Department of Transportation—Variable message board, Salina

99103

Department of Transportation—Culvert cleaner, Garden City

99105

Kansas Lottery—Plastic literature holder

99165

University of Kansas Medical Center—Pulmonary function testing unit

99166

University of Kansas Medical Center—Anesthesia machine

99172

Department of Transportation—Front deck mowers

99173

Department of Transportation—Truck utility bodies, various locations

99174

University of Kansas Medical Center—Furnish and install highway signage

99175

University of Kansas Medical Center—Lounge furniture

Friday, June 10, 1994

A-7395

Department of Wildlife and Parks—Restroom/shower building, Perry State Park

30491

Kansas Correctional Industries—Metal containers (quarts thru fives)

30492

Kansas Correctional Industries—Vinyl acrylic and various emulsions

30503

Department of Administration, Division of Facilities Management—Paper recycling services

99127

Fort Hays State University—Dormitory furniture

99128

Norton Correctional Facility—Building materials

99129

Department of Transportation—Preamble radio equipment shelter, Chanute

99130

Kansas State University—Plumbing materials

99131

Kansas State University—Metal studs and sheetrock

99132

El Dorado Correctional Facility—Fencing materials

99133

Lansing Correctional Facility—Prestressed hollow-core roof structure

99134

Department of Revenue—Computer terminals (Telex 1482V)

99135

Fort Hays State University—Carpet

99148

University of Kansas Medical Center—Surgical laser

99149

University of Kansas—Asphalt paving

99150

Department of Transportation—Pothole patchers

99151

Department of Transportation—Hopper spreaders, various locations

99152

Department of Transportation—Snow plows, various locations

99153

Fort Hays State University—Lecture Hall seating

99154

Wichita State University—School furniture

99155

University of Kansas—RISC workstations and printer

99156

University of Kansas Medical Center—X-ray film processing equipment

99162

Osawatomie State Hospital—Medication cart

99163

University of Kansas Medical Center—Patient monitoring equipment

99164

University of Kansas Medical Center—Operating telescopes

99169

Department of Transportation—Crawler loader

99170

Department of Transportation—Calcuim chloride storage tank

99171

Department of Transportation—Water trailer modification

99179

Fort Hays State University—Light fixtures

99181

Fort Hays State University—Elevator service

Monday, June 13, 1994

30494

Department of Social and Rehabilitation Services—Programming/analysts support

Tuesday, June 14, 1994

A-7013

University of Kansas—Conversion to hot water heating

30502

Department of Revenue—Cigarette stamps

Wednesday, June 15, 1994

A-7161 and A-7165

Larned State Hospital—Replace water treatment/plumbing lines and fixtures

A-7239(e)

Department of Human Resources—Building remodel, Job Service Center, Ottawa

Thursday, June 16, 1994

A-7011

University of Kansas—Learned Hall VAV retrofit

Friday, June 17, 1994

99161

Osawatomie State Hospital—Furnish and install digital dictation system

Wednesday, June 22, 1994

99123

Department of Social and Rehabilitation Services—Moving services, Olathe

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Request for Proposals

Tuesday, July 12, 1994

30482

Sexual abuse treatment program for the Department of Corrections

Jack R. Shipman  
Director of Purchases

Doc. No. 014924

State of Kansas

Department of Corrections

Permanent Administrative Regulations

Article 5.—INMATE MANAGEMENT

44-5-102. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5205, 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; revoked July 11, 1994.)

Article 7.—PROGRAMS AND ACTIVITIES

44-7-104. Inmate visitation. (a) Each principal administrator shall promulgate orders to govern inmate communication with family, friends, relatives and others through visits to the facility. The following rules and procedures shall be observed by the facility in the administration of visits.

(1) A suitable area and reasonable space within the facility shall be provided for inmate visitation. All visits shall be held in this area, except when authorization is granted by the principal administrator to visit an inmate elsewhere. The principal administrator, for the reasons of security and order in the facility, may direct that a visit be allowed under circumstances where physical contact between the inmate and visitor is not permitted.

(2) Each inmate may make a list of not more than 10 friends or relatives for the purpose of visiting the inmate in the facility. A married couple living in the same household shall be considered as one eligible visitor. Furthermore, all of the inmate's children, step-children, grandchildren, and step-grandchildren under the age of 18 shall be considered as one eligible visitor. The list of eligible visitors, including the full name, relationship to the inmate, residence or mailing address, and telephone number of each eligible visitor, shall be submitted to the principal administrator for approval. Prior to approving the list of visitors, designated officials shall:

(A) Inform the individuals listed that the inmate has requested permission to receive visits from them and ask if they want to make such visits;

(B) conduct investigations necessary to verify the relationship to the visitor claimed by the inmate and confirm that no reason exists for disapproving visitation;

(C) inform the proposed visitors that persons below the age of 18 shall not be allowed to visit, unless they are members of the inmate's immediate family. For the purpose of this section "immediate family" means parents, grandparents, siblings, step-siblings, children, step-children, grandchildren, step-grandchildren and spouse; and

(D) inform the proposed visitors that persons below age 18 who are members of the immediate family, except a spouse, shall not be allowed to visit unless they are accompanied by a parent, legal guardian or an adult who has been given the power of attorney by the parent or legal guardian vesting the person with authority to transport and supervise the minor child on the premises of the institution or facility for the purpose of visiting an inmate. In those instances where there is not a power of attorney, an adult who is a temporary care giver of a minor child may authorize visits by the child after pro-

(continued)

viding an affidavit as to their status and relationship with the child and inmate. The principal administrator shall determine if the visit by the minor child will be permitted.

(3) Additional visitation guidelines.

(A) Regardless of any visiting list restrictions, an inmate's attorney or clergy shall be permitted to visit the inmate at reasonable times, unless a clear abuse of this privilege has occurred or unless such a visit may prove dangerous or harmful to the security and order of the facility or the rehabilitation of any inmate.

(B) The facility and any inmate may be visited at a reasonable time by members of the state legislature, judges of Kansas state courts, members of the Kansas parole board, ombudsman, and at any time by the attorney general or the governor.

(C) The secretary of corrections, any deputy secretary, special agent, or the legal counsel of the secretary shall have full access to the facility and any inmate at any time.

(D) Each individual requesting a visit with an inmate, who is not designated on the list or who has not yet been approved for visitation, shall be interviewed and identified by authorized personnel. If the request visit conforms to facility and departmental requirements, one visit may be approved pending further investigation and approval of subsequent visits.

(E) Ex-inmates shall be prohibited from visiting the facility and any inmate unless approval is given by the principal administrator. Parolees and probationers shall first be approved by the principal administrator and have written authorization from their supervisor prior to visitation. An individual involved in or convicted of any narcotic offense shall not be permitted to visit a facility without prior approval of the principal administrator.

(F) If an inmate refuses to see a particular visitor, the refusal shall be in writing and noted in the records of the facility.

(4) Visitors in the facility shall:

(A) Wear appropriate attire as described and published by the principal administrator;

(B) not give or receive any written material, article or merchandise of any sort except in accordance with approved principal administrator's orders or departmental regulations, or with the permission of the principal administrator;

(C) not be permitted to visit more than one inmate at any one visitation time unless the visitor is a member of the immediate family, as defined in K.A.R. 44-5-113(a), of more than one inmate confined in the facility;

(D) sign the register of the facility before and after the visitation;

(E) be subject to search, photographing and fingerprinting;

(F) have visitation restricted or terminated in the event facility security needs so warrant;

(G) completely fill out the visitors' security check card; and

(H) not distribute anything inside a correctional facility without written permission from principal administrator.

(5) An individual who was an employee of a correctional facility or who regularly worked at a correctional

facility as an employee of an entity under contract to provide services to the institution or facility, shall not be permitted to have visits with an inmate, in other than a professional capacity, for a minimum of two years after such employment is terminated. Approval of visits after two years shall be at the discretion of the principal administrator upon application of the inmate or former employee. In the event the principal administrator disapproves the visits, the principal administrator shall notify the inmate and former employee of the specific reasons for the denial.

(6) Designated personnel shall be present during all visitations and shall supervise visits to the extent appropriate to protect the nature and privacy of the relationship between the inmate and visitor and maintain security and control.

(7) An individual's visiting privileges may be suspended if the individual violates any visitation rules while in the institution.

(A) The principal administrator shall determine the length of any suspension.

(B) The initial length of a suspension imposed for violation of an institutional rule shall not exceed one year and shall be reviewable on an annual basis thereafter at the request of the inmate.

(C) Any person who violates K.S.A. 21-3826 or amendments thereto, may be permanently barred from entering on the grounds of any KDOC facility if a permanent suspension of visiting privileges is:

- (i) recommended by the principal administrator; and
- (ii) approved by a designated deputy secretary.

(8) A person, including a visitor, shall be subject to search, including a strip search upon a determination of reasonable suspicion, prior to entering the grounds of a correctional facility. An individual's visiting privilege shall be suspended for a period of one year, and restricted to non-contact visiting for an additional six months, if the individual refuses to be searched prior to or after gaining access to facility grounds for the purpose of visiting an inmate.

(b) A place shall be provided for private consultation by attorneys, priests or ministers or other persons having a statutory right of privileged communication to permit confidential conversation. Only those security measures necessary to preserve security shall be permitted to interfere with the consultation. Sound monitoring shall not be conducted. Visual monitoring shall be permitted only where necessary to maintain security.

(c) This regulation shall apply only to the regular inmate visitation program. Any visits to inmates resulting from a program otherwise implemented by the department of corrections shall be regulated pursuant to guidelines adopted specifically for that program. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1987; amended May 1, 1988; amended Nov. 12, 1990; amended Jan. 11, 1993; amended July 11, 1994.)

**Article 9.—PAROLE**

**44-9-103.** (Authorized by and implementing K.S.A. 75-5216, 75-5251, K.S.A. 1988 Supp. 75-5217, effective

May 1, 1980; amended May 1, 1984; amended May 1, 1987; amended March 12, 1990, revoked July 11, 1994.)

**44-9-104.** (Authorized by and implementing K.S.A. 22-3717, 75-5216, 75-5251; and K.S.A. 1988 Supp. 75-5217; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; amended March 12, 1990; revoked July 11, 1994.)

**44-9-105. Preliminary hearing for alleged violators.** Alleged parole violators, conditional release violators, and post-release supervision violators shall be afforded the opportunity to request a hearing to determine if there has been any violation of any conditions of supervision. The requirements for the hearing are as follows: (a) Notice of the charges. The releasee shall be informed of the charges in writing with sufficient particularity and sufficient time in advance of the hearing to prepare a defense. The hearing shall be held within 3 to 14 days after service of the notice of charges, subject to authorized continuances.

(b) The purpose of the hearing is to determine whether probable cause exists to believe that a condition of supervision has been violated. The hearing shall be held before a party not involved in the case. Pending the hearing, the releasee shall remain incarcerated.

(c) The hearing shall be held close to the site of the arrest or commission of the alleged violation. The hearing may be held at a correctional facility contiguous to the county where the releasee was arrested or the violation is alleged to have been committed. For this purpose Johnson county, Kansas shall be considered to be a county contiguous to Lansing correctional facility.

(d) The releasee shall be entitled to call witnesses to appear on the releasee's behalf at the hearing.

(1) The hearing officer may restrict the witnesses to those who can testify to the facts relevant to the occurrence of the alleged violation. Character reference witnesses may be excluded.

(2) Witnesses may testify by telephone, provided the releasee is able to hear the testimony of the witness contemporaneously with the hearing officer.

(e) The releasee shall have the right to be made aware of adverse evidence. The releasee shall be allowed to cross examine adverse witnesses unless the hearing officer decides the witness may be physically harmed if his or her identity were revealed.

(f) The releasee shall be given a written statement of the basis for the decision.

(g) If the releasee had not previously been returned to a correctional facility, upon finding of probable cause, the releasee shall be returned to a correctional facility designated by the secretary of corrections pending a final revocation hearing of the Kansas parole board. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1993 Supp. 22-3717, K.S.A. 1993 Supp. 75-5210, K.S.A. 1993 Supp. 75-5217; effective May 1, 1980; amended July 11, 1994.)

### Article 13.—DISCIPLINARY PROCEDURE

#### **44-13-201. Disciplinary report and written notice.**

(a) A disciplinary proceeding shall be commenced upon the making of a charge by a disciplinary report.

(1) The inmate shall be notified in writing by personal service of a copy of the report upon the inmate within 24 hours after the issuance of the disciplinary report, excluding Saturdays, Sundays, and holidays.

(2) The report shall not be served upon the inmate by the same officer who brought the charge against the inmate unless no other officer is available to personally serve the inmate.

(3) The officer serving the report shall inform the inmate that the inmate may enter a plea of guilty or no contest to the charge at the time of service of the report.

(A) If the officer serving the report has been appointed as a hearing officer by the principal administrator pursuant to K.A.R. 44-13-302, that officer may immediately, or as soon as possible, accept the inmate's plea of guilty or no contest, conduct a sentencing hearing, and impose sentence by following the procedures established in K.A.R. 44-13-403.

(B) If the officer serving the report has not been appointed as a hearing officer by the principal administrator pursuant to K.A.R. 44-13-302, or wishes to refer the case to another hearing officer, then the inmate desiring to plead guilty or no contest to the charge at the time of service of the report shall be brought immediately, or as soon as possible, before a hearing officer, who shall accept the inmate's plea of guilty or no contest, conduct a sentencing hearing, and impose sentence by following the procedures established in K.A.R. 44-13-403.

(4) If necessary, the hearing officer may accept the inmate's plea of guilty or no contest immediately, or as soon as possible, after service of the report, but delay the sentencing hearing and imposition of sentence for not more than six working days.

(b) If an inmate is transferred to another facility prior to being notified of the issuance of the disciplinary report, service of the report upon the inmate shall be made within 48 hours after issuance of the report, excluding Saturdays, Sundays, and holidays, in the same manner as provided in subsection (a).

(c) The disciplinary report shall be written within 48 hours of the offense, the discovery of the offense, or the determination following an investigation that the inmate is the suspect in the case and is to be named as defendant.

(1) The investigation shall be completed as soon as possible under the existing circumstances. If necessary, pending completion of the investigation, the inmate may be held in administrative segregation for a certain period pursuant to K.A.R. 44-14-302(b).

(2) The report shall be reviewed and approved or disapproved by the shift supervisor based on whether or not the report is sound, adequate and made in proper manner and form.

(3) The shift supervisor shall assure that all necessary elements of the alleged violation are contained in the written report of the facts of the incident, and that the report does not represent an excessive use of the disciplinary process.

(4) If the charge is dismissed, or the report is otherwise rejected by the shift supervisor, a written explanation shall be made in the record and filed with the report, with a copy given to the officer. The report shall not be destroyed.

(continued)

(d) The disciplinary report shall constitute a formal statement of the charge, shall be in a form prescribed by the secretary and shall include:

- (1) The name and number of the inmate;
- (2) the institution;
- (3) the signature and title of the writing officer;
- (4) the date and time of the alleged offense;
- (5) the date and time the report is written;
- (6) the nature of the alleged offense;
- (7) the class, title and number of the rule violated;
- (8) the specific rule which is the basis of an attempt, conspiracy or accessory under K.A.R. 44-12-1101;
- (9) the names of known witnesses;
- (10) a brief description of the circumstances and facts of the violation;
- (11) any unusual inmate behavior;
- (12) disposition of any physical evidence; and
- (13) any immediate action taken, including the use of force.

(e) An inmate shall not be charged unless the rule or law has been made in writing and published.

(f) If the offending conduct observed is a class II or III offense, the officer may orally warn or reprimand the inmate instead of writing a report or otherwise documenting the incident. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended July 11, 1994.)

**44-13-201b. Summary judgment procedure.** (a) In any case involving one or more alleged Class III offenses, the reporting officer may offer the inmate the option of resolving the matter through the summary judgment procedure as an alternative to writing a disciplinary report that leads to initiation of the formal disciplinary hearing process.

(b) Officers shall carry with them or have immediate access to summary judgment citation forms.

(c) If an officer observes an inmate in the act of committing one or more Class III offenses that the officer believes require more than an undocumented, on-the-spot verbal reprimand, the officer may file a formal disciplinary report against the inmate or offer him summary judgment by issuing a summary judgment citation. Once summary judgment is offered to the inmate by the officer, the offer cannot be withdrawn absent the commission of additional alleged disciplinary offenses by the inmate.

(1) The summary judgment citation shall be written and served on the inmate by the reporting officer within 24 hours of the alleged incident, and shall include:

- (A) the date and time of each alleged offense;
- (B) the date and time the citation is written;
- (C) the name and rule number of each alleged Class III offense;
- (D) a statement of the facts of the alleged incident, including names of witnesses;
- (E) the date and time that the citation is served on the inmate;
- (F) the summary judgment sanction; and
- (G) the signature of the inmate indicating his acceptance or refusal of the summary judgment.

(2) The officer may impose only one of the following summary judgment sanctions regardless of the number of offenses cited:

- (A) restriction from privileges for up to seven days;
- (B) a fine of \$5.00; or
- (C) extra work for up to two hours per day, not to exceed three days.

(3) The inmate may choose whether to accept the summary judgment or to reject it in favor of the formal disciplinary hearing process. This decision must be made within one hour of the inmate's receipt of the citation, or it will be assumed that the inmate refused the summary judgment. The officer may choose to impose a different summary judgment sanction after discussion of the incident with the inmate, and this fact shall be documented on the summary judgment citation if the inmate then accepts the summary judgment.

(A) If the inmate accepts the summary judgment offered, such acceptance shall constitute a waiver of the inmate's right to the benefits of the formal disciplinary hearing process. The waiver of rights established pursuant to K.A.R. 44-13-101a. Upon the inmate's acceptance of the summary judgment, the sanction shall be immediately imposed and the shift supervisor shall be notified.

(B) If the inmate refuses the summary judgment offered, the inmate shall receive the hearing process provided for a Class III offense. The summary judgment citation shall be marked and signed by the officer and the inmate to indicate the inmate's refusal. If notarized, the citation may then be used in lieu of the more formal disciplinary report to initiate the formal disciplinary hearing process. In that event all normal applicable time limits shall run from the time the inmate signs the citation indicating his refusal of the summary judgment. This shall constitute service of the disciplinary report on the inmate as required by K.A.R. 44-13-201. The requirement contained in K.A.R. 44-13-201 that an attempt be made to ensure that the officer personally serving the report on the inmate not be the same officer who wrote the report shall not apply when summary judgment has been offered.

(C) If an inmate refuses the summary judgment offered, the inmate may not be charged with a more serious offense or combination of offenses than was alleged in the summary judgment citation.

(4) All summary judgment citations accepted by the inmate shall be documented in the inmate's file. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective April 20, 1992; amended July 11, 1994.)

**44-13-202. Amendment of the charge.** (a) Where there is a language defect or omission in the statement of the charge, and the charge is otherwise correct, the language shall be amended and the case shall proceed if the change in language neither changes the substance of the charge nor adversely affects the defense.

(b) Where the charge is incorrect, or a language change would change the substance of the charge or adversely affect the defense, the charge shall be amended and notice given to the inmate. After this notice is given, the inmate shall have the same period of time between



notice and hearing to prepare a defense as would have been permitted when the charge was originally made.

(c) When the charge has been dismissed by the hearing officer because of a defect in the charge, the charge may be amended and refiled by giving notice to the inmate within 48 hours of the dismissal, excluding Saturdays, Sundays, and holidays.

(d) The same charge shall not be brought twice on same facts under any circumstance where a factual finding of guilt or innocence has been made.

(e) After the hearing officer has begun to hear evidence in the case, the hearing officer may permit amendment at any time before a factual finding of guilt or innocence has been made if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended July 11, 1994.)

**44-13-402. Continuing the hearing; time limits; extensions.** (a) In the event that the employee filing a complaint or the inmate charged is not prepared for the hearing, one continuance of five working days, excluding Saturdays, Sundays and holidays, shall be allowed for each side if requested by the employee at least 24 hours prior to the scheduled hearing, or if requested by the inmate within 24 hours of the time the inmate receives notice of the hearing, as outlined in K.A.R. 44-13-401a.

(1) If the inmate is due to be released on conditional release or post-release supervision prior to the end of this continuance, the hearing may be held prior to the expiration of the continuance, unless the inmate provides the hearing officer with a specific reason why conducting the hearing would deprive the inmate of a fair hearing. The hearing officer shall consider any such reason presented in determining if the hearing should be held or continued.

(2) If the inmate is represented by Legal Services for Prisoners, Inc., and counsel is unavailable for the scheduled hearing, a continuance of five working days, excluding Saturdays, Sundays and holidays, shall be granted if requested at or prior to the scheduled hearing.

(3) One continuance of up to five working days, excluding Saturdays, Sundays and holidays, as requested, may be permitted to each side for good cause shown, at the fair discretion of the hearing officer, or by the disciplinary administrator, if a hearing officer has not yet been appointed for the case. The continuance dates shall be recorded on the institution or facility disciplinary board log, and the inmate shall be notified of the dates.

(4) The hearing officer may also continue the case for a reasonable period, as necessary, subject to the hearing officer's review of the status of the case every 30 days, if:

(A) The inmate or the employee is unable to appear for medical or psychiatric reasons as certified by the facility or other licensed physician or psychiatrist;

(B) there is a delay to await determination of whether the case will go to trial in a court of law or to await the outcome of a trial;

(C) there is an unavoidable delay to await the return of evidence from an analysis laboratory;

(D) the inmate is transferred to or from the Topeka correctional facility for diagnostic evaluation, out to court or to a mental hospital before hearing; or

(E) the inmate is on "escape" status. At the hearing officer's discretion the case may be dismissed, or heard *in absentia* on the record, unless the inmate has been apprehended and is available at a known location for return to department of corrections custody for the hearing within six months.

(b) To obtain a continuance in advance of the hearing, the requesting party shall make the request to the hearing officer or to the disciplinary administrator. The continuance shall be granted if it complies with the rules. If there is a hearing officer appointed for the case, the request shall be forwarded to that officer.

(c) All time limits established within these rules and regulations for the disciplinary process shall be complied with.

(1) Reasonable extensions may be obtained with the prior approval of the secretary of corrections or the secretary's designee, only in the case of a substantial disruption of order in the facility or where the inmate has been transferred to another location.

(2) In the event an inmate has been transferred to another facility, it shall be the responsibility of the principal administrator of the sending facility to apply for approval of the extensions.

(3) The facts justifying an extension shall be examined, fully documented, and approved personally by the principal administrator. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1988; amended April 20, 1992; amended July 11, 1994.)

**44-13-403. Conducting the disciplinary hearing.** (a) The disciplinary hearing shall be conducted in three stages: Stages A, B, and C. In Stage A, the hearing officer shall inform the inmate of the charges and take the inmate's plea. In Stage B, the hearing officer shall determine guilt or innocence. In Stage C, the hearing officer shall make a disposition, including the determination and imposition of sentence if guilt was established in Stage B.

(b) In Stage A, the hearing officer shall read the disciplinary report to the inmate, including the date, nature of the offense, the reporting officer's name, and a synopsis of the observation. The officer shall assure that the inmate understands the charges and that a copy of the disciplinary report was received by the inmate. The officer shall explain the possible penalties.

(c) Counsel or counsel substitute shall be permitted to be with the inmate at all stages of the disciplinary hearing only as provided in K.A.R. 44-13-408. The hearing officer shall assure that the inmate has counsel or counsel substitute when required by K.A.R. 44-13-408.

(d) If the inmate is disruptive or is deliberately refusing to be present, the hearing may proceed *in absentia* and the record shall indicate reasons for the inmate's absence. The inmate's counsel shall be permitted to be present.

(continued)

(e) The hearing officer shall advise the inmate of the inmate's rights to proceed to Stages B and C of the hearing, and to counsel or counsel substitute in certain cases, pursuant to K.A.R. 44-13-408, and of other procedural due process rights.

(f) The hearing officer shall then ask the inmate to plead guilty, not guilty, or no contest. The plea shall be entered if the presiding officer is assured that it is made knowledgeably and without threat or promise of reward to the inmate. If the inmate refuses to plead, the hearing officer shall enter a plea of not guilty. A plea of no contest shall be treated in the same manner as a plea of guilty. If the inmate pleads guilty or no contest, the inmate shall waive the right to Stage B of the disciplinary hearing, but shall reserve the right to participate in Stage C of the hearing to the extent of offering a brief argument in mitigation of the penalty to be imposed. In the event of a plea of guilty or no contest, the inmate shall not be allowed to introduce evidence regarding the inmate's guilt or innocence of the charge or charges.

(g) The hearing officer may, upon a plea of guilty or no contest, make a finding of guilt, conduct a Stage C sentencing hearing, and impose a sentence.

(h) If the hearing officer finds at Stage A of the hearing that the case must be dismissed, the officer may dismiss the charge on the officer's own motion or on motion of either party. The hearing officer shall give a brief explanation on the record.

(i) In Stage B, only the facts relevant to determination of guilt or innocence shall be considered. In Stage C, the inmate's entire institution record and other relevant facts, observations and opinions may be considered. The unit team file shall be available to the hearing officer.

(j) The hearing officer shall rule on all matters of evidence. Strict rules of evidence, as used in a court of law, shall not be required, but the hearing officer shall exercise diligence to admit reliable and relevant evidence and to refuse to admit irrelevant or unreliable evidence.

(k) The hearing officer shall rule on all matters of representation for the accused inmate in accordance with these regulations. If the accused inmate is represented by counsel or counsel substitute pursuant to K.A.R. 44-13-408, the representative shall be permitted to fully represent the accused and shall be permitted to question witnesses and present arguments on behalf of the accused inmate, except as otherwise provided by these regulations.

(l) The disciplinary process shall, to the extent possible, discover the truth regarding charges against the inmate. For this purpose, the hearing officer shall be authorized to call and to interrogate any witness. All testimony and evidence shall be given or presented in the presence of the accused inmate; testimony or evidence shall not be received by the hearing officer or introduced outside the presence of the inmate, except as provided in (m) below, K.A.R. 44-13-403(d), K.A.R. 44-13-402(a)(5), and as otherwise provided in these regulations.

(m) (1) If the hearing officer determines that the testimony of any inmate will subject that inmate to possible retaliation for having testified, the hearing officer may:

(A) receive the testimony in confidence without confrontation or cross examination by the accused inmate, and the witness may be sequestered; or

(B) receive testimony from an investigator who interviewed an inmate informant and relied on the confidential information provided.

(2) The testimony of the inmate witness given under oath shall be examined and tested by the hearing officer. The hearing officer shall closely question the testifying inmate to determine the veracity and weight of the testimony offered.

(3) If the informant inmate does not testify, the hearing officer may establish the reliability of the information provided to the testifying investigators by:

(A) the testimony of the investigator regarding the reliability of the informant in the past;

(B) the testimony of the investigator regarding the truthfulness of details the investigator has been able to verify through investigation;

(C) corroborating testimony;

(D) a statement on the record by the hearing officer that he or she has first-hand knowledge of the informant and considers the informant to be reliable due to their past record of reliability; or

(E) in camera review of material documenting the investigator's assessment of the credibility of the informant.

(4) The accused shall be apprised of the general nature of the confidential testimony, omitting those details that would tend to identify the inmate who gave the confidential testimony or provided confidential information to the testifying investigator. The identity of any confidential witness, or inmate informant shall not be disclosed to the accused, to any other inmate, or to any staff not required to complete the process. Counsel or counsel substitute, if any, shall be permitted to be present when the board receives testimony from the confidential witness, or investigator, and the counsel or counsel substitute may ask questions. The testimony shall be recorded for confidential review by the principal administrator, and on appeal, by the secretary of corrections.

(n) The hearing officer may require the accused to explain briefly what the purpose and nature of the testimony of a witness will be. The request to call the witness may be denied or the testimony reasonably and fairly restricted if the testimony:

(1) relates to something already disposed of;

(2) is clearly irrelevant or immaterial;

(3) is repetitious of other testimony; or

(4) for reasons specified in K.A.R. 44-13-405a.

The truth of the testimony shall be presumed in making this decision.

(o) The hearing officer shall have and exercise all powers necessary to ensure the orderly process of the disciplinary hearing.

(p) The hearing officer shall listen to all testimony by the reporting officer, the accused inmate, and all other witnesses. The hearing officer shall require the reporting officer and all witnesses to provide all details concerning the alleged offense. The hearing officer shall question each witness, as the need arises, to clarify the facts surrounding the alleged offense.

(q) The hearing officer, in deciding whether or not the inmate is guilty, shall consider only the relevant testi-

mony and report. The accused inmate's correctional and supervision record shall not be considered in determining guilt or innocence. The decision in the hearing shall be based solely on evidence presented as part of the hearing.

(r) The hearing shall proceed as follows:

(1) The prosecution shall state its case simply in summary and then the defense shall present its case in the same manner.

(2) The prosecution shall present its evidence and the defense shall be permitted to cross examine, except as otherwise provided by these regulations.

(3) The defense shall present its evidence and the prosecution shall be permitted to cross examine.

(4) Prosecution may make a closing argument. The defense may make a closing argument, and then the prosecution may make a short rebuttal.

(s) Confrontation and cross examination may be denied by the hearing officer when deemed necessary in any case except class I cases. In class I cases, it may be limited or denied when necessary to protect the safety of an accuser, informant, or witness or when necessary to maintain institutional safety, security and control. Unless there is a security risk endangering some person, the explanation shall be in the record. If there is such a security risk, a written explanation of the reason shall be sent to the principal administrator with a copy to the secretary for confidential review.

(t) After the conclusion of the presentation of evidence regarding guilt or innocence or disposition, if the hearing officer needs the charging officer, the accused inmate, or both present to provide further information to clarify facts, both parties shall be present to hear what the other is saying unless exempt under subsection (n) or (o) above. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended April 20, 1992; amended July 11, 1994.)

**44-13-603. Absence from institution.** (a) If the inmate is sentenced to disciplinary segregation, restriction to cell, restriction from privileges or extra work, and the inmate is then transferred to the diagnostic unit of the Topeka correctional facility, out-to-court or to a mental hospital prior to commencing or completing the sentence, that time spent outside the facility shall not be credited against the service of the sentence. Upon return to the facility, the inmate shall serve the remainder of the sentence, unless the principal administrator determines the best interests of the inmate or facility warrant that the sentence be suspended.

(b) In the event that the inmate is paroled or conditionally released, or released on post-release supervision prior to completion of serving the sentence, the inmate may be required to complete serving the sentence upon the inmate's subsequent return to the institution. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1986; amended April 20, 1992; amended July 11, 1994.)

#### Article 14.—ADMINISTRATIVE AND DISCIPLINARY SEGREGATION

**44-14-302. Types of inmates or situations for use of administrative segregation.** Inmates may be confined in administrative segregation for any of the following reasons or under any of the following conditions. Any inmate may be held in administrative segregation under any subsection or combination of subsections of this regulation simultaneously. If the inmate is held under more than one subsection, that fact shall be stated in the administrative segregation report.

(a) Protective custody (P.C.). Any inmate who requests security segregation for personal safety or who the principal administrator has reason to believe to be in serious and imminent danger, may be placed in administrative segregation if the principal administrator explains the reason in writing and refers to the documents or other basis for the administrator's knowledge. Documentation that protective custody is warranted and that reasonable alternatives are not available shall be provided. A denial of protective custody shall be fully documented.

(b) Pending results of investigation.

(1) Inmates may be placed in administrative segregation pending the completion of an investigation to determine whether charges should be brought.

(2) Any inmate may be segregated to prevent:

(A) Communication and collaboration between inmates involving an attempt to improperly or dishonestly coordinate the testimony which might be given;

(B) the possible intimidation of witnesses or accusers; or

(C) further disruption, if a threat to security and control, including danger to other inmates, continues to exist in the judgment of the principal administrator.

(3) Any inmate held in administrative segregation under subsection (b) shall be charged or released within three working days, unless a continued holding in administrative segregation under this section is justified in writing and approved by the principal administrator. This notice and explanation shall be given to the inmate in writing.

(c) Pre-hearing detention. If necessary to maintain security and control, any inmate who has been charged with an alleged violation of law or a class I or II offense may be held in administrative segregation pending a hearing before the institution disciplinary board, or pending a trial by a court.

(1) Credit for this time shall be given against any sentence of disciplinary segregation which might result from that hearing.

(2) The inmate's status shall be reviewed by the principal administrator or designee within three working days.

(d) Communicable disease. Any inmate whom a doctor of medicine has declared to be carrying any communicable disease, or any inmate who refuses to participate in testing for communicable disease, may be placed in administrative segregation status until danger of contagion is past.

(continued)

(e) Critical monitoring inmate. Administrative segregation may be applied to the following types of inmates.

(1) Any inmate accused of or who has a history of aggressive or forceable sexual attacks may be placed in administrative segregation. The history shall be verified and documented, or a psychiatrist or psychologist shall verify, after any such occurrence, that a recurrence is probable.

(2)(A) Any inmates with suicidal tendencies may be placed in administrative segregation if the condition is verified by a qualified mental health professional before, or within three working days after lockup in administrative segregation.

(B) Any inmate who inflicts any self-injury may be placed in administrative segregation for up to three working days, for observation and to give clinical staff an opportunity to determine whether the injury is a significant indication of a suicidal tendency.

(C) The shift supervisor may make the initial placement and determine the level of observation required, but shall make immediate and continuing efforts to consult with the assigned mental health professional, who shall thereafter make this determination. These attempts shall be documented.

(D) At or prior to the end of the three working day period, the mental health professional shall recommend to the administrative segregation review board the appropriate placement for the inmate. In the event such placement is made without a hearing, pursuant to K.A.R. 44-12-303(b), then the warden or the warden's designee shall review the placement within three working days.

(3) Inmates with a history of self-mutilation or self-injury may be placed in administrative segregation after a demonstration has been made from the inmate's record that this history exists. The shift supervisor may make the initial placement and determine the level of observation required, but shall make immediate and continuing efforts to consult with the assigned mental health professional, who shall thereafter make this determination. These attempts shall be documented. In the event such placement is made without a hearing, pursuant to 44-12-303(b), then the warden or his/her designee shall review the placement within three working days.

(4) Inmates with mental or emotional problems which cause them to be a threat to themselves or others, when that mental or emotional problem has been verified by a psychiatrist or psychologist may be placed in administrative segregation. The shift supervisor may make the initial placement and determine the level of observation required, but shall make immediate and continuing efforts to consult with the assigned mental health professional, who shall thereafter make this determination. These attempts shall be documented. In the event such placement is made without a hearing, pursuant to K.A.R. 44-12-303(b), then the warden or the warden's designee shall review the placement within three working days.

(5) Any inmate may be placed in administrative segregation in an emergency situation in which the violent behavior of the inmate indicates that the inmate is potentially dangerous to the inmate's self, or others. Segregation in this case may continue for three working days.

(6) Any inmate who has been determined by the principal administrator, or in the administrator's absence, by the deputy director, for good and well founded cause,

to be an extreme risk of escape may be placed in administrative segregation. The segregation shall be only for the duration of the risk condition. The reason shall be explained in writing and reference made to the documents or other basis for the placement by the principal administrator or deputy director unless already apparent from the information shown in the inmate's record. When these officers are absent during an emergency, segregation may be authorized by the highest ranking officer on duty. The principal administrator's approval and documentation shall be obtained as soon as possible.

(f) Consistent bad behavior. Any inmate may be placed in administrative segregation indefinitely when the inmate's record has shown consistent bad behavior, as evidenced by three documented instances of bad behavior within the preceding 12 months, and when:

(1) The instances are a substantial threat to the safety and security of the institution or facility; and

(2) the instances arise from separate fact situations. Placement under this ground shall be with the prior written approval of the principal administrator.

(g) Other security risk. The principal administrator may place in administrative segregation or lock-up, in the inmate's own cell, any inmate or group of inmates if the inmate or inmates are engaging in behavior which threatens the maintenance of security or control in the correctional facility. The principal administrator shall, explain, in writing, the threat to security and show justification for segregation or lock-up under these circumstances. A copy of this explanation and justification shall be provided to the secretary of corrections.

(h) Holdovers. The principal administrator or his designee may place in administrative segregation inmates who are identified as holdovers.

(1) Holdover inmates are those inmates who fall into one of the following categories:

(A) any newly committed inmate awaiting transportation to Topeka correctional facility reception and diagnostic unit;

(B) any inmate who is otherwise being held in a facility temporarily while in transit between one facility and another; or

(C) any parolee, conditional releasee, or post-release supervision releasee who has waived a preliminary violation hearing or is being held at a facility pending a hearing to determine if probable cause exists that a violation of conditions of release occurred.

(2) An individual shall not be held on holdover status for a period longer than reasonably necessary to accomplish the transfer to another facility.

(i) An inmate may be placed in administrative segregation when the inmate refuses to participate in an identification procedure, including fingerprinting and photographing.

(j) For purpose of this regulation, the term "working days" means any day except Saturday, Sunday, a holiday, or any other day as authorized by the governor. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended Dec. 6, 1993; amended July 11, 1994.)

Gary Stotts  
Secretary of Corrections

Doc. No. 014904

State of Kansas

**Kansas Racing Commission**

**Temporary Administrative Regulations**

**Article 7.—RULES FOR RACING**

**112-7-24. Safety vests required.** (a) A jockey or apprentice jockey shall not ride in a race unless the jockey or apprentice jockey is wearing a safety vest.

(b) Each safety vest shall provide shock absorbing protection to the upper body with a minimum rating of five, as defined by the British equestrian trade association (BETA).

(c) A safety vest shall weigh no more than two pounds and shall not be included in the jockey's weight when weighing out to race. (Authorized by and implementing K.S.A. 1993 Supp. 74-8804; effective, T-112-5-13-94, May 13, 1994.)

Janet Chubb  
Executive Director

Doc. No. 014907

(Published in the Kansas Register, May 26, 1994.)

**Summary Notice of Bond Sale  
Unified School District 495  
Pawnee County, Kansas (Larned)  
\$5,820,000  
General Obligation School Bonds  
Series 1994  
(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of bond sale dated May 26, 1994, sealed bids will be received by the clerk of Unified School District 495, Pawnee County, Kansas (Larned), on behalf of the governing body at 120 E. 6th, Larned, until 3 p.m. C.D.T. on June 6, 1994, for the purchase of \$5,820,000 principal amount of General Obligation School 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 July 1, 1994, and will become due on September 1 in the years as follows:

Maturity September 1	Principal Amount
1996	\$165,000
1997	175,000
1998	185,000
1999	195,000
2000	205,000
2001	220,000
2002	230,000
2003	245,000
2004	255,000
2005	270,000
2006	285,000

2007	300,000
2008	315,000
2009	335,000
2010	355,000
2011	375,000
2012	395,000
2013	415,000
2014	440,000
2015	460,000

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold, which will be payable semiannually on March 1 and September 1 in each year, beginning on March 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 \$116,400 (2 percent of the principal amount of the bonds).

**Delivery**

The school district will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale at such location 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 \$41,801,018. The total general obligation indebtedness of the school district as of the date of the bonds, including the bonds being sold, is \$5,820,000.

**Approval of Bonds**

The bonds, will be sold subject to the legal opinion of Logan, Riley, Carson & Kaup, L.C., Overland Park, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the school district, printed on the bonds and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (316) 285-3185; from the financial advisor, George K. Baum & Company, Twelve Wyandotte Plaza, 120 W. 12th, Kansas City, MO 64105, Attention: Kansas Public Finance, (816) 474-1100; or from Logan, Riley, Carson & Kaup, L.C., Bond Counsel, 9200 Indian Creek Parkway, Suite 230, Overland Park, KS (913) 661-0399.

Dated May 26, 1994.

Unified School District 495  
By: Bill Hicks, Clerk  
120 E. 6th  
Larned, KS 67550  
(316) 285-3185

Doc. No. 014918

State of Kansas

Office of the State Treasurer

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 1993 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.

Effective 5-30-94 through 6-5-94

Term	Rate
0-90 days	4.34%
3 months	4.23%
6 months	4.69%
9 months	4.97%
12 months	5.18%
18 months	5.53%
24 months	5.80%
36 months	6.16%
48 months	6.42%

Sally Thompson  
State Treasurer

Doc. No. 014920

(Published in the Kansas Register, May 26, 1994.)

Summary Notice of Bond Sale  
Unified School District 333  
Cloud County, Kansas (Concordia)  
\$5,250,000

General Obligation School Bonds  
Series 1994

(General obligation bonds payable from unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale dated May 23, 1994, sealed bids will be received by the clerk of Unified School District 333, Cloud County, Kansas (Concordia) (the issuer), on behalf of the governing body at 217 W. 7th, Concordia, KS 66901-2803, until 11:30 a.m. C.D.T. on June 8, 1994, for the purchase of \$5,250,000 principal amount of General Obligation School 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 June 1, 1994, and will become due on September 1 in the years as follows:

Year	Principal Amount
1996	\$ 60,000
1997	175,000
1998	185,000
1999	200,000
2000	210,000
2001	225,000
2002	235,000
2003	245,000
2004	260,000

2005	270,000
2006	285,000
2007	300,000
2008	315,000
2009	330,000
2010	350,000
2011	370,000
2012	390,000
2013	410,000
2014	435,000

The bonds will bear interest at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning on March 1, 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 \$105,000 (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 July 14, 1994, at such bank or trust company in the contiguous United States of America 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 \$33,626,173. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$5,250,000.

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) 243-3518; from the financial advisor, B.C. Christopher, Division of Fahnestock & Co., Inc., 534 Kansas Ave., Topeka, KS 66603, (913) 235-9281, Attn: John C. McArthur; or from B. C. Christopher, Division of Fahnestock & Co., Inc., 4717 Grand Ave., Kansas City, MO 64112, (816) 932-7121, Attn: Ira L. Parsons.

Dated May 23, 1994.

Unified School District 333  
Cloud County, Kansas (Concordia)

Doc. No. 014913

(Published in the Kansas Register, May 26, 1994.)

**Summary Notice of Bond Sale  
City of Olathe, Kansas  
\$1,015,000  
Solid Waste Disposal System  
Revenue Bonds, Series 1994**

**Sealed Bids**

Subject to the notice of bond sale dated May 25, 1994, and preliminary official statement dated May 25, 1994, sealed bids will be received by the clerk of the city of Olathe, Kansas (the issuer), on behalf of the governing body at 126 S. Cherry, Olathe, KS 66061, until 11 a.m. C.D.T. on June 7, 1994, for the purchase of \$1,015,000 principal amount of Solid Waste Disposal System Revenue Bonds, Series 1994. No bid of less than the entire par value of the bonds, except a discount of not greater than 1.25 percent of the par value of the bonds, and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will be dated June 1, 1994, and will become due on May 1 in the years as follows:

**Serial Bonds**

Year	Principal Amount
1995	\$80,000
1996	85,000
1997	90,000
1998	90,000
1999	95,000
2000	100,000
2001	110,000
2002	115,000
2003	120,000
2004	130,000

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 May 1 and November 1 in each year, beginning on November 1, 1994.

**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 in the amount of \$10,150 (1 percent of the principal amount of the bonds) or, as provided in the notice of bond sale, a financial surety bond.

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before June 28, 1994, at such bank or trust company in the United States of America as may be specified by the successful bidder.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Kansas City, Missouri, bond coun-

sel, 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) 791-6211, or from the financial advisor, Piper Jaffray, Inc., Kansas City, Missouri, Attention: Dennis V. Mitchell, (816) 360-3072.

Dated May 25, 1994.

City of Olathe, Kansas  
By H. Pevehouse, Clerk

Doc. No. 014926

(Published in the Kansas Register, May 26, 1994.)

**Notice of Bond Sale  
\$274,000  
Trego County, Kansas  
General Obligation Bonds  
Series 1994A  
(Youth Emergency Shelter and  
Youth Long Term Group Home)**

**Sealed Bids**

Sealed bids for the purchase of \$274,000 principal amount of General Obligation Bonds, Series 1994A, (Youth Emergency Shelter and Youth Long Term Group Home), of the county hereinafter described, will be received by the undersigned county clerk of Trego County, Kansas, on behalf of the governing body of the county at Trego County Courthouse, 216 Main St., WaKeeney, Kansas, until 1 p.m. C.D.T. on Monday, June 6, 1994. All bids will be publicly opened and read at said time and place and will be acted upon by the county immediately thereafter. No oral or auction bids will be considered.

**Bond Details**

The bonds will consist of fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof, except one bond in the denomination of \$4,000. The bonds will be dated June 1, 1994, and will become due serially on December 1 in the years as follows:

Year	Principal Amount
1995	\$24,000
1996	25,000
1997	25,000
1998	25,000
1999	25,000
2000	30,000
2001	30,000
2002	30,000
2003	30,000
2004	30,000

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

(continued)

### Place of Payment and Bond Registration

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar). The principal of the bonds will be payable at maturity or upon earlier redemption to the registered owners upon presentation and surrender of the bonds at the office of the paying agent. Interest on the bonds will be paid by check or draft mailed by the paying agent to the persons in whose names the bonds are registered on the registration books maintained by the bond registrar at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date.

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

### Redemption of Bonds Prior to Maturity

At the option of the county, bonds maturing on December 1, 2000, and thereafter will be subject to redemption and payment prior to maturity on December 1, 1999, and thereafter in whole on any date or in part on any interest payment date (bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the paying agent and bond registrar in such equitable manner as it shall designate), at the principal amount thereof, plus accrued interest to the redemption date, without premium.

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

If the county shall elect to call any bond for redemption and payment prior to the maturity thereof, the county shall give written notice of its intention to redeem and pay said bonds on a specified date, the same being described by number and maturity, said notice to be mailed by United States registered or certified mail addressed to the paying agent and bond registrar, and to the manager or managers of the underwriting account making the successful bid, each of said notices to be mailed at least 60 days prior to the redemption date. Thereafter, the paying agent and bond registrar will notify the owners of the bonds of the county's redemption called by United States mail, postage prepaid. If any bond be called for redemption and payment as aforesaid, all interest on such bond shall cease from and after the date for which such call is made, provided funds are available for its payment at the price hereinbefore specified.

### Conditions of Bids

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

ders, subject to the following conditions: The same rate shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of 1/8 or 1/20 of 1 percent. No interest rate shall exceed the index of 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 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 2 percent. No supplemental interest payments will be authorized. No bid of less than the principal amount of the bonds and accrued interest will be considered. Each bid shall specify the total interest cost to the county during the life of the bond issue on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the county on the basis of such bid. Each bid shall also specify the average annual net interest rate to the county on the basis of such bid. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices).

### Basis of Award

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

### Security for the Bonds

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

### Internal Revenue Code of 1986

The Internal Revenue Code of 1986 imposes requirements on the county which must be met subsequent to the issuance of the bonds by the county and, as a result, the county will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The county's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the county's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted current earnings of certain corporations in the calculation of alternative minimum taxable income, with certain other adjustment. Furthermore, Section 59A of the code, as added by the Superfund Amendments and Reauthorization Act of



1986, provides for an environmental tax generally based on corporate alternative minimum taxable income. The amount of the tax is equal to 0.12 percent of the excess of alternative minimum taxable income, without regard to net operating losses and the deduction for this tax, over \$2 million. The environmental tax is imposed whether or not the taxpayer is subject to the alternative minimum tax. The environmental tax may subject certain bondowners to additional taxation for interest earned on the bonds.

The code also requires property and casualty insurance companies to reduce the amount of their deductible underwriting losses by a percentage of the amount of tax-exempt interest received or accrued on such obligations. With the exception of certain "qualified tax-exempt obligations," the code provides that banks and thrift institutions may not deduct any portion of the interest cost of purchasing or carrying tax-exempt obligations such as the bonds. The county does intend to designate the bonds as "qualified tax-exempt obligations" under Section 265 of the code.

#### Legal Opinion

The bonds will be sold subject to the legal opinion of Nichols and Wolfe Chartered, Topeka, Kansas, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the county, printed on the bonds and delivered to the successful bidder when the bonds are delivered. Said opinion will also state that in the opinion of bond counsel, assuming continued compliance by the county with the provisions of the resolution authorizing the issuance of the bonds and the code, under existing law, the interest on the bonds is exempt from federal income taxation. Interest on the bonds will also be excluded from the computation of Kansas adjusted gross income.

#### Delivery and Payment

The county will pay for printing the bonds and will deliver the bonds, without cost to the successful bidder, properly prepared, executed and registered, on or about June 29, 1994, at such bank or trust company in the state of Kansas or greater Kansas City, Missouri, metropolitan area as may be specified by the successful bidder. Delivery elsewhere will be at the bidder's expense. Said bidder will also be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity and a certificate regarding the completeness and accuracy of the official statement. Payment for the bonds shall be made in Federal Reserve funds, immediately subject to use by the county. The denominations of the bonds and the names, addresses and social security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the county and bond registrar not later than 1 p.m. C.D.T. on June 9, 1994. In the absence of such information, the county will deliver bonds in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the county by 1 p.m. C.D.T. on June 9, 1994, a certificate acceptable to

the county's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices, and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder, and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

#### Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check drawn on a bank located in the United States of America in the amount of \$5,480 payable to the order of the county to secure the county from any loss resulting from the failure of the bidder to comply with the terms of the bid. No interest will be paid upon the deposit made by the successful bidder. Said check shall be returned to the bidder if the bid is not accepted. If a bid is accepted, said check shall be held by the county until the bidder shall have complied with all of the terms and conditions of this notice, at which time said check shall, at the option of the county, be returned to the successful bidder or deducted from the purchase price. If a bid is accepted but the county shall fail to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check shall be returned to the bidder. If a bid is accepted but the bidder shall default in the performance of any of the terms and conditions of this notice, the proceeds of such check shall be forfeited to the county, and the county reserves the right to pursue any consequential damages as a result of such default.

#### CUSIP Numbers

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

#### Bid Forms

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

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned county clerk and marked "Proposal for the Purchase of General Obligation Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the Trego County Courthouse and must be received by the undersigned prior to 1 p.m. C.D.T. on Monday, June 6, 1994.

(continued)

### Date and Delivery of Preliminary and Final Official Statement

The county has authorized the preparation and disbursement of a preliminary official statement containing information relating to the bonds. The preliminary official statement comprises the final official statement required by Rule 15c2-12 of the Securities and Exchange Commission.

The preliminary official statement, when amended to include the interest rates specified by the purchaser and the price or yield at which the purchaser will re-offer the bonds to the public, together with any other information required by law, will constitute a "Final Official Statement" with respect to the bonds as that term is defined in Rule 15c2-12. No more than seven business days after the date of the sale, the county will provide without cost to the purchaser such reasonable number of printed copies of the final official statement, and further copies, if desired, will be made available at the purchaser's expense. If the sale of the bonds are awarded to a syndicate, the county will designate the senior managing purchaser of the syndicate as its agent for purposes of distributing copies of the final official statement to each participating purchaser. Any purchaser executing and delivering a bid form with respect to the bonds agrees thereby that if the bid is accepted it shall accept such designation and shall enter into a contractual relationship with all participating purchasers for the purpose of assuring the receipt and distribution by each such participating purchaser of the final official statement.

The county will deliver to the purchaser on the date of delivery of the bonds a certificate executed by the chairman and the county clerk to the effect that the final official statement, as of the date of delivery of the bonds, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in the light of the circumstances in which they are made, not misleading.

Copies of the county's preliminary official statement relating to the bonds may be obtained from the county clerk.

### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the county for the year 1993 is \$28,842,577. The total general obligation bonded indebtedness of the county as of the date of the bonds, including the bonds, is \$2,670,600, including, as of the date of the bonds, temporary notes outstanding in the principal amount of \$261,600, of which \$261,600 will be retired out of the proceeds of the bonds herein offered for sale.

Dated May 19, 1994.

Trego County, Kansas  
Kathleen Conness  
County Clerk  
Trego County Courthouse  
216 Main St.  
WaKeeney, KS 67672  
(913) 743-5773

Doc. No., 014927

(Published in the Kansas Register, May 26, 1994.)

### Notice of Bond Sale

\$140,000

City of Quenemo

Osage County, Kansas

General Obligation Water System Bonds  
Series 1994

(General obligation bonds payable from  
unlimited ad valorem taxes)

### Sealed Bids

Subject to the notice of bond sale dated May 17, 1994, sealed bids will be received by the city clerk of the city of Quenemo, Osage County, Kansas, on behalf of the city council of said city at the city clerk's office, City Hall, 109 E. Maple St., P.O. Box 90, Quenemo, KS 66528, until 7 p.m. C.D.T. on Tuesday, June 7, 1994, for the purchase of \$140,000 principal amount of General Obligation Water System 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, except as hereinafter provided.

### Bond Details

The bonds will consist of fully registered serial bonds in the denomination of \$5,000 each or any integral multiple thereof. The bonds will be dated July 1, 1994, and will become due serially on September 1 in the years as follows:

#### Serial Bonds

Year	Principal Amount
2002	5,000
2003	10,000
2004	10,000
2005	10,000
2006	10,000
2007	10,000
2008	10,000
2009	10,000
2010	10,000
2011	10,000
2012	15,000
2013	15,000
2014	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 March 1 and September 1 in each year, beginning on March 1, 1995. The city is also in the process of issuing its Water System Revenue Bonds in the amount of \$40,000. The proceeds of said revenue bonds will be used with the proceeds of the bonds and a CDB grant in the amount of \$132,500 to pay the total estimated costs of the project: \$312,500.

### Place of Payment and Bond Registration

The principal of and interest on the bonds will be payable in lawful money of the United States of America by check or draft of the Kansas State Treasurer, Topeka, Kansas (the paying agent and bond registrar), to the registered owners thereof whose names are on the registration books of the bond registrar as of the 15th day (whether or not a business day) of the calendar month

next preceding each interest payment date. The bonds will be registered pursuant to a plan of registration approved by the city and the Kansas Attorney General.

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

#### Redemption of Bonds Prior to Maturity

Bonds maturing in the years 2002 through 2009 shall not be subject to redemption and payment prior to their maturity. At the option of the city, bonds maturing on September 1, 2010, will be subject to redemption and payment September 1, 2009, or on any interest payment date thereafter in whole or in part (bonds of less than a single maturity to be selected by lot in multiples of \$5,000 principal amount by the paying agent and bond registrar in such equitable manner as it shall designate), at the principal amount thereof, without premium, plus accrued interest to the redemption date. Whenever the city is to select the bonds for the purpose of redemption, it shall, in the case of bonds in denominations greater than \$5,000, if less than all the bonds then outstanding are to be called for redemption, treat each \$5,000 of face value of each such fully registered bond as though it were a separate bond of the denomination of \$5,000.

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

#### Authority, Purpose and Security

The bonds are being issued pursuant to K.S.A. 15-807 et seq., for the purpose of paying the cost of certain municipal improvements (enlarging and improving the city's water supply and distribution system). The bonds and the interest thereon will constitute general obligations of the city, payable from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable, tangible property, real and personal, within the territorial limits of the city. Bidders are further advised that other funds legally available therefor may be used to pay said principal and interest.

#### Condition of Bids

Proposals will be received on the bonds bearing such rate or rates of interest as may be specified by the bidders, subject to the following conditions: The same rate

shall apply to all bonds of the same maturity. Each interest rate specified shall be a multiple of  $\frac{1}{8}$  or  $\frac{1}{20}$  of 1 percent. No interest rate shall exceed the maximum rate allowed by Kansas law, equal to the 20 bond index of 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 percent. The difference between the highest rate specified and the lowest rate specified shall not exceed 2 percent. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered and no supplemental interest payments will be considered. Each bid must specify the total interest cost to the city during the term of the bonds on the basis of such bid, the premium, if any, offered by the bidder, and the net interest cost to the city on the basis of such bid, all certified by the bidder to be correct, and the city will be entitled to rely on the certificate of correctness of the bidder. Each bid must also specify the average annual net interest rate to the city on the basis of such bid. Bidders shall specify in the bid form the prices (exclusive of accrued interest), expressed as a dollar price, at which the bidder intends that each maturity amount of the bonds shall be initially offered to the public (the initial reoffering prices), if the bidder intends to offer said bonds to the public.

#### Notice to Prospective Bidders

Bidders may submit bids on only the entire issue (\$140,000). The city reserves the right to award bonds to the bidder or bidders submitting the bid most favorable to the city as determined in the sole discretion of the governing body of the city based upon the net interest costs to the city, to waive any irregularities in any bid and to reject any and all bids.

#### 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 percent of the principal amount of the bonds covered by said bid (\$2,800 for the entire issue) payable to the order of the city to secure the city from any loss resulting from the failure of the bidder to comply with the terms of the bid. Good faith checks submitted by unsuccessful bidders will be returned. If a bid is accepted, said check or the proceeds thereof will be held by the city until the bidder has complied with all the terms and conditions of this notice. If a bid is accepted but the city fails to deliver the bonds to the bidder in accordance with the terms and conditions of this notice, said check or the proceeds thereof will be returned to the bidder. If a bid is accepted but the bidder defaults in the performance of any of the terms and conditions of this notice, the proceeds of such check will be retained by the city as and for liquidated damages. No interest will be paid upon the successful bidder's good faith check.

#### Basis of Award

The award of the bonds will be made on the basis of the lowest net interest cost to the city, which will be determined by subtracting the amount of the premium bid, if any, from the total interest cost to the city. If there

(continued)

is any discrepancy between the net interest cost and the average annual net interest rate specified, the specified net interest cost shall govern and the interest rates specified in the bid shall be adjusted accordingly. If two or more proper bids providing for identical amounts for the lowest net interest cost are received, the city council will determine which bid, if any, shall be accepted, and its determination is final. The city reserves the right to reject any and all bids and to waive any irregularities in a submitted bid. Any bid received after 7 p.m. on the date of sale will be returned to the bidder unopened.

#### Bid Forms

All bids must be made on forms which may be procured from the city clerk, from bond counsel or from the city's financial advisor, Cooper, Malone, McClain, Inc., 100 N. Main, Suite 510, Wichita, KS 67202, Attention: David Malone. No additions or alterations in such forms shall be made and any erasures may cause rejection of any bid.

#### Submission of Bids

Bids must be submitted in sealed envelopes addressed to the undersigned city clerk of the city of Quenemo and marked "Proposal for General Obligation Water System Bonds." Bids may be submitted by mail or delivered in person to the undersigned at the city clerk's office in the City Hall and must be received by the undersigned prior to 7 p.m. C.D.T. on June 7, 1994.

#### CUSIP Numbers

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

#### Delivery and Payment

The city will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or before July 7, 1994, at such bank or trust company in the state of Kansas or Kansas City, Missouri, as may be specified by the successful bidder. Delivery elsewhere will be at the bidder's expense. The successful bidder will be furnished with a certified transcript of the proceedings evidencing the authorization and issuance of the bonds and the usual closing documents, including a certificate that there is no litigation pending or threatened at the time of delivery of the bonds affecting their validity.

Payment for the bonds shall be made in Federal Reserve funds, immediately subject to use by the city. The denominations of the bonds and the names, addresses and Social Security or taxpayer identification numbers of the registered owners shall be submitted in writing by the successful bidder to the city and bond registrar not later than 10 a.m. C.D.T. on June 21, 1994. In the absence of such information, the city will deliver bonds

in the denomination of each maturity registered in the name of the successful bidder.

The successful bidder shall furnish the city by 10 a.m. C.D.T. on June 21, 1994, a certificate acceptable to the city's bond counsel to the effect that (i) the successful bidder has made a bona fide public offering of the bonds at the initial reoffering prices (if the bidder intends to offer the bonds to the public), and (ii) a substantial amount of the bonds was sold to the public (excluding brokers and other intermediaries) at such initial reoffering prices. Such certificate shall state that (1) it is made on the best knowledge, information and belief of the successful bidder, and (2) 10 percent or more in par amount of the bonds of each maturity was sold to the public at or below the initial reoffering prices (such amount being sufficient to establish the sale of a "substantial amount" of the bonds).

#### Official Statement

The city has prepared an official statement dated May 17, 1994, copies of which may be obtained from the city clerk, from bond counsel or from the city's financial advisor. Upon the sale of the bonds, the city will furnish the successful bidder with a reasonable number of copies thereof without additional cost upon request. Additional copies may be ordered at the successful bidder's expense.

#### Assessed Valuation and Indebtedness

The total assessed valuation of the taxable, tangible property within the city for the year 1993 is as follows:

Equalized assessed valuation of taxable, tangible property including the valuation of motor vehicles (\$241,435) computed pursuant to K.S.A. 10-310, for computation of bond debt limitation .....	\$705,796
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The total general obligation bonded indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$140,000. The city currently has no outstanding temporary notes.

#### Approval of Bonds

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

#### Opinion of Bond Counsel and Internal Revenue Code of 1986 as Amended

The Internal Revenue Code of 1986 as amended imposes requirements on the city that must be met subsequent to the issuance of the bonds by the city and, as a result, the city will and does hereby covenant that it will diligently undertake those steps necessary to maintain the tax-exempt status of the bonds. The city's failure to comply with such requirements could adversely affect the tax-exempt status of the bonds. Purchasers of the bonds should be aware that should the bonds lose their status as tax-exempt obligations as a result of the city's failure to comply with such requirements, the bonds are neither callable nor will the rate of interest on the bonds be adjusted to reflect such circumstances.

The code includes interest on tax-exempt obligations, such as the bonds, in the adjusted current earnings of certain corporations.

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

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

The bonds are exempt from intangible personal property taxes levied by Kansas counties, cities or townships. Interest on the bonds is excluded from the computation of Kansas adjusted gross income for taxable years commencing after December 31, 1987.

#### Bonds Not to be Rated

The bonds will not be rated by Standard & Poor's Corporation or Moody's Investors Service, Inc., or by any other bond rating service.

#### Additional Information

Additional information regarding the bonds may be obtained from the City Clerk, 109 E. Maple St., P.O. Box 90, Quenemo, KS 66528, (913) 759-3315; from bond counsel, Fred W. Rausch, Jr., Suite 201, 220 S.W. 33rd, Topeka, KS 66611, (913) 267-3470; or from the city's financial advisor, Cooper, Malone, McClain, Inc., Suite 510, 100 N. Main, Wichita, KS 67202, (316) 264-2400.

Dated May 17, 1994.

City Council of the  
City of Quenemo  
Osage County, Kansas  
By Norma Trendel  
City Clerk  
109 E. Maple St.  
P.O. Box 90  
Quenemo, KS 66528  
(913) 759-3315

Doc. No. 014923

#### State of Kansas

#### Secretary of State

I, Bill Graves, Secretary of State of the State of Kansas, do hereby certify that the following bill 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

(Editor's Note: The following bill was published in the May 19, 1994 Kansas Register, but was listed incorrectly in the table of contents for that issue. The effective date of the bill is May 19, 1994.)

#### House Sub. for Senate Bill No. 453

AN ACT concerning retirement; relating to the Kansas public employees retirement system and certain retirement systems related thereto; amending K.S.A. 1993 Supp. 74-4902 and 74-4952 and repealing the existing sections; also: repealing K.S.A. 1993 Supp. 74-4902, as amended by section 7 of 1994 Senate Substitute for House Bill No. 2597 and 74-4952, as amended by section 19 of 1994 Senate Substitute for House Bill No. 2597.

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

Section 1. K.S.A. 1993 Supp. 74-4902 is hereby amended to read as follows: 74-4902. As used in K.S.A. 74-4901 to 74-4929, inclusive, and amendments thereto, unless the context otherwise requires:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which are credited to the member's account, with interest allowed thereon;

(2) "acts" means K.S.A. 74-4901 to 74-4929, inclusive, and amendments thereto;

(3) "actuarial equivalent" means an annuity or benefit of equal value to the accumulated contributions, annuity or benefit, when computed upon the basis of the actuarial tables in use by the system;

(4) "actuarial tables" means the actuarial tables approved and in use by the board at any given time;

(5) "actuary" means the actuary or firm of actuaries employed or retained by the board at any given time;

(6) "agent" means the individual designated by each participating employer through whom system transactions and communication are directed;

(7) "beneficiary" means any natural person or persons or estate named by a member to receive any benefits as provided for by this act. Designations of beneficiaries by a member who is a member of more than one retirement system made on or after July 1, 1987, shall be the basis of any benefits payable under all systems unless otherwise provided by law. Except as otherwise provided by subsection (33) of this section, if there is no named beneficiary living at time of member's death, any benefits provided for by this act shall be paid to: (A) The member's surviving spouse; (B) the member's dependent child or children; (C) the member's dependent parent or parents; (D) the member's nondependent child or children; (E) the member's nondependent parent or parents; (F) the estate of the deceased member; in the order of preference as specified in this subsection. Any payment made to a named beneficiary shall be a full discharge and release to the system from any further claims. Any payment made to a beneficiary as provided in clauses (A), (B), (C), (D), (E) or (F) of this subsection, as determined by the board, shall be a full discharge and release to the system from any further claims. Whenever any payment is payable to more than one beneficiary such payment shall be made to such beneficiaries jointly. Any benefits payable to a beneficiary or beneficiaries who are minor children or incompetent persons shall be made in the name of the beneficiary or beneficiaries and delivered to the lawfully appointed conservator of such beneficiaries who was nominated by will or as otherwise provided by law, except that in those cases where the benefit involves only the payment of the member's accumulated contributions with interest as provided by this act in an amount not to exceed \$500, the board is hereby authorized in its discretion without the appointment of a conservator or the giving of a bond to pay such amount as is due to the minor or minors themselves, any payment so made shall be a full discharge and release to the system from any further claims;

(8) "board of trustees," "board" or "trustees" means the managing body of the system which is known as the Kansas public employees retirement system board of trustees;

(9) "compensation" means all salary, wages and other remuneration payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of compensation, but not including reimbursement for travel or moving expenses, or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. Beginning with the employer's fiscal year which begins in calendar year 1991 or for employers other than the state of Kansas, beginning with the

(continued)

fiscal year which begins in calendar year 1992, when the compensation of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in compensation, except that (A) any amount of compensation for accumulated sick leave or vacation or annual leave paid to the member, (B) any increase in compensation for any member due to a reclassification or reallocation of such member's position or a reassignment of such member's job classification to a higher range or level and (C) any increase in compensation as provided in any contract entered into prior to January 1, 1991, and still in force on the effective date of this act, pursuant to an early retirement incentive program as provided in K.S.A. 72-5395 et seq. and amendments thereto, shall be included in the amount of compensation of such member used in determining such member's final average salary and shall not be subject to the 15% limitation provided in this subsection. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, beginning with the employer's fiscal year coinciding with or following July 1, 1985, compensation shall include any amounts for tax sheltered annuities or deferred compensation plans. Beginning with the employer's fiscal year which begins in calendar year 1991, compensation shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income;

(10) "credited service" means the sum of participating service and prior service and in no event shall credited service include any service which is credited under another retirement plan authorized under any law of this state;

(11) "dependent" means a parent or child of a member who is dependent upon the member for at least 1/2 of such parent or child's support;

(12) "effective date" means the date upon which the system becomes effective by operation of law;

(13) "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned or any noncommercial public television or radio station located in this state which receives state funds allocated by the Kansas public broadcasting commission whose employees are covered by social security. If a class or several classes of employees of any above defined employer are not covered by social security, such employer shall be deemed an eligible employer only with respect to such class or those classes of employees who are covered by social security;

(14) "employee" means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year, but not including: (A) Any person covered by or eligible for or who will become eligible for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto except as otherwise specifically provided in subsection (3) of K.S.A. 74-4925 and amendments thereto and this subsection; (B) any employee who is a contributing member of the United States civil service retirement system; (C) any employee of an eligible employer who is a participant in public service employment under title II and title VI of the federal comprehensive employment and training act of 1973; (D) any employee or class of employees specifically exempted by law. After June 30, 1975, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for a retirement annuity under the provisions of K.S.A. 74-4925 and amendments thereto, except that no person shall receive service credit under the Kansas public employees retirement system for any period of service for which benefits accrue or are granted under a retirement annuity plan under the provisions of K.S.A. 74-4925 and amendments thereto. After June 30, 1982, no person who is otherwise eligible for membership in the Kansas public employees retirement system shall be barred from such membership by reason of coverage by, eligibility for or future eligibility for any benefit under another retirement plan authorized under any law of this state, except that no such person shall receive service credit under the Kansas public employees retirement system

for any period of service for which any benefit accrues or is granted under any such retirement plan. Employee shall include persons who are in training at or employed by, or both, a sheltered workshop for the blind operated by the secretary of social and rehabilitation services. The entry date for such persons shall be the beginning of the first pay period of the fiscal year commencing in calendar year 1986. Such persons shall be granted prior service credit in accordance with K.S.A. 74-4913 and amendments thereto. However, such persons classified as home industry employees shall not be covered by the retirement system;

(15) "entry date" means the date as of which an eligible employer joins the system. The first entry date pursuant to this act is January 1, 1962;

(16) "executive secretary" means the managing officer of the system employed by the board under this act;

(17) "final average salary" means in the case of a member who retires prior to January 1, 1977, and in the case of a member who retires after January 1, 1977, and who has less than five years of participating service after January 1, 1967, the average highest annual compensation paid to such member for any five years of the last 10 years of participating service immediately preceding retirement or termination of employment, or in the case of a member who retires on or after January 1, 1977, and who has five or more years of participating service after January 1, 1967, the average highest annual compensation paid to such member on or after January 1, 1967, for any five years of participating service preceding retirement or termination of employment, or, in any case, if participating service is less than five years, then the average annual compensation paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12; in the case of a member who became a member under subsection (3) of K.S.A. 74-4925 and amendments thereto, or who became a member with a participating employer as defined in subsection (3) of K.S.A. 74-4931 and amendments thereto and who elects to have compensation paid in other than 12 equal installments, such compensation shall be annualized as if the member had elected to receive 12 equal installments for any such periods preceding retirement; in the case of a member who retires after July 1, 1987, the average highest annual compensation paid to such member for any four years of participating service preceding retirement or termination of employment; in the case of a member who retires on or after July 1, 1993, who was first hired as an employee, as defined in subsection (14) of K.S.A. 74-4902 and amendments thereto, prior to July 1, 1993, the average highest annual compensation, as defined in subsection (9), paid to such member for any four years of participating service preceding retirement or termination of employment or the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment, whichever is greater; and in the case of a member who retires on or after July 1, 1993, and who is first hired as an employee, as defined in subsection (14) of K.S.A. 74-4902 and amendments thereto, on or after July 1, 1993, the average highest annual salary, as defined in subsection (34), paid to such member for any three years of participating service preceding retirement or termination of employment. Final average salary shall not include any purchase of participating service credit by a member as provided in subsection (2) of K.S.A. 74-4919h and amendments thereto which is completed within five years of retirement. *For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications. For purposes of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after*

January 1, 1994, shall be the date that such employee's employer elected to participate in the system;

(18) "fiscal year" means, for the Kansas public employees retirement system, the period commencing July 1 of any year and ending June 30 of the next;

(19) "Kansas public employees retirement fund" means the fund created by this act for payment of expenses and benefits under the system and referred to as the fund;

(20) "leave of absence" means a period of absence from employment without pay, authorized and approved by the employer, and which after the effective date does not exceed one year;

(21) "member" means an eligible employee who is in the system and is making the required employee contributions, or any former employee who has made the required contributions to the system and has not received a refund;

(22) "military service" means service in the armed forces of the United States, which service is immediately preceded by a period of employment as an employee with a participating employer and is followed by return to employment as an employee with the same or another participating employer within 12 months immediately following discharge from such military service, except that if the board determines that such return within 12 months was made impossible by reason of a service-connected disability, the period within which the employee must return to employment with a participating employer shall be extended not more than two years from the date of discharge or separation from military service;

(23) "normal retirement date" means the date on or after which a member may retire with full retirement benefits pursuant to K.S.A. 74-4914 and amendments thereto;

(24) "participating employer" means an eligible employer who has agreed to make contributions to the system on behalf of its employees;

(25) "participating service" means the period of employment after the entry date for which credit is granted a member;

(26) "prior service" means the period of employment of a member prior to such member's entry date for which credit is granted a member under this act;

(27) "prior service annual salary" means the highest annual salary, not including any amounts received as payment for overtime or as reimbursement for travel or moving expense, received for personal services by the member from the current employer in any one of the three calendar years immediately preceding January 1, 1962, or the entry date of the employer, whichever is later, except that if a member entered the employment of the state during the calendar year 1961, the prior service annual salary shall be computed by multiplying such member's highest monthly salary received in that year by 12;

(28) "retirant" means a member who has retired under this system;

(29) "retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member pursuant to this act or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification a surviving spouse may negotiate the warrant issued in the name of the retirant;

(30) "retirement system" or "system" means the Kansas public employees retirement system as established by this act and as it may be amended;

(31) "social security" means the old age, survivors and disability insurance section of the federal social security act;

(32) "total disability" means a physical or mental disability which prevents the member from engaging, for remuneration or profit, in any occupation for which the member is reasonably suited by education, training or experience;

(33) "trust" means an express trust, created by a trust instrument, including a will, designated by a member to receive payment of the insured death benefit under K.S.A. 74-4927 and amendments thereto and payment of the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto. A designation of a trust shall be filed with the board. If there is a designated trust at the time of the member's death, the insured death benefit for the member under K.S.A. 74-4927 and amendments thereto and the

member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid to the trust in lieu of the member's beneficiary. If no will is admitted to probate within six months after the death of the member or no trustee qualifies within such six months or if the designated trust fails, for any reason whatsoever, the insured death benefit under K.S.A. 74-4927 and amendments thereto and the member's accumulated contributions under subsection (1) of K.S.A. 74-4916 and amendments thereto shall be paid in accordance with the provisions of subsection (7) of this section as in other cases where there is no named beneficiary living at the time of the member's death and any payments so made shall be a full discharge and release to the system from any further claims; and

(34) "salary" means all salary and wages payable to a member for personal services performed for a participating employer, including maintenance or any allowance in lieu thereof provided a member as part of salary. Salary shall not include reimbursement for travel or moving expenses, payment for accumulated sick leave or vacation or annual leave, severance pay or any other payments to the member determined by the board to not be payments for personal services performed for a participating employer constituting salary or on and after July 1, 1994, payment pursuant to an early retirement incentive program made prior to the retirement of the member. When the salary of a member who remains in substantially the same position during any two consecutive years of participating service used in calculating final average salary is increased by an amount which exceeds 15%, then the amount of such increase which exceeds 15% shall not be included in salary. Any contributions by such member on the amount of such increase which exceeds 15% which is not included in compensation shall be returned to the member. Unless otherwise provided by law, salary shall include any amounts for tax sheltered annuities or deferred compensation plans. Salary shall include amounts under sections 403b, 457 and 125 of the federal internal revenue code of 1986 and any other section of the federal internal revenue code of 1986 which defers or excludes amounts from inclusion in income. In any case, if participating service is less than three years, then the average annual salary paid to the member during the full period of participating service, or, in any case, if the member has less than one calendar year of participating service such member's final average salary shall be computed by multiplying such member's highest monthly salary received in that year by 12.

Sec. 2. K.S.A. 1993 Supp. 74-4952 is hereby amended to read as follows: 74-4952. As used in K.S.A. 74-4951 to 74-4969 and amendments thereto:

(1) "Accumulated contributions" means the sum of all contributions by a member to the system which shall be credited to the member's account with interest allowed thereon after June 30, 1982.

(2) "Disability" means the total inability to perform permanently the duties of the position of a policeman or fireman.

(3) "Eligible employer" means any city, county, township or other political subdivision of the state employing one or more employees as firemen or policemen.

(4) "Employee" means any policeman or fireman employed by a participating employer whose employment for police or fireman purposes is not seasonal or temporary and requires at least 1,000 hours of work per year.

(5) "Entry date" means the date as of which an eligible employer joins the system; the first entry date pursuant to this act is January 1, 1967.

(6) "Final average salary" means:

(a) For members who are first hired as an employee, as defined in subsection (4), before July 1, 1993, the average highest annual compensation paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual compensation paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12; and

(b) for members who are first hired as an employee, as defined in subsection (4), on and after July 1, 1993, the average highest

(continued)

annual salary, as defined in subsection (34) of K.S.A. 74-4902 and amendments thereto, paid to a member for any three of the last five years of participating service immediately preceding retirement or termination of employment, or if participating service is less than three years, then the average annual salary, as defined in subsection (34) of K.S.A. 74-4902 and amendments thereto, paid to the member during the full period of participating service, or if a member has less than one calendar year of participating service, then the member's final average salary shall be computed by multiplying the member's highest monthly salary received in that year by 12.

(c) For purposes of subparagraphs (a) and (b) of this subsection, the date that such member is first hired as an employee for members who are employees of employers that elected to participate in the system on or after January 1, 1994, shall be the date that such employee's employer elected to participate in the system.

(d) For any application to purchase or repurchase service credit for a certain period of service as provided by law received by the system after May 17, 1994, for any member who will have contributions deducted from such member's compensation at a percentage rate equal to two or three times the employee's rate of contribution or will begin paying to the system a lump-sum amount for such member's purchase or repurchase, and such deductions or lump-sum payment commences after the commencement of the first payroll period in the third quarter, "final average salary" shall not include any amount of compensation or salary which is based on such member's purchase or repurchase. Any application to purchase or repurchase multiple periods of service shall be treated as multiple applications.

(7) "Retirement benefit" means a monthly income or the actuarial equivalent thereof paid in such manner as specified by the member as provided under the system or as otherwise allowed to be paid at the discretion of the board, with benefits accruing from the first day of the month coinciding with or following retirement and ending on the last day of the month in which death occurs. Upon proper identification such surviving spouse may negotiate the warrant issued in the name of the retirant.

(8) "Normal retirement date" means the date on or after which a member may retire with eligibility for retirement benefits for age and service as provided in subsections (1) and (3) of K.S.A. 74-4957 and amendments thereto;

(9) "Retirement system" or "system" means the Kansas police and firemen's retirement system as established by this act and as it may be hereafter amended.

(10) "Service-connected" means with regard to a death or any physical or mental disability, any such death or disability resulting

from external force, violence or disease occasioned by an act of duty as a policeman or fireman and, for any member after five years of credited service, includes any death or disability resulting from a heart disease or disease of the lung or respiratory tract or cancer as provided in this subsection, except that in the event that the member ceases to be a contributing member except by reason of a service-connected disability for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from a heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection shall not apply until such member has again become a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart disease, disease of the lung or respiratory tract or cancer as provided in this subsection was in fact occasioned by an act of duty as a policeman or fireman. The provisions of this section relating to the presumption that the death or disability resulting from cancer is service-connected shall only apply if the condition that caused the death or disability is a type of cancer which may, in general, result from exposure to heat, radiation or a known carcinogen.

(11) "Fireman" or "firemen" means an employee assigned to the fire department and engaged in the fighting and extinguishment of fires and the protection of life and property therefrom or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such.

(12) "Police," "policeman" or "policemen" means an employee assigned to the police department and engaged in the enforcement of law and maintenance of order within the state and its political subdivisions, including sheriffs and sheriffs' deputies, or in support thereof and who is specifically designated, appointed, commissioned or styled as such by the governing body or city manager of the participating employer and certified to the retirement system as such.

(13) Except as otherwise defined in this act, words and phrases used in K.S.A. 74-4951 to 74-4969, and amendments thereto, shall have the same meanings ascribed to them as are defined in K.S.A. 74-4902 and amendments thereto.

Sec. 3. K.S.A. 1993 Supp. 74-4902 and 74-4952 are hereby repealed.

Sec. 4. On and after July 1, 1994, K.S.A. 1993 Supp. 74-4902, as amended by section 7 of 1994 Senate Substitute for House Bill No. 2597 and 74-4952, as amended by section 19 of 1994 Senate Substitute for House Bill No. 2597 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.





28-31-1 through 28-31-6 Amended V. 13, p. 312-318  
 28-31-6 Amended V. 13, p. 318  
 28-31-8 Amended V. 13, p. 319  
 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. 780  
 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  
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 28-35-218a Amended V. 12, p. 1176  
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 28-35-221b New V. 12, p. 1176  
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 28-35-223a Amended V. 12, p. 1176  
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 28-35-226a Amended V. 12, p. 1177  
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 30-4-52 Amended V. 12, p. 1213  
 30-4-63 Amended V. 12, p. 1213  
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 30-4-73 Amended V. 12, p. 386  
 30-4-85a Amended V. 12, p. 1461, 1486  
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 30-4-111 Amended V. 12, p. 1737, 1781  
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 30-4-122a Amended V. 12, p. 1461, 1486  
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 30-5-82a Amended V. 13, p. 730  
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 30-5-151 Amended V. 12, p. 266, 579  
 30-6-56 Amended V. 13, p. 734  
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 30-10-1a Amended V. 13, p. 738  
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 30-10-23a Amended V. 12, p. 1756  
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 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  
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 30-65-2 New V. 12, p. 1593, 1633  
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**AGENCY 36: DEPARTMENT OF TRANSPORTATION**

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 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

**AGENCY 40: KANSAS INSURANCE DEPARTMENT**

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 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  
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 40-5-12 New V. 12, p. 1568

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 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  
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 44-14-302 Amended V. 12, p. 1594  
 44-14-303 Amended V. 12, p. 1596  
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 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  
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 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  
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**AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES**

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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
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Reg. No.	Action	Register
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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**

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110-6-7	New	V. 12, p. 1490

**AGENCY 111: THE KANSAS LOTTERY**

Reg. No.	Action	Register
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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
111-4-15	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
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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
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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
111-4-303	Amended	V. 12, p. 1115
111-4-304	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
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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 through 111-4-340	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
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111-4-366 through 111-4-369	Revoked	V. 12, p. 1373
111-4-380 through 111-4-383	Revoked	V. 12, p. 1664
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111-4-388 through 111-4-391	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
111-4-405	Amended	V. 12, p. 912
111-4-407	Amended	V. 12, p. 912
111-4-408	Amended	V. 12, p. 912
111-4-409	Amended	V. 11, p. 1473, 1474
111-4-411	Amended	V. 11, p. 1474
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111-4-414 through 111-4-428	New	V. 11, p. 981-983
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111-4-429 through 111-4-432	Revoked	V. 12, p. 1373
111-4-433 through 111-4-436	Revoked	V. 12, p. 1374
111-4-437 through 111-4-444	New	V. 11, p. 1475-1477
111-4-437 through 111-4-440	Revoked	V. 12, p. 1374
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111-4-474 through 111-4-488	New	V. 12, p. 522-524
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111-4-493 through 111-4-496	New	V. 12, p. 525
111-4-497 through 111-4-500	New	V. 12, p. 913, 914
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111-6-1	Amended	V. 13, p. 339
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111-6-4	Amended	V. 10, p. 1413
111-6-5	Amended	V. 12, p. 1262
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111-6-7	Amended	V. 11, p. 1477

111-6-7a	New	V. 12, p. 1118
111-6-8	Revoked	V. 12, p. 1263
111-6-9	Amended	V. 10, p. 1217
111-6-11	Revoked	V. 12, p. 1376
111-6-12	Amended	V. 8, p. 212
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**AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS**

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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. 13, p. 592
115-4-7	Amended	V. 13, p. 594
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115-9-1	Revoked	V. 12, p. 1702
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115-18-12	New	V. 12, p. 1491
115-21-3	New	V. 12, p. 1703
115-30-8	Amended	V. 12, p. 1703
115-30-10	New	V. 13, p. 595

**AGENCY 116: STATE FAIR BOARD**

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

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

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

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